



# **City Council Meeting Amended Agenda**

**Tuesday, December 14, 2021**

**11:00 AM**

**Hybrid Meeting - Council Chambers and Virtually -  
<https://sanjoseca.zoom.us/j/93052835954>**

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 your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- 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 amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- 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.sanjose.legistar.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](mailto: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](mailto: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 Jose Resolution Nos. 79485, 80237, 80266 and 80290, 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 ilegislate application used by City Council and staff.
- 2) By email to [city.clerk@sanjoseca.gov](mailto:city.clerk@sanjoseca.gov) by 7:30 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](mailto: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 930 5283 5954. 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/93052835954>
  - 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

**21-2554** Closed Session Agenda

11:00 a.m.- Regular Session

6:00 p.m.- Evening Session

\*Will not begin until 6:00 p.m. or until after all afternoon items are heard, whichever is later.

- **Pledge of Allegiance**

- **Invocation (Mayor)**

Rabbi Shaya Bernstein, Chabad at SJSU.

- **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**

## **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, staff, or public 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.

### 21-2578 Final Adoption of Ordinances.

**Recommendation:** (a) Ordinance No. 30696 - An Ordinance of the City of San José Amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to: (a) Amend Chapter 20.30, Section 20.30.100 to Include Minor Text Alteration to Table 20-50, and Clarifying Changes to Section 20.30.270, ‘Corner Lot-Rear Setback- Exception for Attached Garage’, Section 20.30.500, ‘Development Standards’, and Section 20.30.530, ‘Height Exceptions - Accessory Buildings’; (b) Amend Chapter 20.40, Section 20.40.100 to Rectify Table 20-90 to Add Prior Approved Text; (c) Amend Chapter 20.50, Section 20.50.100 to Rectify Table 20-110 to Add Prior Approved Text; (d) Amend Chapter 20.70, Section 20.70.100 to Include Minor Correction to Table 20-140 to Incorporate Indoor Theater Use; (e) Amend Chapter 20.90, Section 20.90.220 to Correct a Reference to Table 20-190; and to Make Other Technical, Non-Substantive, or Formatting Changes within those Sections of Title 20 of the San José Municipal Code. [Passed for Publication on 11/30/2021 - Item 10.1(a) (21-2491)]

## 2.3 Approval of Council Committee Minutes.

### 21-2587 Approval of Council Committee Minutes.

**Recommendation:** (a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 13, 2021.  
(b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 20, 2021.  
(c) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 27, 2021.  
(d) Regular Transportation and Environment Committee Meeting Minutes of November 1, 2021.  
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

## 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 21-2579 Settlement of National Opioid Litigation.**

**Recommendation:** Approve and join a settlement in the national opioid litigation involving distributors, City of San José v. Amerisourcebergen Drug Corporation, et al., and the intrastate allocation agreement with the State of California, and direct the City Attorney to execute all necessary documents and agreements on behalf of the City of San José.  
CEQA Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

**2.8 21-2580 Amicus Curiae Brief in Support of the Legality of the Deferred Action for Childhood Arrivals (DACA) Program in Texas v. United States (5th Cir.).**

**Recommendation:** Authorize the City Attorney to join in Amicus Curiae brief being drafted by the County of Los Angeles and City of Los Angeles on behalf of cities and counties in support of appellants/defendants in a challenge to the legality of the DACA Program in Texas v. United States, Case No. 21-40680 (5th Cir.).  
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Attorney)

**2.9 21-2211 Extension of AB 361 Implementation to Allow Teleconferenced Public Meetings to Continue through January 13, 2022 during the Governor's Proclaimed COVID State of Emergency.**

**Recommendation:** Adopt a resolution of the Council of the City of San José finding the continued existence of the need to extend AB 361 implementation and amending the City's Consolidated Open Government and Ethics (Sunshine) Resolution No. 77135 to incorporate the Governor's proclaimed COVID state of emergency to allow City legislative bodies and Joint Power Authority legislative bodies for which the City serves as lead staffing agency to hold public meetings solely by teleconference or otherwise electronically pursuant to AB 361; to modify agenda noticing and document posting; and to incorporate all future Governor's Executive Orders regarding the Brown Act into the City's open government procedures, as deemed appropriate by the City Clerk and City Manager, without further Council action.  
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk)

