



# City Council Meeting Agenda

**Tuesday, September 18, 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



*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.
- **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.
- **Neighborhood Services** - Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **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.
- **Public Safety** - Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

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. 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 <http://www.sanjoseca.gov/index.aspx?NID=3549>. 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. Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for the final document.

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

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

- **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 8)**

INSERT INVOCATION NAME

- Pledge of Allegiance
- 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.**
- 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 18-1205 City Manager's Travel to Seattle, Washington.**

**Recommendation:** Authorize travel for City Manager David Sykes to Seattle, Washington on October 3 - 5, 2018 to participate in the Silicon Valley Organization 2018 Annual Study Mission. Source of Funds: City Manager's Non-Personal Appropriation.  
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Manager)

**2.8 18-1206 Stormwater Permit Annual Report 2017 - 2018.**

**Recommendation:** Adopt a resolution authorizing certification and submittal of the FY 2017-2018 Stormwater Permit Annual Report to the San Francisco Bay Regional Water Quality Control Board by September 30, 2018, in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (Permit) requirements, pursuant to the Federal Clean Water Act.  
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)

**2.9 18-1207 Actions Related to Purchase Orders for Hazardous Fluid Waste Recycling, Disposal, and Related Services.**

**Recommendation:** Adopt a resolution authorizing the City Manager to:

- (a) Execute two Purchase Orders with Safety-Kleen Systems, Inc. (Norwell, MA) for hazardous fluid waste recycling, disposal, and related services, including all labor, material, and equipment necessary to perform such services, for the Departments of Public Works and Environmental Services for an initial twelve-month period beginning on or about September 19, 2018 and ending September 30, 2019 in a combined amount not to exceed of \$145,000;
- (b) Approve a contingency of \$30,000 to amend purchase orders as required during the initial term in the event actual service needs exceed estimates, subject to the appropriation of funds; and
- (c) Execute purchase orders for up to four additional one-year option terms to extend the services through September 30, 2023, 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)

**2.10 18-1208 Actions Related to the Purchase Order for Interior/Exterior Building Air Quality Testing Services.**

**Recommendation:** Adopt a resolution authorizing the City Manager to:

- (a) Execute a Purchase Order with ATC Group Services, LLC (Portland, OR) for interior/exterior building air quality testing services for the Department of Public Works for an initial twelve-month period, starting on or about October 1, 2018 and ending on or about September 30, 2019, for an amount not to exceed \$100,000, subject to the appropriation of funds; and
- (b) Exercise up to four one-year options to extend the term of the

Purchase Order with the last option year ending on or about September 30, 2023, 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)

**2.11 18-1209 Continuation of Active Wellness Agreement.**

**Recommendation:** Adopt a resolution authorizing the City Manager to execute a one year extension to the agreement with Active Wellness, LLC (Active Wellness) to continue providing a wellness program and services for the Fire Department in an amount not to exceed \$366,600.

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

**2.12 18-1210 Amendments to the City Pay Plan for Various Classifications.**

**Recommendation:** Adopt a resolution to amend the City of San José Pay Plan effective September 23, 2018, to create the classification of Mayor's Senior Policy Advisor U (8050) with a salary range of \$150,000.00 - \$195,000.00 annually.

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

**2.13 18-1211 Master Parking Rate Schedule Amendment to Include South Hall Parking Lot.**

**Recommendation:** Adopt a resolution amending the City's Master Parking Rate Schedule for Municipal On and Off-street Parking Facilities to add the off-street parking lot commonly referred to as the South Hall Lot.

CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates & Fares without changes to or expansion of services. Council District 3. (Transportation)

### **3. STRATEGIC SUPPORT**

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

**3.2 Labor Negotiations Update.**

Accept Labor Negotiations Update.

TO BE HEARD AT 9:30 A.M.

