



# City Council Meeting

## Agenda

**Tuesday, May 1, 2018**

SAM LICCARDO, MAYOR  
CHAPPIE JONES, DISTRICT 1  
SERGIO JIMENEZ, DISTRICT 2  
RAUL PERALEZ, DISTRICT 3  
LAN DIEP, DISTRICT 4  
MAGDALENA CARRASCO, VICE MAYOR, DISTRICT 5  
DEV DAVIS, DISTRICT 6  
TAM NGUYEN, DISTRICT 7  
SYLVIA ARENAS, DISTRICT 8  
DONALD ROCHA, DISTRICT 9  
JOHNNY KHAMIS, DISTRICT 10

- **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

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

- **Invocation (District 5)**

Juan Manuel Calderón Jaimes, Consul General of Mexico in San José, California

- **Pledge of Allegiance**

- **Orders of the Day**

To be heard after Ceremonial Items

*ADJOURNMENT: This meeting is adjourned in the memory of San Jose Fire Department Chaplain - Father William John Stout, who passed away on March 14, 2018 at the age of 85. Father Stout was born in San Jose on January 27, 1933 and attended St. Mary's School and Bellarmine College Preparatory School. He earned degrees from Gonzaga University and Santa Clara University, and was ordained a priest in San Francisco in 1964. Father Stout's contributions in and beyond the City of San Jose are immeasurable. As a high school teacher, he taught chemistry, earth science, physics, mathematics; including years at Bellarmine College Preparatory School and William C. Overfelt High School. He served the parishioners of Our Lady Star of the Sea Parish in Alviso, and recently, Our Lady of Peace Church in Santa Clara. In chaplaincy, he assisted at Agnews State Hospital, Valley Medical Center, and extended his generosity, guidance, and comfort to the San José Fire Department for 45 years. Father Stout established the Annual Firefighter Memorial Mass to mark the contributions of firefighters who passed each year. Father Stout often shared the story of St. Florian, the Patron Saint of Firefighters, who suffered death for his faith and is invoked as a powerful protector in danger from fire or water. St. Florian's Day is May 4, and this week the San José Fire Department will miss their annual visit and cake from their beloved Father Stout.*

**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 18-472** Presentation of a proclamation declaring the month of May as “Building Safety Month” in the City of San José. (Davis)
- 1.2 18-593** Proclamation recognizing May as Asian American and Pacific Islander Heritage Month, to recognize the achievements of San José’s Asian American and Pacific Islander community, who make up over 30% of San José’s population, and for their contributions to the City. (Diep)

## **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 18-586 Approval of City Council Minutes.**

**Recommendation:** (a) Special Study Session Minutes for the Elected and Appointed Officials Emergency Management Training for December 1, 2017.  
(b) Regular City Council Meeting Minutes for December 12, 2017.  
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

**2.2 18-594 Final Adoption of Ordinances.**

**Recommendation:** (a) ORD. 30085 - An ordinance of the City of San José rezoning certain real property of approximately 0.84-gross acre situated at the southwest corner of Saratoga Avenue and Borina Drive (951 Saratoga Ave) from the A (PD) Planned Development and R-1-8 Single Family Residence Zoning Districts to the CP Commercial Pedestrian Zoning District.  
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report adopted by City Council Resolution No. 76041 on November 1, 2011; and the Envision San José 2040 General Plan Supplemental Environmental Impact Report adopted by City Council Resolution No. 77617 on December 15, 2015; and addenda thereto.

(b) ORD. 30086 - An ordinance of the City of San José rezoning certain real property of approximately 1.04 gross acres situated on the northwest corner of Berryessa Road and Lundy Avenue (1705 Berryessa Road) from the A(PD) Planned Development Zoning District to the CP(PD) Planned Development Zoning District.  
CEQA: Mitigated Negative Declaration for the 1705 Berryessa Gas Station Project. Planning Commission recommends approval (7-0-0).