**2.10 21-2555 Sale of Exempt Surplus Land Adjacent to Interstate 280 Right of Way, South of East Reed Street.**

**Recommendation:** Adopt a resolution:

- (a) Declaring the approximately 5,120 square foot subject property “exempt surplus land” under California Government Code §54221(f)(1) (B) as the land is not necessary for the City of San José’s use, is less than 10,000 square feet, will have no recorded access at the time of conveyance, is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes, and is being transferred to a contiguous property owner; and
  - (b) Authorizing the City Manager, or her designee, to negotiate and execute a Purchase and Sale Agreement, the conveyance deed, and the easement agreement for City-owned property located adjacent to the Interstate 280 right of way, south of East Reed Street, identified as a portion of Assessor’s Parcel Number 472-27-106, to Juniper Fund-III LLC for the consideration of \$115,000 and an easement providing four parking spaces in any future development including the subject property to the benefit of the neighboring Pallesen Apartments owned by Habitat for Humanity, by direct negotiation under San José Municipal Code Section 4.20.070 and in accordance with Council Policy No. 7-13(D)(1) as the transferee is an adjacent property owner and the transaction is for fair market value; and
  - (c) Authorizing the City Manager, or her designee, to negotiate and execute all other documents necessary to complete the transaction.
- CEQA: Categorically Exempt, File No. ER21-296, CEQA Guidelines Section 15312, Surplus Government Property Sales. Council District 3. (Economic Development and Cultural Affairs)



**2.11 21-2556 Lease Extension and Naming Rights for the San José Municipal Stadium.****Recommendation:** Adopt a resolution:

(a) Authorizing the City Manager to negotiate and execute an amendment to the Amended and Restated Lease between the City of San José and the San José Giants, d.b.a., Baseball Acquisition Company, Inc., regarding the San José Municipal Stadium located at 588 E. Alma Avenue, including all ancillary documents necessitated by the amendment, to extend the existing lease for a period of five years, with one option for BAC to extend the term for an additional five years; and

(b) Approving the agreement between the Excite Credit Union and San José Giants, d.b.a., Baseball Acquisition Company, Inc., for the sponsorship of the San José Municipal Stadium, and the renaming of the San José Municipal Stadium to “Excite Ballpark, Home of the San José Giants” for a period of 10 years.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.  
Council District 7. (Economic Development and Cultural Affairs)

**2.12 21-2557 Actions Related to Lease Renewals for Office Space with 4th Street San José Partners, La Familia and the Huang Family Trust.**

**Recommendation:** Adopt a resolution authorizing the City Manager, or designee, to:

- (a) Negotiate and execute an agreement, and all necessary documents, with 4th Street San José Partners, LLC, to extend an existing lease for the San José Police Department Gaming Control Unit's continued use of approximately 3,320 square feet of office space located at 210 N. 4th Street, Suite 202 for five additional years at an estimated cost of \$99,600 for the first year, \$102,588 for the second year, \$105,665.64 for the third year, \$108,835.61 for the fourth year, and \$112,100.68 for the fifth year, totaling \$528,790 for the five-year term;
- (b) Negotiate and execute an agreement, and all necessary documents, with La Familia, LP, to extend an existing lease for the San José Police Department Internal Affairs Unit's continued use of approximately 4,110 square feet of office space located at 777 N. 1st Street, Suites 430 & 666 for five additional years at an estimated cost of \$123,300 for the first year, \$126,999 for the second year, \$130,808.97 for the third year, \$134,73.24 for the fourth year, and \$138,775.24 for the fifth year, totaling \$654,617 for the five-year term; and
- (c) Negotiate and execute an agreement, and all necessary documents, with Wen Yuan Huang and Kai-Lee K.L. Huang, Trustees of the Huang Family Trust, dated August 28, 1984 as amended February 28, 2005 to extend and existing lease, with two additional five-year options with an annual increase rate of 3%, for the San José Police Department Family Violence Center's continued use of approximately 8,041 square feet of office space located at 1671 The Alameda, Suite 100 for five additional years at an estimated cost of \$241,230 for the first year, \$248,466.90 for the second year, \$255,920.91 for the third year, \$263,598.53 for the fourth year, and \$271,506.49 for the fifth year, totaling \$1,280,723 for the five-year term.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.  
Council District: 3. (Economic Development and Cultural Affairs)

**2.13 21-2559 Update on Negotiations with Valley Water on the Purified Water Project.**

**Recommendation:** Accept the report regarding negotiation status for Santa Clara Valley Water District's Purified Water Project in Santa Clara County.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Environmental Services)

**2.14 21-2560 Report on Request for Proposal for a Smart Outdoor Light Management.**

**Recommendation:** (a) Accept the report on the Request for Proposals.

(b) Adopt a resolution authorizing the City Manager to:

