



City Council Meeting Agenda

Tuesday, January 24, 2023

1:30 PM

Hybrid Meeting - Council Chambers and Virtually -

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

MATT MAHAN, MAYOR
ROSEMARY KAMEI, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
OMAR TORRES, DISTRICT 3
DAVID COHEN, DISTRICT 4
PETER ORTIZ, DISTRICT 5
DEV DAVIS, DISTRICT 6
BIEN DOAN, DISTRICT 7
VACANT, DISTRICT 8
PAM FOLEY, DISTRICT 9
VACANT, 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.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.

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, 80685, 80724, 80758, 80809 and 80853, 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 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, Call to Order in Council Chambers
Open Session, Labor Negotiations Update (See Item 3.2)
Adjourn to Closed Session in Council Chambers Conference Room, W133
See Separate Agenda

[23-057](#)

Closed Session Agenda

1:30 p.m.- Regular Session, Council Chambers, City Hall

3:00 p.m. Special Meeting, Council Chambers, City Hall

* to be heard immediately following the Regular City Council Meeting, but not before 3:00 p.m.

See Separate Agenda

6:00 p.m.- Evening Session - RECOMMEND CANCELLATION

- Pledge of Allegiance
- Invocation (District 1)
- 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

1.1 Presentation of a commendation recognizing Evan Bautista for bringing holiday joy and community spirit to families with his Holiday Train. (Davis)

1.2 Presentation of a proclamation declaring January 22nd to January 31st as Vietnamese (Tet Celebration) New Year to recognize the San José's Vietnamese population and welcome the Lunar New Year. (Ortiz).

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.

[23-113](#)

Final Adoption of Ordinances.

Recommendation:

- (a) Ordinance No. 30873 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 1.37 Gross Acres, Situated on the Northwest Corner of Bernal Road and Realm Drive (151 Bernal Road) (APN: 706-01-046) from the IP Industrial Park Zoning District to the CN Commercial Neighborhood Zoning District. [Passed for Publication on 12/6/2022 - Item 8.3(a) (22-1876)]
- (b) Ordinance No. 30870 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 10.6 Gross Acres Situated on the West Side of Piercy Road, Approximately 2,070 Feet Northerly of Tennant Avenue (500 Piercy Road) (APN: 678-08-061) from the IP Industrial Park Zoning District to the IP(PD) Planned Development Zoning District. [Passed for Publication on 1/10/2023 - Item 10.1(a) (23-018)]

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 [23-058](#)**Amendment to the Ground Lease Agreement with Hewlett Packard Enterprise Company.****Recommendation:**

- (a) Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Third Amendment to the Ground Lease of Parcel W-9 Agreement with Hewlett Packard Enterprise Company to terminate the agreement early, effective upon execution by the City with a payment to Hewlett Packard Enterprise Company of \$2,200,000;
- (b) Adopt the following 2022-2023 Appropriation Ordinance amendments in the Airport Renewal and Replacement Fund:
- (1) Increase the Hewlett Packard Incorporated Lease Buyout appropriation to the Airport Department by \$700,000; and
 - (2) Decrease the Ending Fund Balance by \$700,000.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Airport/City Manager)

2.8 [23-079](#)**Amendment to Agreement with Hall Energy Law PC for Legal Services Related to Power Procurement for San José Clean Energy.****Recommendation:**

Adopt a resolution authorizing the City Attorney to negotiate and execute a fifth amendment to the agreement with Hall Energy Law PC for legal services related to power procurement for San José Clean Energy extending the term from June 30, 2022 to June 30, 2024, increasing the rates of compensation effective January 9, 2023, and increasing the amount of compensation by \$80,000, for a total amount not to exceed \$800,000, subject to the appropriation of funds.

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

2.9 [23-025](#)**Boards and Commissions Appointment.****Recommendation:**

- Approve the following Boards and Commissions appointments:
- (a) Housing and Community Development Commission:
- (1) District 9 Seat: Appoint Don Jackson to a term ending June 30, 2025.
- (b) Youth Commission:
- (1) District 8 Seat: Appoint Aldojoell (Aldo) Gonzalez Muñoz for a term ending May 31, 2024.
- 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 [23-059](#) San José Arena Capital Reserve Fund Amendments.

Recommendation: Adopt the following 2022-2023 Appropriation Ordinance Amendments in the San José Arena Capital Reserve Fund:

- (a) Decrease the Previously Approved Repairs Reserve by \$3,871,000;
- (b) Increase the Electrical Repairs appropriation to the Office of Economic Development and Cultural Affairs by \$855,000;
- (c) Increase the Mechanical Repairs appropriation to the Office of Economic Development and Cultural Affairs by \$2,655,000;
- (d) Increase the Structures Repairs appropriation to the Office of Economic Development and Cultural Affairs by \$334,000; and
- (e) Increase the Unanticipated/Emergency Repairs appropriation to the Office of Economic Development and Cultural Affairs by \$27,000.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (City Manager)

2.11 [23-060](#) Actions Related to the Purchase Order with Bear Electrical Solutions, Inc. for Traffic Signal Installation and Maintenance Services.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Amend purchase order OP 62540 with Bear Electrical Solutions, Inc. (Alviso, CA) for traffic signal installation and maintenance services to increase the total compensation by \$1,080,000, for a maximum compensation not-to-exceed \$1,400,000 for the period ending August 17, 2023.
- (b) Exercise up to four one-year options to extend the term of the purchase order with the last option ending on or about August 17, 2027, 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)

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 [23-048](#) Appointment of Vice Mayor.

