



City Council Meeting Amended Agenda

Tuesday, October 4, 2022

1:30 PM

Hybrid Meeting - Council Chambers and Virtually -

<https://sanjoseca.zoom.us/j/88957084529>

SAM LICCARDO, MAYOR
CHAPPIE JONES, VICE MAYOR, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
RAUL PERALEZ, DISTRICT 3
DAVID COHEN, DISTRICT 4
MAGDALENA CARRASCO, DISTRICT 5
DEV DAVIS, DISTRICT 6
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
MATT MAHAN, DISTRICT 10



The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support** - The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Public Safety** - Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.
- **Transportation & Aviation Services** - A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environmental and Utility Services** - Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Neighborhood Services** - Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Community & Economic Development** - Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- o **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that the name on the card is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants by calling speakers in an orderly manner.
- o When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.

- o Each speaker generally has two minutes to speak per item. The total amount of time allocated for public testimony for each public speakers or for an agenda item may be limited at the Mayor's discretion, depending on the number of speakers or the length of the agenda. (California Government Code Section 54954.3; Council Policy 0-37)
- o To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 6 p.m. as needed, unless otherwise noted. The City Council, or less than a quorum, may adjourn any regular, special or adjourned meeting to a later date, time and place specified in the order of adjournment. If all members are absent, the City Clerk may declare the meeting adjourned to a stated date, time and place. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <https://www.sanjoselegistar.com/Calendar.aspx>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Please go to the Clerk's Records Database <https://records.sanjoseca.gov/Pages/Search.aspx> for the final document, or you may also contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov.

American Disability Act: To request an alternative format agenda under the Americans with Disabilities Act for City-sponsored meetings, events or printer materials, please call (408) 535-1260 as soon as possible, but at least three business days before the meeting.

Accommodations: Any member of the public who needs accommodations should email the ADA Coordinator at ADA@sanjoseca.gov or by calling (408) 535-8430. The ADA Coordinator will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

On occasion the City Council may consider agenda items out of order.

*** COVID-19 NOTICE ***

Consistent with AB 361 and City of San José Resolution Nos. 80628, 80659 and 80685, Councilmembers may be teleconferencing from remote locations.

How to observe the Meeting (no public comment):

- 1) Cable Channel 26,
- 2) <https://www.sanjoseca.gov/news-stories/watch-a-meeting>, or
- 3) <https://www.youtube.com/CityofSanJoseCalifornia>

How to submit written Public Comment before the City Council Meeting:

- 1) Use the eComment tab located on the City Council Agenda page. eComments are also directly sent to the legislate application used by City Council and staff.
- 2) By email to city.clerk@sanjoseca.gov by 10:00 a.m. the day of the meeting. Those emails will be attached to the Council Item under “Letters from the Public.” Please identify the Agenda Item Number in the subject line of your email.

How to submit written Public Comment during the City Council Meeting:

- 1) Email during the meeting to councilmeeting@sanjoseca.gov, identifying the Agenda Item Number in the email subject line. Comments received will be included as a part of the meeting record but will not be read aloud during the meeting.

How to provide spoken Public Comment during the City Council Meeting:

- 1) By Phone: (888) 475 4499. Webinar ID is 889 5708 4529. Click *9 to raise a hand to speak. Click *6 to unmute when called.
Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free)
- 2) Online at: <https://sanjoseca.zoom.us/j/88957084529>
 - a. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
 - b. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
 - c. When the Mayor calls for the item on which you wish to speak, click on “raise hand.” Speakers will be notified shortly before they are called to speak.
 - d. When called, please limit your remarks to the time limit allotted.

• Call to Order and Roll Call

9:30 a.m. - Closed Session

See Separate Agenda

[22-1443](#) Closed Session Agenda

Attachments [Closed Session Agenda](#)

1:30 p.m. - Regular Session

- Pledge of Allegiance

- Invocation (District 9)

Rabbi Mendel, the Chabad House.

- Orders of the Day

To be heard after Ceremonial Items

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- Closed Session Report

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS

[22-1540](#) Ceremonial Items

Attachments [Letter from the Public](#)

1.1 Presentation of a proclamation declaring October 2022 as Bullying Prevention Month to prevent childhood bullying and promote kindness, acceptance, and inclusion. (Arenas)

1.2 Presentation of a proclamation declaring October 2022 as Domestic Violence Awareness Month to continue to bring awareness and resources to the community (Carrasco).