(1) Negotiate and execute an agreement with Ubiqquia LLC (Fort Lauderdale, FL) for the purchase of a Smart Outdoor Lighting Management Solution, including hardware, software, and related services such as implementation, training, warranty, maintenance, and support, for an initial one-year term beginning on or about January 1, 2022 through December 31, 2022 with a total maximum compensation not to exceed \$685,120 during the initial one-year term, subject to the appropriation of funds; and

(2) Negotiate and execute amendments and change orders as required for any unanticipated changes such as additional hardware, software subscriptions, and related services for a contingency amount not to exceed \$100,000 during the initial term, subject to the appropriation of funds; and

(3) Exercise up to nine one-year options to extend the term of the agreement through December 31, 2031 for additional hardware, software subscriptions, and related services, subject to the appropriation of funds.

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

(Finance)

**2.15 21-2561 Actions Related to the 2022-2023 Hazardous Vegetation Commencement Report.**

**Recommendation:** Adopt a resolution:

(a) Accepting the 2022-2023 Hazardous Vegetation Commencement Report compiled by the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation.

(b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the Report are a public nuisance.

(c) Directing the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation to mail a notice of a public hearing on February 8, 2022, at 1:30 p.m. before the City Council to property owners of affected real properties on the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Categorically Exempt, File No. PP18-094, CEQA Guidelines Section 15301(h) Existing Facilities. (Planning, Building and Code Enforcement)

**2.16 21-2562 Amendment to Master Consultant Agreement with BKF Engineers for Engineering Analysis, Design, Construction Management, and Environmental Consulting Services for Large Trash Capture Projects.**

**Recommendation:** Approve the First Amendment to the Master Consultant Agreement with BKF Engineers for engineering analysis, design, construction management and environmental consulting services for Large Trash Capture projects, extending the term of the agreement from December 31, 2021 to December 31, 2024, without the increasing of the maximum compensation subject to the appropriation of funds.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works)

**2.17 21-2563      Amendment to Master Consultant Agreement with Schaaf & Wheeler Consultant Civil Engineers for Engineering Analysis, Design, Construction Management, and Environmental Consulting Services for Large Trash Capture Projects.**

**Recommendation:** Approve the First Amendment to the Master Consultant Agreement with Schaaf & Wheeler Consultant Civil Engineers for engineering analysis, design, construction management and environmental consulting services for Large Trash Capture projects, extending the term of the agreement from December 31, 2021 to December 31, 2024, without the increasing of the maximum compensation subject to the appropriation of funds.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works)

**2.18 21-2564      Actions Related to the ESUHSD Independence Community Wi-Fi Infrastructure.**

**Recommendation:** Accept the report on bids and award of contract for the ESUHSD Independence Community Wi-Fi Infrastructure to the low bidder, Rosendin Electric, Inc, in the amount of \$2,126,000 and approve a ten percent contingency in the amount of \$212,600.

CEQA: Categorically Exemption, File No. PP16-085, CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures. Council Districts 3, 4, 5. (Public Works/Library/Housing)

**2.19 21-2565      Crossing Agreement with Union Pacific Railroad for work at North 7th Street and Jackson Street.**

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute the Crossing Agreement between the City of San José and the Union Pacific Railroad for temporary modifications at the 7th St and Jackson St rail crossings at an amount estimated at \$30,000.

CEQA: Categorically Exempt, File No. ER21-270, CEQA Guidelines Section 15301(c) Existing Facilities. Council District 3. (Transportation)

### **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 21-2585 Team San José and the Convention and Visitors Bureau Performance Report Annual Review. - DEFERRED**

**Recommendation:** As recommended by the Community and Economic Development Committee on November 11, 2021, Accept the report on Team San José and the Convention and Visitors Bureau's performance for FY 2020-21.

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)

[Community and Economic Development Committee referral 11/11/2021 - Item (d)1]

**DEFERRED TO JANUARY 11, 2022 PER RULES AND OPEN GOVERNMENT COMMITTEE**

**3.4 21-2545 City of San José Council District Redistricting Public Hearing. - TO BE HEARD BEFORE ITEM 3.5**

**Recommendation:** (a) Conduct a Public Hearing for City of San José Council District Redistricting.

(b) Final adoption of an ordinance to establish and declare boundaries of the City Council Districts using the 2020 federal Census data.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Clerk)

**TO BE HEARD BEFORE ITEM 3.5**

**3.5 21-2546 Charter Review Commission Report and Recommendations. - TO BE HEARD LAST**

**Recommendation:** (a) Accept the Report of the Charter Review Commission.

(b) Provide direction to staff to develop any accepted recommendations for one or more ballot measures for the June 2022 statewide primary election, November 2022 statewide general election, or beyond, as appropriate.

