



City Council Meeting Agenda

Tuesday, October 23, 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 Speakers 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 Clerks 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 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--Cancelled

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

6:00 p.m.- Public Hearings, Council Chambers, City Hall

- **Invocation (District 9)**

Scott Simmerrock, Lead Pastor, Church on the Hill

- 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.

1. CEREMONIAL ITEMS

1.1 Presentation of a proclamation to recognize October 2018 as National Cybersecurity Awareness Month. (Jones)

1.2 Presentation of a commendation to the Vietnamese Mass Media Club of Northern California for their contributions to the advancement of quality journalism in the City of San José. (Nguyen)

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 18-1403 Actions Related to the Sale of Surplus Property Located at 435 North 2nd Street.

Recommendation: Adopt a resolution:

(a) Declaring the residential condominium located at 435 North 2nd Street, Unit 213 in San José (APN 249-73-047) surplus to the needs of the City;

(b) Approving a purchase and sale agreement between the City of San José and Christine Hanchett for the sale of the property in the amount of \$513,000; and

(c) Authorizing the City Manager or his designee to execute the purchase and sale agreement, the deed, and all other documents necessary to complete the transaction.

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)

2.8 18-1404 Actions Related to the Agreement with American Tower, LP. for the Use of Space at Coyote Peak.

Recommendation: Approve the License Agreement with American Tower, L.P and the City of San José for the use of the communications facility and radio tower on Coyote Peak within the Santa Teresa County Park for an initial 5-year term retroactive to July 1, 2017, with three 5-year renewal options. The City shall pay annual rent of \$43,450 for the first year which will be adjusted by a cost of living adjustment of 3% on each anniversary date.

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

(Economic Development)

2.9 18-1405 Amendment to the Agreement with Our City Forest for Operating Services.

Recommendation: Approve the first amendment to the Operating Grant Agreement between the City and Our City Forest, which will provide an additional \$120,000 in one-time funds to Our City Forest for expanded fund-raising activities and increase the total grant amount including these one-time funds from \$179,014 to \$299,014.

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

(Transportation)

2.10 18-1406 Agreement with Cal Engineering & Geology, Inc. for Engineering Services for the Kelley Park Storm Outfall and Alum Rock Park Mineral Springs Bridge Embankment Projects (SCSJC88/PW1137; SCSJG01/PW745).

Recommendation: Approve an agreement with Cal Engineering & Geology, Inc. for engineering consultant services for the Kelley Park Storm Outfall & Alum Rock Park Mineral Springs Bridge Embankment Projects from the date of execution to October 31, 2021, in a maximum total compensation amount of \$659,312.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15269 (a), Emergency Projects, File No. PP18-003. Council District 5 and 7. (Public Works)

2.11 18-1407 Agreement with Fall Creek Engineering, Inc. for Engineering Services for the Japanese Friendship Garden Koi Pond and Pump House Project (SCSJE81/PW1051).

Recommendation: (a) Approve an agreement with Fall Creek Engineering, Inc. to provide engineering consultant services for the Japanese Friendship Garden Koi Pond and Pump House Project from the date of execution to October 31, 2021, in a maximum total compensation amount of \$605,188.

(b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute any amendments to the scope of services provided that the total cost of the agreement does not increase.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15269 (a), Emergency Projects, File No. PP18-003. Council District 7. (Public Works)

3. STRATEGIC SUPPORT

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

3.2 Labor Negotiations Update.

Accept Labor Negotiations Update.

3.3 18-1408 Approval of the Terms of an Agreement with the International Union of Operating Engineers, Local Union No. 3 (OE#3) for the Term of October 1, 2018 through September 30, 2019.

Recommendation: Adopt a resolution approving the terms of a collective bargaining agreement between the City and the International Union of Operating Engineers, Local Union No. 3 (OE#3) for the term of October 1, 2018 through September 30, 2019, and authorizing the City Manager to execute the agreement with those terms.

