



City Council Meeting Agenda

Tuesday, January 15, 2019

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
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, 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 Mayors discretion, depending on the number of speakers or the length of the agenda.
- o To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 6 p.m. as needed, unless otherwise noted. The City Council, or less than a quorum, may adjourn any regular, special or adjourned meeting to a later date, time and place specified in the order of adjournment. If all members are absent, the City Clerk may declare the meeting adjourned to a stated date, time and place. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <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, 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

18-1770 Closed Session Agenda

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

- Invocation 1

To be determined.

- 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 18-1425 Ballot Measure to Hold Mayoral Elections Concurrent with Presidential Election.

Recommendation: As recommended by the Rules and Open Government Committee on October 3, 2018, adopt a resolution amending the City Charter to hold San José mayoral elections concurrent with national Presidential elections.

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Vice Mayor Carrasco, Jones, Jimenez, Rocha)
[Rules Committee referral 10/03/18 - Item G.6]

2.8 18-1794 Amendment to Federal Aviation Administration for Passenger Facility Charges for the Terminal B - North Concourse Project.

Recommendation: Adopt a resolution authorizing the City Manager to submit an amendment to the Federal Aviation Administration to increase the City's authority to impose and use Passenger Facility Charges for the Terminal B - North Concourse Project in the amount of \$38,696,000.

CEQA: Not a Project, File No. PP17-003, Agreements and Contracts, Services that involve no physical changes to the environment. (Airport)

2.9 18-1796 Purchase Order with Duke's Root Control for Chemical Root Treatment Services.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute a Purchase Order with Duke's Root Control (Syracuse, NY) for chemical root treatment services on behalf of the Department of Transportation for an initial twelve-month period, starting on or about January 16, 2019 and ending on or about January 15, 2020, for an amount not to exceed \$330,000; 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 January 16, 2024, 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, David Sykes (Verbal Report)

3.2 Labor Negotiations Update.

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

3.3 18-1808 Reappointment to Appeals Hearing Board

Recommendation: Consider reappointment of Elizabeth Chien-Hale to the Appeals Hearing Board for the remainder of her unexpired term, ending December 31, 2021, upon a finding that there was good excuse for her absences from Board meetings or upon finding that the reappointment will be in the City's best interests.

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

3.4 18-1788 Appeals Hearing Board Appointment.

Recommendation:

- a. Interview applicant(s) for appointment to the Appeals Hearing Board;
- b. Appoint one (1) applicant to the Attorney-at-Law Seat on the Appeals Hearing Board for a term ending December 31, 2022;
- c. Appoint one (1) applicant to the Public Member Seat on the Appeals Hearing Board for a term ending December 31, 2019;
- d. Appoint one (1) applicant to the Public Member Seat on the Appeals Hearing Board for a term ending December 31, 2022;
- e. If Council did not approve Item 3.4 on today's Council agenda, appoint one (1) applicant to the Public Member Seat on the Appeals Hearing Board for a term ending December 31, 2021; and
- f. If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration within 90 days.

3.5 18-1797 Appointment of Vice Mayor.

Recommendation: Approve the appointment of Councilmember XXXXX as Vice Mayor.

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

TO BE HEARD FIRST BEFORE CONSENT

3.6 18-1799 Amendment to the Agreement with Bibliotheca, LLC for Library Radio Frequency Identification System.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute the First Amendment to the Agreement for a Library Radio Frequency Identification System with Bibliotheca, LLC (Norcross, GA) to purchase additional radio frequency identification equipment and professional services to expand use at current and additional library locations and to increase the maximum compensation by \$84,875 for a total maximum contract compensation of \$3,235,878 for the initial five-year term ending on August 31, 2021; and
- (b) Increase contingency by \$300,000 for amendments and change orders for any additional unanticipated changes required during the initial five-year term, 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)

3.7 18-1800 Audit of Towing Services: Changes to Contract Terms and Consolidated Oversight Could Improve Operations.

Recommendation: Accept the Audit of Towing Services: Changes to Contract Terms and Consolidated Oversight Could Improve Operations report.

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)

3.8 18-1801 Actions Related to the Fee Schedule for City-Generated Zone Towing Services.

Recommendation: Adopt a resolution setting a new fee schedule for City-Generated Zone Towing Services and authorizing the City Manager to execute amendments to the Agreements for City-Generated Zone Towing Services with rates not to exceed the allowable tow fees under the State of California Highway Patrol Tow Services Agreement for the Golden Gate Region-San José Office to take effect January 16, 2019, with the below contractors:

- (a) Matos Auto Towing & Transport
- (b) City Towing, Inc.
- (c) Century Tow
- (d) Motor Body Company, Inc.
- (e) Courtesy Tow Services, Inc.
- (f) Alongi Brothers, Inc.

CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges, Adjustment to Fees, Rates & Fares without changes to or expansion of services. (Planning, Building and Code Enforcement)

3.9 18-1802 Actions Related to the Title 6 (Business Licenses and Regulations) and Title 20 (The Zoning Ordinance) of the San José Municipal Code for Cannabis Manufacturing, Cannabis Testing, And Cannabis Distribution.