CEQA: Not a Project, File No. PP17-009, Staff Report, Assessments, annual Reports, and Informational Memos that involve no approvals of any City action. (City Clerk)

**TO BE HEARD LAST**

**3.6 21-2566 Approval of the Issuance of Tax-Exempt Multifamily Housing Revenue Notes and the Loan of the Proceeds Thereof for the Mariposa Place Affordable Housing Development, Located at 750 West San Carlos Street, and Approving Related Documents.**

**Recommendation:** Adopt a resolution:

- (a) Authorizing the issuance of a tax-exempt multifamily housing revenue notes designated as “City of San José, California Multifamily Housing Revenue Note (Mariposa Place), Series 2021E-1 (Tax-Exempt)” in a principal amount not to exceed \$31,341,010 (the “2021E-1 Note”) and a taxable multifamily housing revenue note designated as “City of San José, California Multifamily Housing Revenue Note (Mariposa Place), Series 2021E-2 (Taxable)” in a principal amount not to exceed \$6,000,000 (the “2021E-2 Note”) (together with the 2021E-1 Note, the “2021E Notes”);
- (b) Approving the loan of the proceeds of the 2021E Notes to San José W. San Carlos LP, a California limited partnership, an affiliate of developer and project sponsor Danco Communities, a California corporation, to finance the construction and development of an 80-unit multifamily development known as Mariposa Place located at 750 West San Carlos Street in San José;
- (c) Approving in substantially final form the Bank Loan Agreement, the Borrower Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, and related documents (collectively, the “2021E Note Documents”);
- (d) Authorizing and directing the City Manager, Director of Housing, Director of Finance, Assistant Director of Finance, Deputy Director, Debt & Treasury Management or their designees, to execute and deliver the 2021E Note Documents together with any documents ancillary to the 2021E Note Documents; and
- (e) Approving the payment of the annual Regulatory Agreement monitoring fee of approximately \$39,176 in two parts: (i) \$7,500 to be paid on par with the Bond debt service and (ii) the remaining amount of the fee, approximately \$31,676, to be paid as a permitted expense after debt service.

CEQA: Exempt per Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15369, Ministerial Project pursuant to Government Code Section 65913.4, File No. ER20-109. Council District 6. (Housing/Finance)

**3.7 21-2574 Project Labor Agreement Amendments.**

**Recommendation:** As recommended by the Rules and Open Government Committee on November 17, 2021, direct staff to negotiate with the Santa Clara Building & Construction Trades Council with the goal of expanding the scope of the City's Project Labor Agreement (PLA) to:

- (a) Decrease the project threshold covered under the PLA from \$3,000,000 to \$1,000,000.
- (b) Remove the annual CPI adjustment to the threshold.
- (c) Remove exemptions to the PLA currently included in Addendum C for street maintenance, sewer maintenance, municipal water, airport pavement maintenance, on-call contracts, and building maintenance and rehabilitation.
- (d) Specify that contractors on covered projects will employ apprentices from a joint labor-management apprenticeship program approved by the California Division of Apprenticeship Standards.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.  
(Cohen and Esparza)  
[Rules Committee referral 11/17/2021- Item G.2]

**4. PUBLIC SAFETY SERVICES****5. TRANSPORTATION & AVIATION SERVICES****5.1 21-2567 Community Forest Management Plan. - RECOMMEND DEFERRAL**

**Recommendation:** Adopt a resolution approving the Community Forest Management Plan.  
CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Transportation)  
**RECOMMEND DEFERRAL TO JANUARY 25, 2022 PER ADMINISTRATION**

**6. ENVIRONMENTAL & UTILITY SERVICES**



**6.1 21-2568 2022 Power Mix and Rates.****Recommendation:** Adopt a resolution:

(a) Amending San José Clean Energy's (SJCE) rate and service options as follows (Plan A) beginning January 1, 2022:

(1) Increasing the renewable energy content for SJCE's GreenSource standard service to 60% and continuing to set rates at 8% above Pacific Gas & Electric (PG&E) generation rates after accounting for the Franchise Fee Surcharge and the Power Charge Indifference Adjustment (PCIA);