1.3 Presentation of a commendation recognizing Rex Wonnell for his contributions and continued dedication to our local youth at Branham Hills Little League. (Foley)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

2.1 Approval of City Council Minutes.

2.2 Final Adoption of Ordinances.

[22-1452](#)

Final Adoption of Ordinances. - DEFERRED

Recommendation:

(a) Ordinance No. 30818 - An Ordinance of the City of San José Rezoning 86 Properties from CP Commercial Pedestrian Zoning District to MUC Mixed-Use Commercial Zoning District, 44 Properties from CO Commercial Office Zoning District to R-1-8 Single-Family Residence Zoning District, 41 Properties from CN Commercial Neighborhood Zoning District to R-1-8 Single-Family Residence Zoning District, 40 Properties from CG Commercial General Zoning District to R-1-8 Single-Family Residence Zoning District, 40 Properties from CN Commercial Neighborhood Zoning District to Muc Mixed-Use Commercial Zoning District, 32 Properties from LI Light Industrial Zoning District to R-1-8 Single-Family Residence Zoning District, 27 Properties from R-M Multifamily Residential Zoning District to UR Urban Residential Zoning District, 24 Properties from LI Light Industrial Zoning District to CIC Combined Industrial / Commercial Zoning District, 18 Properties from CP Commercial Pedestrian Zoning District to R-1-8 Single-Family Residence Zoning District, 18 Properties from R-M Multifamily Residential Zoning District to MUN Mixed-Use Neighborhood Zoning District, 13 Properties from R-M Multifamily Residential Zoning District to PQP Public / Quasi-Public Zoning District, 15 Properties from IP Industrial Park Zoning District to LI Light Industrial Zoning District, 11 Properties from LI Light Industrial Zoning District to MUC Mixed-Use Commercial Zoning District, 10 Properties from R-2 Two-Family Residence Zoning District to PQP Public / Quasi-Public Zoning District, Nine Properties from R-M Multifamily Residential Zoning District to LI Light Industrial Zoning District, Eight Properties from R-M Multifamily Residential Zoning District to MUC Mixed-Use Commercial Zoning District, Seven Properties from R-2 Two-Family Residence Zoning District to CP Commercial Pedestrian Zoning District, Six Properties from CO Commercial Office Zoning District to MUC Mixed-Use Commercial Zoning District, Six Properties from CP Commercial Pedestrian Zoning District to LI Light Industrial Zoning District, Five Properties from CN Commercial Neighborhood Zoning District to CIC Combined Industrial / Commercial Zoning District, Five Properties from LI Light Industrial Zoning District to CP Commercial Pedestrian Zoning District, Four Properties from LI Light Industrial Zoning District to PQP Public / Quasi-Public Zoning District, Five Properties from R-1-8 Single-Family Residence Zoning District to OS Open Space Zoning District, Five Properties from R-1-8 Single-Family Residence Zoning District to PQP Public / Quasi-Public Zoning District, Four Properties from R-1-8 Single-Family Residence Zoning District to MUN Mixed-Use

Neighborhood Zoning District, Four Properties from R-2 Two-Family Residence Zoning District to MUC Mixed-Use Commercial Zoning District, Three Properties from LI Light Industrial Zoning District to OS Open Space Zoning District, Three Properties from R-2 Two-Family Residence Zoning District to UR Urban Residential Zoning District, Three Properties from R-M Multifamily Residential Zoning District to CP Commercial Pedestrian Zoning District, Three Properties from R-M Multifamily Residential Zoning District to TR Transit Residential Zoning District, Two Properties from R-1-8 Single-Family Residence Zoning District to LI Light Industrial Zoning District, Two Properties from CP Commercial Pedestrian Zoning District to MUN Mixed-Use Neighborhood Zoning District, Two Properties from A Agricultural Zoning District to R-1-8 Single-Family Residence Zoning District, Two Properties from A Agricultural Zoning District to OS Open Space Zoning District, Two Properties R-M Multifamily Residential Zoning District to OS Open Space Zoning District, One Property from CG Commercial General Zoning District to CIC Combined Industrial / Commercial Zoning District, One Property from CG Commercial General Zoning District to MUC Mixed-Use Commercial Zoning District, One Property from CG Commercial General Zoning District to OS Open Space Zoning District, One Property from CO Commercial Office Zoning District to OS Open Space Zoning District, One Property from CO Commercial Office Zoning District to PQP Public / Quasi-Public Zoning District, and One Property from R-2 Two-Family Residence Zoning District to OS Open Space Zoning District, Located in Various Locations on those Certain Real Properties within the City of San José.