**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 18-528 Action Related to Establishment of a VEBA Advisory Committee.****Recommendation:**

- (a) Adopt a resolution to provide for the selection and term of office of members of the Voluntary Employees Beneficiary Association Advisory Committee for the Police and Fire Voluntary Employees Beneficiary Association and the Federated Employees' Voluntary Employees Beneficiary Association.
- (b) Approve an ordinance amending various sections of Chapter 2.08 of Title 2 to establish the provisions for the administration of the Voluntary Employees Beneficiary Association Advisory Committee.
- CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Manager)

**2.8 18-591 Programmatic Agreement with the Federal Transit Administration and the California State Historic Preservation Officer, and Valley Transportation Authority for the BART Silicon Valley - Phase II Extension Project in Santa Clara County.****Recommendation:**

- Adopt a resolution to authorize the City Manager to execute the Programmatic Agreement with the Federal Transit Administration, California State Historic Preservation Officer, and the Valley Transportation Authority for the BART Silicon Valley - Phase II Extension Project in Santa Clara County for the City of San José as a Concurring Party.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.  
(Planning, Building and Code Enforcement)
- RECOMMEND DEFERRAL TO 5/22/18 PER ADMINISTRATION**

**2.9 18-543 Actions Related to the Vacation of Setback Easements Located at 2823 Quinto Way within Tract No. 1098.****Recommendation:**

- (a) Adopt a resolution of intention to vacate the 25-foot and 12.5-foot light and air easements located within Tract No. 1098;
- (b) Set a Public Hearing on Tuesday, May 22, 2018, at 1:30 p.m., for consideration of the vacation; and
- (c) Direct the City Clerk to file the vacation map and advertise said public hearing.
- CEQA: Statutorily Exempt, File No. PP18-013, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation. Council District 9. (Public Works)

**2.10 18-544 Approval of the Rule 20A and 20B Underground Utility Program Workplan and the Rule 20B Undergrounding Master Plan.**

**Recommendation:** Approve the proposed Fiscal Year 2017/18 - 2022/23 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program and of the Fiscal Year 2016-2017 Rule 20B (In-Lieu Fee) Undergrounding Master Plan.  
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Public Works)

**2.11 18-561 Approval of an Ordinance Designating an Additional Right-of-Way for City-Owned Land Located North of North 21st Street.**

**Recommendation:** Approve an ordinance designating as public right-of-way, 6,480 square feet of City-owned land located at the northernmost terminus of North 21st Street, north of the intersection with Santa Clara Street.  
CEQA: Categorically Exempt, File No. PP18-049, CEQA Guidelines Section 15301, Existing Facilities. Council District 3. (Public Works)

**2.12 18-531 Actions Related to the Annexation Area No. 1 to Convention Center Facilities District No. 2008-1.**

**Recommendation:** (a) Accept the landowner approval forms to annex hotel property into Convention Center Facilities District No. 2008-1 as Annexation No. 1.  
(b) Adopt a resolution:  
(1) Approving the annexation of territory to Convention Center Facilities District No. 2008-1 and levying a special tax within Annexation No. 1; and  
(2) Directing the City Clerk to record a notice of special tax lien.  
(c) Adopt the following 2017-2018 Funding Sources Resolution and Appropriation Ordinance amendments in the Convention Center Facilities District Revenue Fund:  
(1) Increase the revenue estimate for Convention Center Facilities District Special Tax by \$2,475,892; and  
(2) Increase the Unrestricted Ending Fund Balance by \$2,475,892.  
CEQA: Determination of Consistency to the San José Downtown Strategy 2000 Final Environmental Impact Report, Resolution No. 72767, and Addenda thereto, File No. PP08-002. Council Districts 3, 4 & 7. (Public Works/Finance/City Manager)

**2.13 18-599 Retroactive Approval of "Conversations with Dev" Sponsored by Council District 6 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 and Government Committee on April 18, 2018:  
(a) Retroactively approve "Conversations with Dev" scheduled on April 11, 2018 as a City Council sponsored Special Event and approve the expenditure of funds; and  
(b) Retroactively 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. (Davis)  
[Rules Committee referral 4/18/18 - Item G.1.a]