(2) Increasing the renewable content for SJCE's lowest-cost service GreenValue to 40% and continuing to set rates at parity to PG&E generation rates after accounting for the Franchise Fee Surcharge and the PCIA;

(3) Continuing to set rates for TotalGreen, SJCE's 100% renewable energy service, at \$0.005 or \$0.01 per kilowatt-hour above GreenSource, depending on rate class; and

(4) Amending the rate for the SJ Cares program, which is open to California Alternate Rates for Electricity and Family Electric Rate Assistance customers, to 5% below PG&E generation rates after accounting for the Franchise Fee Surcharge and the PCIA while continuing to provide SJ Cares customers with GreenSource renewable content.

If there is a delay in the implementation of PG&E's rate change and PG&E's PCIA change:

(b) Amending SJCE rate and service options as follows (Plan B) beginning January 1, 2022, provided that SJCE adopt Plan A as soon as is practically reasonable after PG&E's rate change and PCIA change are implemented:

(1) Increasing the renewable energy content for SJCE's GreenSource standard service to 60% and set rates at 30% above PG&E generation rates after accounting for the Franchise Fee Surcharge and the PCIA;

(2) Increasing the renewable content for SJCE's lowest-cost service GreenValue to 40% and continuing to set rates at parity with PG&E generation rates after accounting for the Franchise Fee Surcharge and the PCIA;

(3) Continuing to set rates for TotalGreen, SJCE's 100% renewable energy service, at \$0.005 or \$0.01 per kilowatt-hour above GreenSource, depending on rate class; and

(4) Continuing to set rates for the SJ Cares program, which is open to California Alternate Rates for Electricity and Family Electric Rate Assistance customers, at parity with PG&E generation rates after accounting for the Franchise Fee Surcharge and the PCIA while continuing to provide SJ Cares customers with GreenSource renewable content.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Community Energy)

**6.2 21-2558 Actions Related to the Issuance of a Non-Exclusive Franchise Agreement for the Collection, Transport, and Delivery of Residential Clean-out Material and Construction and Demolition Debris.**

**Recommendation:** (a) Conduct a public hearing on the application of Hanson & Fitch, Inc. dba Hayward Transfer Station for a Non-Exclusive Franchise associated with non-exclusive collection, transport, and delivery of residential clean-out material and construction and demolition debris.  
(b) Approve an ordinance granting a franchise to this company.  
(c) Approve the Non-Exclusive Franchise Agreement with Hanson & Fitch, Inc. dba Hayward Transfer Station for the collection, transport, and delivery of residential clean-out material and construction and demolition debris, effective on the date of the ordinance granting the franchise, through June 30, 2022, with an option for the City to extend the agreement for an additional one-year term through, June 30, 2023.  
CEQA: Categorically Exempt, File No. ER21-287, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment. (Environmental Services)

## **7. NEIGHBORHOOD SERVICES**

## **8. COMMUNITY & ECONOMIC DEVELOPMENT**

**8.1 21-2586 Actions Related to Continued Shelter Crisis to Activate Two Overnight Warming Locations During the Cold Weather Season.**

**Recommendation:** (a) Adopt a resolution declaring the continued existence of a shelter crisis in the City of San José pursuant to, and in accordance with, the provisions of California Government Code section 8698 et seq., and designating the following two City-owned facilities to be occupied as Overnight Warming Locations by homeless individuals, especially those vulnerable to COVID-19, during the cold weather season:

- (1) Evergreen Library, 2635 Aborn Rd, San José, CA 95121; and
- (2) Leininger Center, 1300 Senter Rd, San José, CA 95112.

(b) Adopt a resolution authorizing the Director of Housing to negotiate and execute a grant agreement with HomeFirst, retroactive to December 1, 2021, in an amount not to exceed \$915,000 to implement the Overnight Warming Locations through June 30, 2022.

(c) Adopt the following 2021-2022 Appropriation Ordinance Amendments in the Housing Trust Fund:

- (1) Increase the Housing and Homeless Projects appropriation to the Housing Department by \$515,000; and
- (2) Decrease Unrestricted Ending Fund Balance by \$515,000.

(d) Adopt the following 2021-2022 Appropriation Ordinance Amendments in the Multi-Source Housing Fund:

- (1) Increase the CARES Emergency Shelter Grants appropriation to the Housing Department by \$400,000; and
- (2) Decrease Unrestricted Ending Fund Balance by \$400,000.