[Passed for Publication on 9/20/2022 - 10.1(a) (22-1372)]

DEFERRED TO 10/18/2022 PER ADMINISTRATION

2.3 Approval of Council Committee Minutes.

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 [22-1444](#) **Airport Terminal Program Grants from the Federal Aviation Administration for the Terminal A Exit Lane Project.**

Recommendation: Adopt a resolution authorizing the City Manager to apply for, execute, and accept, upon receipt, Airport Terminal Program grants from the Federal Aviation Administration under the Infrastructure Investment and Jobs Act of 2021, referred to as the Bipartisan Infrastructure Law in a total amount not to exceed \$2,000,000 for the Terminal A Exit Lane project at the Norman Y. Mineta San José International Airport. CEQA: File No. PP18-103 Norman Y. Mineta San José International Airport Master Plan Amendment Environmental Impact Report (Resolution No. 79497). (Airport)

Attachments [Memorandum](#)
 [Resolution](#)

2.8 [22-1445](#) **Lease Agreement with Northern Trust Bank CA for San José Municipal Water Offices Located at 3870 Charter Park Drive.**

Recommendation: Adopt a resolution authorizing the City Manager, or her designee, to negotiate and execute an AIR CRE Gross Lease between Northern Trust Bank CA, trustee and the City of San José, a municipal corporation, for use of the property located at 3870 Charter Park Drive for a period of four years, with a one-year City option to extend, for a total cost over five years of \$1,672,377.79. CEQA: Categorical Exemption, File No. ER22-224, Exempt pursuant to CEQA Guidelines Section 15301 (a) for Existing Facilities. (Economic Development and Cultural Affairs)

Attachments [Memorandum](#)

2.9 [22-1446](#) **Citywide Open Purchase Order with Transtecnet, Inc., dba Sherlock Surveillance for Security Camera Equipment.**

Recommendation:

Adopt a resolution authorizing the City Manager to:

- (a) Increase the Citywide open purchase order with Transtecnet, Inc., dba Sherlock Surveillance, (San José, CA) for as-required repair, replacement, maintenance, and support of existing security camera equipment by \$530,000 for a revised maximum compensation of \$850,000 for the one-year initial term ending May 14, 2023, subject to the appropriation of funds;
- (b) Negotiate and execute change orders and amendments with Transtecnet, Inc. as required for unanticipated changes in demand and requirements, subject to the appropriation of funds; and
- (c) Exercise up to nine additional one-year options to extend the term of the open purchase order with the last option ending May 14, 2032, subject to the appropriation of funds.

CEQA: Categorically Exempt, File No. ER22-232, CEQA Guidelines Section 15301, Existing Facilities. (Finance)

Attachments [Memorandum](#)

2.10 [22-1480](#) **Boards and Commissions Appointment.**

Recommendation:

Approve the following Boards and Commissions appointment:

- (a) Measure T Community Oversight Committee:
 - (1) Public Safety Seat: Appoint Matt Tuttle.

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk)

[Rules Committee referral 9/28/2022 - Item A.1.a]

Attachments [Memorandum](#)
[Application](#)
[Conflicts of Interest Memorandum](#)

2.11 [22-1491](#) **Request for Travel Authorization for Mayor's Staff.****Recommendation:**

As recommended by the Rules and Open Government Committee on September 28, 2022, authorize travel and accept travel payments to the City of San José and designate Mayor's staff, Sheyla Tupua, as the City representative to attend the Mayor's Education Policy Advisors (EPAN) Annual Meeting and Postsecondary Success Summit in Washington, D.C. from October 10, 2022 to October 14, 2022. (Source of Fund: National League of Cities [NLC]).

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Liccardo)

[Rules Committee referral 9/28/2022 - Item B.3]

Attachments [Memorandum](#)

2.12 [22-1487](#) **Retroactive Travel Authorization for Vice Mayor Jones.****Recommendation:**

As recommended by the Rules and Open Government Committee on September 28, 2022, retroactively authorize travel for Vice Mayor Jones to Washington, D.C. from September 28, 2022 to September 30, 2022 to attend the 51st Annual Legislative Conference hosted by the Congressional Black Caucus Foundation. (Source of Funds: Personal Funds)

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Jones)

[Rules Committee referral 9/28/2022 - Item B.2]

Attachments [Memorandum](#)

2.13 [22-1496](#) **Approval of District 5 SAP Grant for University Preparatory Academy.****Recommendation:**

As recommended by the Rules and Open Government Committee on September 28, 2022, approve a \$1,000 SAP grant from Council District 5 to support University Preparatory Academy's Latino/a Club.