**2.14 18-600 Approval of SVCTBA 2018 Tech Smart City Conference Sponsored By Council District 10 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 April 18, 2018:  
(a) Approve the SVCTBA Tech Smart City Conference scheduled on May 11, 2018 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. (Khamis)  
[Rules Committee referral 4/18/18 - Item G.1.b]

**2.15 18-520 Agreement with History San José for Maintenance of City-Owned Historical Facilities.**

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute an Agreement with History San José, from July 1, 2018 to June 30, 2038, for the operations and maintenance of the City-owned historical facilities within History Park at Kelley Park and the Peralta Adobe - Fallon House Historic Site, as well as management of the City's historic collections for an annual amount not to exceed \$784,000, subject to annual appropriations as approved by City Council.  
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.  
Council Districts 3 and 7. (Economic Development)  
**DEFERRED FROM 4/24/18 ITEM 2.8 TO 5/1/18 PER ADMINISTRATION**

### **3. STRATEGIC SUPPORT**

**3.1 Report of the City Manager, David Sykes (Verbal Report)**

**3.2 Labor Negotiations Update.**

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

**3.3 18-580 Actions Related to the Agreement with AT&T DBA New Cingular Wireless PCS, LLC for Permitting Small Cells.**

**Recommendation:**

(a) Adopt a resolution authorizing the City Manager to negotiate and execute the following:

(1) Amendment to the Master Non-Exclusive Installation and Property Use Agreement between the City and AT&T DBA New Cingular Wireless PCS, LLC, to amend the terms of the Form Site License Agreement; and

(2) Funding and Reimbursement Agreement between the City and AT&T DBA New Cingular Wireless PCS, LLC, to cover the Permitting and Process Improvement costs related to the Permitting of Small Cells.

(b) Adopt the following 2017-2018 Funding Sources Resolution and Appropriation Ordinance amendments in the General Fund:

(1) Decrease the revenue estimate for Other Revenue by \$750,000; and

(2) Decrease the appropriation to the City Manager's Office for Broadband and Digital Inclusion Strategy by \$750,000.

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

**4. COMMUNITY & ECONOMIC DEVELOPMENT**

**4.1 18-529 Amendment to Title 17 for Vacant Buildings and Storefronts in Downtown San José.**

**Recommendation:**

Approve an ordinance of the City of San José amending Chapter 17.38 of Title 17 of the San José Municipal Code to establish mandatory registration within the vacant building monitoring program for Downtown buildings and vacant storefronts that have been vacant for 30 days.

CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. Council District 3.

(Economic Development/Planning, Building and Code Enforcement)

**4.2 18-584 Intent to Maintain the General Plan and Zoning Designation of Property Located at 435 S. Market Street - Convention Center South Hall. – DROP**

**Recommendation:**

Approve the Statement of the City Council's intent to maintain the General Plan and zoning designation of the property located at 435 S. Market Street, the current site of the Convention Center South Hall Site, planned expansion of the San Jose Convention Center, as Public Quasi Public (PQP).

CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. Council District 3. (Economic Development)

**DROP**

**4.3 18-592 Actions Related to the Substantial Amendment to FY 2017-2018 Annual Action Plan for the Use of Funds from the U.S. Department of Housing and Urban Development.**