**3.3 18-1212 Status of Open Audit Recommendations as of June 30, 2018.**

**Recommendation:** Accept the Status of Open Audit recommendations as of June 30, 2018. 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)

**3.4 18-1213 Approval of Citywide Insurance Renewals.**

**Recommendation:** Adopt a resolution authorizing the Director of Finance to select and purchase City property and liability insurance policies for the period October 1, 2018 to October 1, 2019, at a total cost not to exceed \$1,850,000, including a 15% contingency for additional property or assets scheduled, with the following insurance carriers:

- (a) Factory Mutual Insurance Company for Property Insurance, including Boiler & Machinery.
- (b) Old Republic Aerospace, Phoenix Aviation Managers, for Airport Owners and Operators Liability including War Risks & Extended Perils Coverage (including Excess Automobile and Employers' Liability) and Police Aircraft Hull & Liability including War Risks & Extended Perils Coverage.
- (c) The Travelers Indemnity Company of Connecticut for Automobile Liability (Airport fleet vehicles including Shuttle Buses, Regional Wastewater Facility fleet vehicles, and Airport Shuttle Bus physical damage).
- (d) QBE Specialty Insurance Company for Secondary Employment Law Enforcement Professional Liability.
- (e) National Union Fire Insurance Company of Pittsburg, PA for Accidental Death, Accidental Dismemberment, and Paralysis Policy for the Police Air Support Unit.
- (f) Berkley Regional Insurance Company for Government Fidelity/Crime Coverage.

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

**3.5 18-1214 Acceptance of Retirement Plans' Comprehensive Annual Investment Fee Report for Calendar Year 2017.**

**Recommendation:** Accept the following reports:

(a) Police and Fire Retirement Plan Comprehensive Annual Fee Report for calendar year 2017.

(b) Federated City Employees' Retirement System Comprehensive Annual Fee report for calendar year 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. (Retirement Services)

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

**4.1 18-1215 2019 College Football Playoff National Championship Progress Report.**

**Recommendation:** Accept a progress report on City preparations for events and visitors in San José for the 2019 College Football Playoff National Championship January 3-7, 2019.

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

**4.2 18-1216 Establishing a Special Event Zone in Downtown San José from December 28, 2018 to January 8, 2019.**

**Recommendation:** (a) Approve an uncoded ordinance to establish a Special Event Zone in Downtown San José from December 28, 2018 to January 8, 2019 to prohibit certain activities on public property, temporarily suspend the issuance of permits for temporary outdoor use of private property and limit the installation of Supergraphics to eight non-City-owned buildings in the Downtown Sign Zone.

(b) Adopt a resolution authorizing the City Manager to negotiate and execute a property use agreement between the City of San José and Bay Area Host Committee for non-parking use of the Almaden Blvd./Woz Way Parking Lot, December 26, 2018 - January 8, 2019 for \$18,900.

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Economic Development)



**4.3 18-1217 Action Related to the Purchase and Sale of 1123 Coleman Avenue.****Recommendation:** Adopt a resolution:

(a) Declaring the City property located at 1123 Coleman Avenue surplus to the needs of the City.

(b) Authorizing the City Manager to negotiate and execute a Purchase and Sale Agreement for approximately 13.1 acres of land located at 1123 Coleman Avenue for \$25,678,620 or \$45 per square foot of land, as well as any related documents necessary to effectuate the land transaction.

CEQA: Not a Project, File No. PP17-003 Agreements/Contracts (new or amended) resulting in no new physical changes to the environment. (Economic Development/Parks, Recreation and Neighborhood Services)

**4.4 18-1218 Funding Award for Homeless Outreach, Case Management and Prevention Service.****Recommendation:** Adopt a resolution authorizing the Director of Housing to negotiate and execute contracts funded by Community Development Block Grant, Emergency Solutions Grant, and Housing Authority Litigation Award totaling \$1,657,255 for implementation of the City's Homeless Outreach, Case Management and Prevention Program from October 1, 2018 through June 30, 2019, to the following agencies and amounts:

(a) \$829,494 to People Assisting the Homeless for homeless outreach services and mobile case management;

(b) \$580,000 to HomeFirst Services of Santa Clara County for homeless outreach services; and

(c) \$247,761 to Bill Wilson Center for homeless prevention services.

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

**4.5 18-1219 Vacation of the 25-Foot and 12.5-Foot Setback Easements within Tract No. 65 (1982 McDaniel Avenue).****Recommendation:** Conduct a Public Hearing and adopt a resolution:

(a) Approving the report of the Director of Public Works setting forth the facts justifying the vacation of the 25-foot and 12.5-foot light and air easements ("setback easements") located within Tract No. 65;

(b) Vacating the 25-foot and 12.5-foot setback easements located within Tract No. 65; and

(c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.