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative activities resulting in no changes to the physical environment. (Carrasco)

[Rules Committee referral 9/28/2022 - Item B.4]

Attachments [Memorandum](#)

2.14 [22-1503](#) **Approval of the Domestic Violence Awareness Walk & Light Up City Hall and Philippines Flag Raising Events Sponsored by Council District 5 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events.**

Recommendation: As recommended by the Rules and Open Government Committee on September 28, 2022:

(a) Approve the Domestic Violence Awareness Walk & Light Up City Hall event scheduled on October 7, 2022 as a City Council sponsored Special Event and approve the expenditure of funds;

(b) Approve the Philippines Flag Raising event scheduled on October 14, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; and

(c) Approve and accept donations from various individuals, businesses or community groups to support the events.

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Carrasco)
[Rules Committee referral 9/28/2022 - Item B.5]

Attachments [Memorandum](#)

2.15 [22-1507](#) **Approval of Hacienda Dumpster Day Event Sponsored by Council District 9 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

Recommendation: As recommended by the Rules and Open Government Committee on September 28, 2022:

(a) Approve the Hacienda Dumpster Day Event scheduled on October 29, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; and

(b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Foley)
[Rules Committee referral 9/28/2022 - Item B.6]

Attachments [Memorandum](#)

3. STRATEGIC SUPPORT

3.1 Report of the City Manager, Jennifer Maguire (Verbal Report)

3.2 Labor Negotiations Update.

Accept Labor Negotiations Update.
TO BE HEARD AT 9:30 A.M.

- 3.3 [22-1447](#) **City Initiatives Roadmap - Vision Zero Traffic Safety: Award of Contract for the 8511-McKee Road Vision Zero Safety Improvements Project Between North 33rd Street and Toyon Avenue, Federal Project No. STPL-5005(154).**

Recommendation:

(a) Report on bids and award of contract for the 8511 - McKee Road Vision Zero Safety Improvements Project to the lowest responsive bidder, Joseph J. Albanese, Inc., in the total amount of \$6,935,166.
(b) Approve a 10% contingency in the amount of \$693,517.
CEQA: Categorical Exemption, File No. PP18-029, Exempt pursuant to CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 3 and 5. (Public Works/Transportation)

Attachments [Memorandum](#)

- 3.4 [22-1454](#) **City Initiatives Roadmap: Bill of Rights for Children and Youth Audit Report.**

Recommendation:

As recommended by the Neighborhood Services and Education Committee on September 8, 2022, accept a report on the Bill of Rights for Children and Youth Audit as part of the approved City Initiatives Roadmap for 2022-2023.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Auditor)
[Neighborhood Services and Education Committee referral 9/8/2022 - Item (d)1]
[Deferred from 9/27/2022 - Item 3.4 (22-1417)]

Attachments [Memorandum](#)
[Memorandum from Arenas, Peralez, Carrasco & Foley, 9/30/2022](#)
[Memorandum from Cohen, 10/4/2022](#)
[Presentation, 9/8/2022](#)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 [22-1448](#) **Power Procurement Authority for 2022 through 2027. - DEFERRED****Recommendation:**

Adopt a resolution increasing the authority granted to the Director of Community Energy or designee to negotiate and execute agreements five years and under, subject to the Energy Risk Management Policy and the appropriation of funds, for the procurement of:

(a) Power supply products, other than Resource Adequacy products, including but not limited to renewable projects and shaped or dispatchable power products, by \$277,700,000 from \$1,187,000,000 to an amount not to exceed \$1,464,700,000 in aggregate in Calendar Years 2022 through 2027, to be paid solely from the San José Clean Energy Operating Fund and with the following annual limits: \$310,900,000 in 2022; \$276,400,000 in 2023, \$254,300,000 in 2024, \$238,600,000 in 2025, \$197,700,000 in 2026, and \$186,800,000 in 2027; and

(b) Resource Adequacy, including but not limited to storage projects combined with dispatchable power, by \$127,900,000 from \$280,600,000 to an amount not to exceed \$408,500,000 in aggregate in Calendar Years 2023 through 2027, to be paid solely from the San José Clean Energy Operating Fund and with the following annual limits: \$76,500,000 in 2023, \$83,000,000 in 2024, \$83,000,000 in 2025, \$83,000,000 in 2026, and \$83,000,000 in 2027.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

(Community Energy)