**Recommendation:**

- (a) Hold a Public Hearing and take public comment on the proposed Substantial Amendment to the Fiscal Year 2017-2018 Annual Action Plan to:
  - (1) Reallocate approximately \$650,000 in grant funding;
  - (2) Recognize an additional \$200,000 in program income and commit \$115,000 of it; and
  - (3) Funds for these changes will be made available by taking the following actions:
    - (i) Decrease the CDBG fund allocation for Legal Services from \$530,000 to \$30,000.
    - (ii) Decrease the CDBG fund allocation for Place-Based Street and Infrastructure Enhancements from \$1,830,000 to \$1,680,000.
    - (iii) Increase the CDBG fund allocation for Revenues by \$200,000.
- (b) Adopt a resolution approving the proposed Substantial Amendment for submission to the U.S. Department of Housing and Urban Development.
- (c) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution amendments in the Community Development Block Grant Fund:
  - (1) Increase the estimate for Revenue from the Use of Money/Property by \$200,000;
  - (2) Decrease the Housing Rehabilitation Loans and Grants Appropriation to the Housing Department by \$150,000;
  - (3) Increase the Housing Emergency and Minor Repair Program appropriation to the Housing Department by \$515,000; and
  - (4) Decrease Ending Fund Balance by \$165,000.
- (d) Adopt the following 2017-2018 Appropriation Ordinance amendments in the HOME Invest Partnership Fund:
  - (1) Decrease the Housing Loans and Grants appropriation to the Housing Department by \$68,000; and
  - (2) Increase Ending Fund Balance by \$68,000.

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. (Housing/City Manager)

**4.4 18-530 PP14-036 - Amendments to Title 5 (Housing) and Title 20 (The Zoning Ordinance) for California Government Code Section 65915 Et Seq (State Housing Density Bonuses and Incentives Law).**

**Recommendation:**

Approve an ordinance of the City of San José amending Section 5.08.450 of Chapter 5.08 of Title 5 and adding Chapter 20.190 to Title 20 of the San José Municipal Code to implement California Government Code Section 66915 (State Housing Density Bonus and Incentives Law) and provide affordable housing incentives and waivers consistent with the San Jose General Plan.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR) (Resolution No. 76041, and Supplemental Environmental Impact Report (EIR) (Resolution No. 77617), and Addenda thereto and does not involve new significant impacts beyond those analyzed in the FEIR or the Supplemental EIR. Planning Commission recommends approval (7-0-0) (Planning, Building and Code Enforcement)



PP14-036 - Citywide

**4.5 18-587 Report on the Cost of Development in San José.**

**Recommendation:** Accept staff report on the Cost of Development in San José.  
CEQA: Not a Project, File No PP17-009, Staff Report, Assessment, Annual Reports and Informational memos that involve no approval of City action.  
(Economic Development/Planning, Building and Code Enforcement)  
**TO BE HEARD LAST**

**5. NEIGHBORHOOD SERVICES**

**5.1 18-582 Actions Related to the Iconic Light Tower with San Jose Light Tower Corporation.**

**Recommendation:** Endorse the concept of an authorize the Department of Parks, Recreation and Neighborhood Services and Office of Economic Development/Cultural Affairs to guide the San Jose Light Tower Corporation as they investigate options to design and construct in downtown an artistically inspired and iconic structure as a gift to the City of San José.  
CEQA: Statutorily Exempt, File No. PP17-001, CEQA Guidelines Section 15262, Feasibility and Planning Studies.  
(Parks, Recreation and Neighborhood Services/Economic Development)

**6. TRANSPORTATION & AVIATION SERVICES**

**6.1 18-512 Actions Related to the Design-Build Procurement for Terminal B Interim Facility Project at the Airport.**

**Recommendation:** (a) Adopt a resolution in accordance with San José Municipal Code Section 14.07.310:  
(1) Finding that the cost of the proposed design-build contract for the Terminal B Interim Facility Project (the “Project”) at the Norman Y. Mineta San Jose International Airport will exceed \$5,000,000, and that the use of the design-build delivery method process is likely to save money and/or result in faster Project completion than if the City used the traditional design-bid-build method of project delivery;  
(2) Approving the Request for Proposals and the evaluation criteria and process by which the City shall select a design-build entity for the Interim Facility Project; and  
(3) Authorizing the Acting Director of Public Works to issue addenda to the RFP to add any additional requirements or to make such other revisions to the RFP that are consistent with the scope and selection criteria as approved by Council.  
(b) Adopt a resolution finding that the Airport traffic and transit improvement conditions set forth in Part 4 of Chapter 25 of the San José Municipal Code have been met and that the City may therefore expand the number of air carrier gates at the Airport beyond the existing thirty (30) gates, as provided in the Airport Master Plan.