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

3.4 18-1410 Legal Update - U.S. Supreme Court's Decision in Janus v. AFSCME and Recent California Legislation.

Recommendation: As referred by the Rules and Open Government Committee on September 19, 2018, adopt a resolution urging the City of San José to work with public sector unions in San José to ensure their health and success; and support the freedom of city employees to participate in unions post Janus v. AFSCME.

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

[Rules and Open Government referral 9/19/18 - Item D.3]

3.5 18-1419 Proposed Public Charge Rule.

Recommendation: Adopt a resolution opposing the proposed Public Charge rule released by the Department of Homeland Security and published by the Federal Registrar on October 10, 2018, and direct the City Attorney's Office to submit a statement on behalf of the City during the public comment period.

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

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 18-1411 Actions Related to the 8151 - Large Trash Capture Device - Phase VI Project.

Recommendation: Adopt a resolution authorizing the Director of Public Works to:

- (a) Award and execute the 8151 - Large Trash Capture Device - Phase VI Project construction contract to the lowest responsive and responsible bidder, in a total amount not to exceed \$5,250,000 and to approve a construction contingency of fifteen (15) percent of the amount of the construction contract, not to exceed \$787,500;
- (b) Decide any timely bid protest(s), make the City's final determination as to the lowest responsive bidder that is responsible, or reject all bids and rebid the project; and
- (c) Negotiate and execute any single and/or multiple change orders for the Project in excess of \$100,000 up to the amount of the contingency of \$787,500.

CEQA: Addendum to a Mitigated Negative Declaration adopted on January 22, 2009 for a previous project (File No. PP08-257; public project for the Citywide Large Trash Capture Device Installation), File No. PP15-081. (Public Works)

5. NEIGHBORHOOD SERVICES

5.1 18-1412 Audit of Community Center Reuse.

Recommendation: As recommended by the Neighborhood Services and Education Committee on September 13, 2018, accept the results of the audit of the Reuse of Community Centers Program.

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

[Neighborhood Services and Education Committee referral 9/13/18 - Item (d)3.]

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 18-1413 Report on Bids and Award of a Contract for the 8073 - Blower Improvements Project at the Regional Wastewater Facility.

Recommendation: (a) Report on bids and award of a construction contract for the 8073 - Blower Improvements Project to the low bidder, Monterey Mechanical Company, for the base bid and Add Alternate No. 1, in the amount of \$29,498,000, and approval of a contingency in the amount of \$4,425,000.
(b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute any single and/or multiple change orders in excess of \$100,000, up to the amount of the contingency of \$4,425,000.
CEQA: Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities, File No. PP16-124. (Environmental Services/Public Works)

8. PUBLIC SAFETY

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

- (a) **18-1414** **C18-011 - Conforming Rezoning for Real Property Located at 2462 Aborn Road.**

Recommendation: Consideration of an ordinance of the City of San José rezoning a 0.29-gross acre site, located at 2462 Aborn Road from the A Agricultural Zoning District to R-1-8 Single-Family Residence Zoning District.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C18-011 - Council District 8

- (b) **18-1415** **C18-014 - Conforming Rezoning for Real Property Located at 0 Pegasus Court.**

Recommendation: Consideration of an ordinance of the City of San José rezoning an approximately 0.44-gross acre site, located at the south side of Pegasus Way, approximately 200 feet easterly of Tulare Hill Road, from the A Agricultural Zoning District to the R-1-8 Single-Family Residence Zoning District.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental EIR (Resolution 77617), Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C18-014 - Council District 2

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda**CONTINUE GENERAL PLAN HEARING (THIRD CYCLE) FROM SEPTEMBER 25, 2018****10.2 18-1417 PDC14-051/PD16-019 - Planned Development Rezoning and Planned Development Permit for Real Property Located at 4200 Dove Hill Road.**

Recommendation: (a) Adopt a resolution adopting the Dove Hill Medical Care Facility Project Mitigated Negative Declaration, for which an Initial Study was prepared, and adopting a related Mitigation Monitoring and Reporting Program, all in accordance to the California Environmental Quality Act, as amended.