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

**9. REDEVELOPMENT – SUCCESSOR AGENCY**

- 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.**

- Council will recess until 6:00 p.m.

**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, staff, or public 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**

No Land Use items on Consent Calendar.

## **END OF CONSENT CALENDAR**

## **10 Land Use - Regular Agenda**

### **10.2 21-2569 PDC15-067 - Planned Development Rezoning for a Mixed-Use Development on a 2.77 gross-acre site located at 1260 E. Santa Clara Street. - DEFERRED**

**Recommendation:** (a) Adopt a resolution adopting the Empire Lumber Mixed Use Mitigated Negative Declaration, for which an Initial Study was prepared, and associated Mitigation Monitoring and Reporting Plan, all in accordance with the California Environmental Quality Act (CEQA), as amended.

(b) Approve an ordinance of the City of San José rezoning certain real properties situated on the south side of East Santa Clara Street, east of South 26th Street and north of Shortridge Avenue (1260 East Santa Clara Street) (APNs 467-33-001, 467-33-002, 467-33-003, 467-33-004, 467-33-006, 467-33-007, and 467-33-008) from CG Commercial General Zoning District and LI Light Industrial Zoning District to CP(PD) Planned Development Zoning District on a 2.77 gross-acre site.

CEQA: Mitigated Negative Declaration for the Empire Lumber Mixed Use Project. Planning Commission recommends approval (8-0-3; Bonilla, Ornelas-Wise and Torrens absent). (Planning, Building and Code Enforcement)

**DEFERRED TO JANUARY 11, 2022 PER RULES AND OPEN GOVERNMENT COMMITTEE**

**CONTINUE GENERAL PLAN HEARING (2021 2ND CYCLE) FROM DECEMBER 7, 2021**

**10.3 21-2571 General Plan Four-Year Review - Opportunity Housing.**

**Recommendation:** (a) Decline to move forward with the City's Opportunity Housing effort at the present time in order to focus on implementation of Senate Bill 9 (SB 9), which requires the City to allow most of the Opportunity Housing types contemplated as part of the Four-Year Review of the General Plan process.

(b) Direct staff to develop citywide design standards for implementation of SB 9.

(c) Direct staff to explore allowance for "SB 9-type" housing projects within R-2 Zoning Districts and on historic properties that do not qualify under SB 9.

CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from a decision-making body. Planning Commission recommends approval of staff recommendation with the addition of direction to staff to explore options for creating affordable housing units as part of SB 9 implementation (8-2-1; Garcia and Oliverio opposed and Bonilla absent). (Planning, Building and Code Enforcement)

**10.4 21-2572 GPT21-005 - Amendments to General Plan Policy IP-5.12 Related to Commercial Requirements for Affordable Housing Projects Allowed to Proceed Ahead of Approval of an Urban Village Plan or in a Horizon II or III Urban Village. Proposed Amendments are Associated with the Envision San José 2040 General Plan Four-Year-Review and a Portion of the Urban Village Implementation and Policy Modifications (GPT21-005) which, Except for Amendments to General Plan Policy IP 5.12, were Already Heard by Council on December 7, 2021. - TO BE HEARD BEFORE ITEM 10.3**

**Recommendation:** Adopt a resolution approving the General Plan Text Amendments on General Plan Policy IP-5.12 associated with the Envision San José 2040 General Plan Four-Year Review and file number GPT21-005. CEQA: Addendum to the Envision San José 2040 General Plan Final Program EIR and Supplemental EIR to the Envision San José General Plan Final Program EIR and addenda thereto (City Council Resolution No. 80300). Planning Director recommends approval of staff recommendation. Planning Commission recommends approval of Planning staff recommendation with the changes recommended by the Four-Year Review Task Force in those instances where they differ from the Planning staff's recommendations. (9-1-1: Oliverio opposed; Garcia absent). (Planning, Building and Code Enforcement)

**TO BE HEARD BEFORE ITEM 10.3**

**CLOSE THE GENERAL PLAN HEARING (2021 2ND CYCLE)****10.5 21-2570 SB 9 Implementation - Adopt an Urgency Ordinance Amending Title 20 of the Municipal Code to Add Provisions to Implement Senate Bill 9.**

**Recommendation:** (a) Adopt an Urgency Ordinance amending Title 20 of the Municipal Code to implement Senate Bill 9.  
(b) Approve an ordinance amending Title 20 of the San José Municipal Code to implement Senate Bill 9.  
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto. (Planning, Building and Code Enforcement)

- 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 time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. 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 topics related to City business 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.