CEQA: Addendum to the Norman Y. Mineta San José International Airport Master Plan Update Project Environmental Impact Report and Addenda thereto (Resolution Nos. 67380 and 71451), File No. PP18-038. (Airport/Public Works)

## **6.2 18-385 San José Complete Streets Design Guidelines.**

### **Recommendation:**

(a) As recommended by the Transportation and Environment Committee on February 5, 2018, accept the report on San José's Complete Streets Design Guidelines and adopt a resolution to:

- (1) Adopt the San José Complete Streets Design Guidelines that will serve as the official street design guide to be used by staff in the design of San José streets for all roadway users;
- (2) Adopt Complete Streets principles, implementation methods, and exceptions as required by the Valley Transportation Authority (VTA) to be eligible to receive VTA 2016 Measure B funding; and
- (3) Endorse the National Association of City Transportation Officials' (NACTO) Design Guidance, which serves as a model for the City's Complete Streets Guidelines.

(b) Approve an ordinance making minor amendments to the San José Municipal Code Title 9, 11, 13, 17 and 19 to align with the above Council actions.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Impact Report (Resolution No. 76041), Supplemental Impact Report (Resolution No. 77617), and Addenda thereto. (Transportation)

[Transportation and Environment Committee referral 2/5/18 - Item (d)1]

**DEFERRED FROM 3/27/18 ITEM 6.1 TO 5/1/18 PER ADMINISTRATION**

## **6.3 18-578 Actions Related to the 2018 Arterial Resurfacing Project.**

### **Recommendation:**

(a) Approve award of a construction contract for the 2018 Arterial Resurfacing Project to the low bidder, MCK Services, Inc. in the amount of \$12,923,358.

(b) Approve a 5% contingency in the amount of \$646,168.

CEQA: Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities, File No. PP18-029. (Transportation)

## **7. ENVIRONMENTAL & UTILITY SERVICES**

### **7.1 18-583 Actions Related to the San José Clean Energy Risk Management Policy.**

#### **Recommendation:**

(a) Adopt a resolution approving the Energy Risk Management Policy which details roles, responsibilities, strategies, controls, and authorities to manage risks for San José Clean Energy.

(b) Approve March 1, 2019 as the Phase II (Residential) & III (Commercial) launch date to serve these customers.

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

**8. PUBLIC SAFETY****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, 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.

**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

*This meeting is adjourned in the memory of San Jose Fire Department Chaplain Father William John Stout, who passed away on March 14, 2018 at the age of 85. Father Stout was born in San Jose on January 27, 1933 and attended St. Mary's School and Bellarmine College Preparatory School. He earned degrees from Gonzaga University and Santa Clara University, and was ordained a priest in San Francisco in 1964. Father Stout's contributions in and beyond the City of San Jose are immeasurable. As a high school teacher, he taught chemistry, earth science, physics, mathematics; including years at Bellarmine College Preparatory School and William C. Overfelt High School. He served the parishioners of Our Lady Star of the Sea Parish in Alviso, and recently, Our Lady of Peace Church in Santa Clara. In chaplaincy, he assisted at Agnews State Hospital, Valley Medical Center, and extended his generosity, guidance, and comfort to the San José Fire Department for 45 years. Father Stout established the Annual Firefighter Memorial Mass to mark the contributions of firefighters who passed each year. Father Stout often shared the story of St. Florian, the Patron Saint of Firefighters, who suffered death for his faith and is invoked as a powerful protector in danger from fire or water. St. Florian's Day is May 4, and this week the San José Fire Department will miss their annual visit and cake from their beloved Father Stout.*