DEFERRED TO 10/18/2022 PER ADMINISTRATION

6.2 [22-1449](#) **City Initiatives Roadmap - Clean Energy Resilience: Agreements with Middle River Power and Sentinel Energy Center for Resource Adequacy and Dispatchable Energy.**

Recommendation:

Adopt a resolution authorizing the Director of Community Energy to negotiate and execute an agreement with:

(a) Middle River Power, or its affiliate MRP Pacifica Marketing LLC, using the Edison Electric Institute Agreement with modifications, as appropriate, to buy Resource Adequacy and Dispatchable Energy products from a natural gas plant and associated battery, in an amount not to exceed \$15,800,000 annually and \$190,000,000 in aggregate during Calendar Years 2024 through 2036, to be paid solely from the San José Clean Energy Operating Fund and subject to the annual appropriation of funds; and

(b) Sentinel Energy Center, LLC, using the Edison Electric Institute Agreement with modifications, as appropriate, to buy Resource Adequacy and Dispatchable Energy products from a natural gas plant that will be retrofitted to have the capability to burn a natural gas and green hydrogen blended fuel to generate the products under the agreement, in an amount not to exceed \$18,600,000 annually and \$186,000,000 in aggregate during Calendar Years 2023 through 2033, to be paid solely from the San José Clean Energy Operating Fund and subject to the annual appropriation of funds.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

(Community Energy)

Attachments [Memorandum](#)
[Presentation - est. 15 minutes](#)

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 [22-1450](#) **Actions Related to the Land Acquisition for the Lot E Public Parking Facility Located at 517 West Saint John Street and 150 North Montgomery Street. - DEFERRED**

Recommendation:

- (a) Adopt a resolution adopting the Lot E Parking Structure Addendum to the Downtown Strategy 2040 Final Environmental Impact Report (Resolution No. 78942 and SCH #2003042127) and the associated Mitigation Monitoring and Reporting Plan, all in accordance with the California Environmental Quality Act, as amended.
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute all documents and contracts necessary for the relocation of tenants currently occupying 517 West Saint John, including approval of the Final Relocation Plan and disbursement of necessary payments as required by relocation statute, not to exceed \$350,000.
- (c) Adopt a resolution of public interest and necessity required for the acquisition through condemnation of 517 West Saint John Street, identified as Assessor's Parcel Number 259-29-091 in Attachment A (consisting of ±19,166 square feet and owned by Arlethea K. Thorson, The Trustees of Richard Della Maggiore and Joan Della Maggiore) to the staff memorandum, with the Parcel referred to as a "Property" for the Lot E Parking Facility Project in conformance with California Code of Civil Procedure Section 1245.220, et. seq., and making the following findings and determinations to declare that:
- (1) The City is authorized to acquire the Property and exercise the power of eminent domain to and in accordance with Article 1, Section 19 of the California Constitution, the California Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.), Section 200 of the City of San José Charter, and Government Code Sections 37350, 37350.5, 37351, 37353 and 40404;
 - (2) The public interest and necessity require the project, described below, which is in the footprint of the Lot E Parking Facility as described in Attachment A to the staff memorandum, proposed resolution of necessity, to be posted separately and by reference made a part hereof, for the Lot E Parking Facility Project;
 - (3) The Property to be acquired for the proposed Lot E Parking Facility Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;
 - (4) The acquisition of Property, as described in Attachment A to the staff memorandum, proposed resolution of necessity, to be posted separately, is necessary for the public uses proposed in the Lot E Parking Facility Project;
 - (5) The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation for the acquisition of the Property, has been made by the City to the owner of record;

(6) All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property have been complied with by the City;

(7) Authorizing the City Attorney, or their designee, to institute, maintain, and prosecute to final judgment, in the name of the City of San José, proceedings in eminent domain in the Superior Court of the State of California, County of Santa Clara, for the condemnation of the Property herein described, and to take all steps necessary, including applying for an Order for Possession before Judgment, for said condemnation in the name of the City and correcting any errors or to making or agreeing to non-material changes in the description of the Property interests to be acquired that are deemed necessary for the conduct of the condemnation action; and

(8) Authorizing the City Attorney, or their designee, to make a deposit in the State Treasury Condemnation Fund from lawfully available funds of the City, in the amount of the summary appraisal of the Property, \$4,800,000, or as determined by the court in which eminent domain proceedings concerning the Acquisition Parcels herein authorized are commenced, or which may otherwise be required by law for the maintenance of the proceeding in eminent domain.