CEQA: Categorically Exempt, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation, File No. PP18-061. Council District 6. (Public Works)

**4.6 18-1220 Vacation of the 20- to 25-Foot and 15-Foot, and 12.5-foot Setback Easements within Tract No. 470 (1322 Glen Eyrie Avenue).**

**Recommendation:** Conduct a Public Hearing and adopt a resolution:

(a) Approving the report of the Director of Public Works setting forth the facts justifying the vacation of the 20- to 25-foot, 15-foot, and 12.5-foot light and air easements (“setback easements”) located within Tract No. 470;

(b) Vacating the 20- to 25-foot, 15-foot, and 12.5-foot setback easements located within Tract No. 470; and

(c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.

CEQA: Categorically Exempt, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation, File No. PP18-063. Council District 6. (Public Works)

## **5. NEIGHBORHOOD SERVICES**

## **6. TRANSPORTATION & AVIATION SERVICES**

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

**7.1 18-1221 Energy, Renewable, and Greenhouse Gas-Free Power Contracts for San José Clean Energy.**

**Recommendation:** Adopt a resolution authorizing the Director of Community Energy or her designee to negotiate and execute supply contracts for Calendar Year 2019 for Energy, Renewable Energy and Renewable Energy Credits, and Greenhouse Gas free power and attributes using the Edison Electric Institute Agreement or the Western Systems Power Pool Agreement and to transact for balancing energy and other necessary services from the California Independent System Operator through the Northern California Power Authority in an amount not to exceed \$200,000,000 in aggregate, subject to the Risk Management Regulations, including a requirement that all counterparties must be reviewed for creditworthiness and assigned a credit limit, and transactions must be within these limits.

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

(Community Energy)

**7.2 18-1222 Actions Related to the Recycle Plus Residential Solid Waste Agreements and China's Policy on Importing Recyclable Material.**

**Recommendation:** [Deferred from 6/5/18 Item 7.4 (18-771); 6/26/18 Item 7.2 (18-939); 8/21/18 Item 7.1 (18-1058); 9/11/18 Item 7.1 (18-1178)]  
RECOMMEND DEFERRAL TO 9/25/18 PER ADMINISTRATION

**7.3 18-1223 Actions Related to the Negotiations of Recycle Plus Residential Solid Waste Agreements.**

**Recommendation:** [Deferred from 6/5/18 Item 7.5 (18-774); 6/26/18 Item 7.3 (18-940); 8/21/18 Item 7.2 (18-1059); 9/11/18 Item 7.2 (18-1179)]  
RECOMMEND DEFERRAL TO 9/25/18 PER ADMINISTRATION

**7.4 18-1224 Actions Related to the Living Wage Requirements for Recycle Plus Residential Garbage and Recycling Contracts.**

**Recommendation:** [Deferred from 6/5/18 Item 7.6 (18-773); 6/26/18 Item 7.4 (18-941), 8/21/18 Item 7.3 (18-1060); 9/11/18 (18-1180)]  
RECOMMEND DEFERRAL TO 9/25/18 PER ADMINISTRATION

## **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.

**END OF CONSENT CALENDAR**

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

**10.2 18-1226 PDA07-007-02 and ABC18-003 - Planned Development Permit Amendment and Determination of Public Convenience or Necessity for Real Property Located at 1520 Southwest Expressway.**

**Recommendation:** Adopt a resolution approving a Planned Development Permit Amendment and Determination of Public Convenience or Necessity to allow the off-sale of a full range of alcoholic beverages as incidental to a new 6,600-square foot grocery store at a new grocery market (290 square feet dedicated to alcohol sales) in a vacant tenant space on a 2.25-gross acre site zoned A(PD), located at the southeast corner of Southwest Expressway and Fruitdale Avenue (1520 Southwest Expressway).  
CEQA: Exempt pursuant to 15301(a) for Existing Facilities. - Council District 6

- **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**
- **Notice of City Engineer's Pending Decision on Final Maps**

## **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.
- 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.