Recommendation: Approve the appointment of Councilmember Rosemary Kamei as Vice Mayor.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Mayor)

3.4 [23-074](#) Firearm Regulation Audit Report.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on December 15, 2022, accept the report on the Firearm Regulation Audit.
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 Auditor)
[Public Safety, Finance and Strategic Support Committee referral 12/15/2022 - Item (d)2]

4. PUBLIC SAFETY SERVICES**5. TRANSPORTATION & AVIATION SERVICES****6. ENVIRONMENTAL & UTILITY SERVICES**

6.1 [23-075](#)**Long Term Renewable Energy and Resource Adequacy Contracts.****Recommendation:**

Adopt a resolution authorizing the Director of the Community Energy Department or the Director's designee to negotiate and execute:

- (a) An agreement with Yellow Pine Solar II, LLC, a subsidiary of NextEra Energy Resources Development, LLC, to buy renewable energy, renewable energy credits, resource adequacy, battery tolling rights, and attributes associated with a solar photovoltaic and battery storage facility for a term of no more than 25 years beginning 2024 through 2049, in an amount not to exceed \$15,400,000 annually and \$332,000,000 in the aggregate, to be paid solely from the San José Clean Energy Operating Fund and subject to the annual appropriation of funds; and
 - (b) An agreement with Yellow Pine Solar III, LLC, a subsidiary of NextEra Energy Resources Development, LLC, to buy resource adequacy and battery tolling rights associated with a battery storage facility for a term of 20 years beginning 2025 through 2045, in an amount not to exceed \$3,870,000 annually and \$77,400,000 in the aggregate, to be paid solely from the San José Clean Energy Operating Fund and subject to the annual appropriation of funds.; and
 - (c) An agreement with Sun Pond, LLC, a subsidiary of Longroad Development Company, LLC, to buy renewable energy, renewable energy credits, resource adequacy, battery tolling rights, and attributes associated with a solar photovoltaic and battery storage facility for a term of 20 years beginning 2025 through 2045, in an amount not to exceed \$11,260,000 annually and \$225,200,000 in the aggregate, to be paid solely from the San José Clean Energy Operating Fund and subject to the annual appropriation of funds; and
 - (d) An agreement with Alpaugh BESS, LLC, a subsidiary of Con Edison Clean Energy Businesses, Inc., to buy resource adequacy associated with a battery storage facility for a term of 12 years beginning 2024 through 2036, in an amount not to exceed \$450,000 annually and \$5,400,000 in the aggregate, 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)

6.2 [23-076](#) 2022 Urban Community Drought Relief Grant Program.**Recommendation:**

- (a) Accept the staff report regarding the 2022 Urban Community Drought Relief Grant Program.
- (b) Adopt a resolution:
 - (1) Ratifying the City of San José application for the Program, and authorizing the City Manager, Director of Finance, or their designees, to negotiate and execute the necessary agreements, including any amendments or revisions, and other actions, to apply for and secure the grant and fulfill the Program requirements;
 - (2) Accepting up to \$14.3 million, or the amount awarded, in Program funding; and
 - (3) Authorizing the City Manager, Director of Finance, or their designees, to apply for, negotiate, and execute any documents, and take other actions necessary to receive funds for other State or Federal grant opportunities to fund projects related to drinking water, recycled water, or other associated water supply projects.

CEQA: Not a Project, File No. PP17-009, Staff Reports Assessments, Annual Reports and Informational memos that involve no approvals of any City action and File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. Council Districts 2, 4, 7, and 8. (Environmental Services)

6.3 [23-077](#) Actions Related to the Issuance of a Non-Exclusive Franchise Agreement to Redwood Services, Inc. related to Clean-Out Material and Construction and Demolition Debris.**Recommendation:**

- (a) Conduct a public hearing on the application of Redwood Services, Inc., dba Redwood Debris Box Service (Redwood Services) for a Non-Exclusive Franchise for the non-exclusive collection, transport, and delivery of residential clean-out material and construction and demolition debris.
- (b) Approve an ordinance granting the franchise.
- (c) Approve the Non-Exclusive Franchise Agreement with Redwood Services for the collection, transport, and delivery of residential clean-out material and construction and demolition debris, for a term beginning March 3, 2023, through June 30, 2023.

CEQA: Categorically Exempt, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment, File No. ER21-060. (Environmental Services)

7. NEIGHBORHOOD SERVICES

- 7.1 [23-078](#) **Mayor's Gang Prevention Task Force Plan - San José Youth Violence Prevention Strategy.**

Recommendation: As recommended by the Neighborhood Services and Education Committee on December 8, 2022:

- (a) Accept the Mayor's Gang Prevention Task Force Strategic Plan.
- (b) Adopt the following changes:
 - (1) San José Youth Empowerment Alliance as the new name of the Mayor's Gang Prevention Task Force as approved by the Policy Team on October 27, 2022; and
 - (2) Discontinue use of the term Hot Spots by the Administration to define areas of high youth and gang crime and replace it with the term Opportunity Neighborhoods.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Parks, Recreation and Neighborhood Services)
[Neighborhood Services and Education Committee referral 12/8/2022 - Item (d)2]
DEFERRED TO 1/31/2023 PER ADMINISTRATION

8. COMMUNITY & ECONOMIC DEVELOPMENT

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

No Land Use items on Consent Calendar.

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.