(b) Consideration of an ordinance of the City of San José rezoning an approximately 21.0-gross acre site, located on the east side of Dove Hill Road, approximately 500 feet north of Hassler Parkway, from the A Agricultural Zoning District to the PQP(PD) Planned Development Zoning District to allow a Medical Care Facility with up to 248 beds on an approximately 3.0-acre portion of a 21-gross acre site, with the remaining 18.0 acres to be kept as open space.

(c) Adopt a resolution approving a Planned Development Permit, subject to conditions, to allow the demolition of approximately 25 buildings/structures, the construction of a Medical Care Facility with up to 248 beds, and the removal of seven ordinance-size trees on an approximately 3.0-acre portion of a 21.0-gross acre site.

CEQA: Mitigated Negative Declaration for the Dove Hill Medical Care Facility Project, File Nos. PDC14-051 and PD16-019.

Planning Commission recommends approval (5-0-2, Vora and Griswold absent). (Planning, Building and Code Enforcement)

PDC14-051 & PD16-019 - Council District 8

[Continued from City Council Meeting of August 28, 2018-Item 10.2 (File No. 18-1133) and from September 25, 2018 - Item 10.3 (18-1292)]

10.3 18-1416 PD17-029, PDC17-058, PT17-063 - Planned Development Permit, Planned Development Rezoning, and Vesting Tentative Map for Real Property Located at 715 West Julian Street.

Recommendation: (a) Adopt a resolution approving an Addendum to the Diridon Station Area Plan Final Program EIR (Resolution No.77096), Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), Supplemental EIR (Resolution No. 77617), and Addenda thereto, in accordance to the California Environmental Quality Act, as amended.

(b) Consideration of an ordinance of the City of San José rezoning a 1.22 gross acre site, located at 715 West Julian Street from the CP Commercial Pedestrian Zoning District and LI Light Industrial Zoning District to the CP(PD) Planned Development Zoning District to allow up to 249 residences with a minimum 0.5 floor area ratio of commercial uses (up to 26,585 square feet).

(c) Adopt a resolution approving a Vesting Tentative Map, subject to conditions, to combine two parcels into one parcel; all on a 1.22 gross acre site.

(d) Adopt a resolution approving a Planned Development Permit, subject to conditions, to demolish five existing buildings, remove six ordinance size trees, construct a mixed use development with 249 multi-family residential units and 26,585 square feet of ground level commercial space.

CEQA: Addendum to the Diridon Station Area Plan Final Program EIR (Resolution No.77096), Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), Envision San José 2040 General Plan Supplemental Environmental Impact Report Supplemental EIR (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (6-0-1-1, Yesney absent, Leyba abstained). (Planning, Building and Code Enforcement)

PD17-029, PDC17-058, PT17-063 - Council District 6

10.4 18-1418 GP18-009 - General Plan Amendment for the East Santa Clara Street Urban Village Plan.

Recommendation: (a) Consider the Determination of Consistency with the Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Supplemental EIR to Envision San José General Plan EIR (SEIR) (Resolution No. 77617), and Addendum thereto, in accordance with CEQA.

(b) Adopt a resolution approving the General Plan Amendment to modify the East Santa Clara Street (West of 17th Street) Urban Village boundary, change the General Plan land use designations on properties within the boundary of the Urban Village Plan area as shown on the land use diagram, and adopt the East Santa Clara Street (West of 17th Street) Urban Village Plan as described in the attached staff report and as modified by the Planning Commission to change prior to the City Council hearing.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (5-2-0 Leyba and Marquez opposed). (Planning, Building and Code Enforcement)

GP18-009 - Council District 3

CLOSE GENERAL PLAN HEARING (THIRD CYCLE)

- **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.
- 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.