(d) Adopt a resolution of public interest and necessity required for the acquisition through condemnation of 150 North Montgomery Street, identified as Assessor's Parcel Number 259-29-003 in Attachment B (consisting of approximately ±7060 square feet and owned by Rodolfo Alvarez Duenas, Raul Jimenez and Yolanda Jimenez) to the staff memorandum, with the Parcel referred to as a "Property" for the Lot E Parking Facility Project in conformance with Cal. Civ. Proc. Code Section 1245.220, et. seq., and making the following findings and determinations to declare that:

(1) The City is authorized to acquire the Property and exercise the power of eminent domain to and in accordance with Article 1, Section 19 of the California Constitution, the California Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.), Section 200 of the City of San José Charter, and Government Code Sections 37350, 37350.5, 37351, 37353 and 40404;

(2) The public interest and necessity require the project, described below, which is in the footprint of the Lot E Parking Facility as described in Attachment B to the staff memorandum, proposed resolution of necessity, to be posted separately and by reference made a part hereof, for the Lot E Parking Facility Project;

(3) The Property to be acquired for the proposed Lot E Parking

Facility Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

(4) The acquisition of Property, as described in Attachment B to the staff memorandum, proposed resolution of necessity, to be posted separately, is necessary for the public uses proposed in the Lot E Parking Facility Project;

(5) The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation for the acquisition of the Property, has been made by the City to the owner of record;

(6) All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property have been complied with by the City;

(7) Authorizing the City Attorney, or their designee, to institute, maintain, and prosecute to final judgment, in the name of the City of San José, proceedings in eminent domain in the Superior Court of the State of California, County of Santa Clara, for the condemnation of the Property herein described, and to take all steps necessary, including applying for an Order for Possession before Judgment, for said condemnation in the name of the City and correcting any errors or to making or agreeing to non-material changes in the description of the Property interests to be acquired that are deemed necessary for the conduct of the condemnation action; and

(8) Authorizing the City Attorney, or their designee, to make a deposit in the State Treasury Condemnation Fund from lawfully available funds of the City, in the amount of the summary appraisal of the Property, \$1,770,000, or as determined by the court in which eminent domain proceedings concerning the Acquisition Parcels herein authorized are commenced, or which may otherwise be required by law for the maintenance of the proceeding in eminent domain.

CEQA: Initial Study/Addendum to the Downtown Strategy 2040 Final Environmental Impact Report (Resolution No 78942) for the Lot E Parking Structure Project. Council District 3. (Economic Development and Cultural Affairs/Transportation)

DEFERRED TO 10/18/2022 PER ADMINISTRATION

Attachments [\(a\) Resolution](#)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

Notice to the public: There will be no separate discussion of Land Use Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council requests discussion on a particular item, that item will be removed from the Land Use Consent Calendar (Item 10.1) and considered separately.

10.1 Land Use on Consent Calendar

- (a) [22-1451](#) PP22-006 - Amendment to the San José Downtown Design Standards and Guidelines and the San José Citywide Design Standards and Guidelines by Adding an Additional Set of Findings to the Exceptions to the Standards Sections and to Make Other Technical or Non-Substantive Text Changes. - TO BE HEARD IMMEDIATELY AFTER CONSENT

Recommendation: (a) Adopt a resolution amending the “San José Downtown Design Standards and Guidelines” to update the Exceptions to the Design Standards section to add an additional set of findings to the Exceptions to the Standards Sections and to make other technical or non-substantive text changes.

(b) Adopt a resolution amending the “San José Citywide Design Standards and Guidelines” to update the Exceptions to the Design Standards section to add an additional set of findings to the Exceptions to the Standards Sections and to make other technical or non-substantive text changes.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (EIR) adopted on November 1, 2011 (Resolution No. 76041), Supplemental EIR adopted on December 15, 2015 (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (8-1, Garcia opposing) (Planning, Building and Code Enforcement)
TO BE HEARD IMMEDIATELY AFTER CONSENT

Attachments [Memorandum](#)
[\(a\) Resolution](#)
[\(b\) Resolution](#)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

- Open Forum

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

- Adjournment

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions: § No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the total amount of time allocated for public testimony for each public speaker or for an agenda item is in the discretion of the Chair of the meeting and may be limited when appropriate. (California Government Code Section 54954.3; Council Policy 0-37) Applicants and appellants in land use matters are usually given more time to speak. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Council, Committee, Board or Commission.
- c) Speakers should discuss only the agenda item when called to speak for that item, and only topics related to City business when called to speak during open forum on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.