Recommendation: (a) Consideration of ordinances of the City of San José amending Title 6 (Business Licenses and Regulations) and Title 20 (The Zoning Ordinance) of the San José Municipal Code to amend: (i) Chapter 6.88 of the San José Municipal Code to add and amend regulations pertaining to Cannabis Manufacturing, Cannabis Testing, and Cannabis Distribution; and (ii) Sections 20.10.040, 20.50.100, 20.100.1530, 20.100.1535, 20.100.1540, and Chapter 20.80 Parts 9.76 including but not limited to Sections 20.80.795, 20.80.800, 20.80.805, and 20.80.810 of the Zoning Ordinance to add Cannabis Manufacturing, Cannabis Testing and Cannabis Distribution or similarly defined land uses as newly enumerated Restricted Uses in specified Industrial Zoning Districts, and making other technical, non-substantive, or formatting changes within those Sections of Title 6 and Title 20 (PP18-014).
(b) Title 6
(c) Direct the City Manager and City Attorney to return to the City Council before June 30, 2019 with an ordinance amending Chapter 4.66 of the San José Municipal Code to implement a revised Marijuana Business Tax rate structure to reduce the tax rate for the cultivation, manufacturing, testing, and distribution of cannabis.
CEQA: Addendum to the Envision San José 2040 General Plan EIR (Resolution No. 76041), and Supplemental Program Environmental Impact Report (Resolution No. 77617) and Addenda thereto; and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. Planning Commission recommends approval (5-0-1; Vora absent).
(Planning, Building and Code Enforcement/Finance/Police)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 18-1809 City Council Priority #27: Cannabis Manufacturing, Distribution, and Testing.

Recommendation: (a) Adopt a resolution approving the San José Industrial Cannabis Municipal Code Amendment Project Addendum to the Envision San José General Plan Final Environmental Impact Report (General Plan FEIR), Supplemental Program Environmental Impact Report (General Plan SEIR) for the Envision San José 2040 General Plan, and addenda thereto, all in accordance with the California Environmental Quality Act, as amended.

(b) Approve an ordinance amending Title 20 (the Zoning Ordinance) of the San José Municipal Code amending Section 20.10.040 of Chapter 20.10 and Section 20.50.100 of Chapter 20.50, Section 20.80.760 of Chapter 20.80, adding a new part 9.76 of Chapter 20.80, and amending Sections 20.100.1530, 20.100.1535, and 20.100.1540 of Chapter 20.100 to add “Cannabis Manufacturing Business,” “Cannabis Distribution Business,” and “Cannabis Testing Business” as new restricted uses; and make other technical, non-substantive, or formatting changes to Title 20.

(c) Approve an ordinance amending Chapter 6.88 of Title 6 (Business Licenses and Regulations) of the San José Municipal Code to:

(1) Add cannabis manufacture, distribution, and testing to the categories of regulated cannabis businesses;

(2) Create a registration process, safety criteria, and other regulations for cannabis manufacturers, distributors, and testing labs;

(3) Approve other changes to update the San José Municipal Code to align with new State regulations; and

(4) Make other technical, non-substantive, or formatting changes.

(d) Direct the City Manager and City Attorney to return to the City Council before June 30, 2019 with an ordinance amending Chapter 4.66 of the San José Municipal Code to implement a revised Marijuana Business Tax rate structure to reduce the tax rate for the cultivation, manufacturing, testing, and distribution of cannabis.

CEQA: Addendum to the Envision San José 2040 General Plan EIR (Resolution No. 76041), and Supplemental Program Environmental Impact Report (Resolution No. 77617) and Addenda thereto; and File No. PP18-014. Planning Commission recommends approval (5-0-1; Vora absent).

(Planning, Building and Code Enforcement/Police/Finance)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 18-1803 Actions Related to the Signatory and Non-Signatory Airline-Airport Lease and Operating Agreements with Airlines Operating at the Norman Y. Mineta San José International Airport.

Recommendation: Adopt a resolution authorizing the Director of Aviation to:

- (a) Negotiate and execute Signatory Airline-Airport Lease and Operating Agreements with any current or new passenger or cargo airlines at the Norman Y. Mineta San José International Airport that meet the minimum requirements to be a signatory airline, for the 10-year term of the new lease, starting on July 1, 2019, with two 5-year options to extend subject to the mutual agreement of the City and the airlines.
- (b) Negotiate and execute Non-Signatory Airline-Airport Lease and Operating Agreements with any current or new passenger or cargo airlines at the Norman Y. Mineta San José International Airport that do not meet the minimum requirements to be a signatory airline or choose not to enter into a signatory lease, for the 10-year term of the new lease, starting on July 1, 2019, with two 5-year options to extend subject to the mutual agreement of the City and the airlines.
- (c) Negotiate and execute agreements and amendments with airlines for leases of premises through the term of the Signatory and Non-Signatory Airline-Airport Lease and Operating Agreements that adhere to standard rates and charges for Airport premises.

CEQA: Not a Project, File No. PP17-003, Agreements and Contracts, Services that involve no physical changes to the environment. (Airport)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 18-1804 Actions Related to Negotiations of Recycle Plus Residential Solid Waste Agreements.

Recommendation: (a) Accept the staff report with the term sheets from Garden City Sanitation, GreenTeam of San José, and GreenWaste Recovery for future residential solid waste services;

(b) Direct staff to develop agreements with Garden City Sanitation, GreenTeam of San José, and GreenWaste Recovery in accordance with the term sheets and return to Council in April 2019 with Recycle Plus agreements for residential solid waste services to begin July 1, 2019 and continue through June 30, 2036;

(c) Direct staff to end negotiations with California Waste Solutions and issue a Request for Proposals to provide Recycle Plus services for single-family recyclables collection & processing in Service Districts A & C, with the same framework as future services in Service District B, for a contract term to begin July 1, 2021 through June 30, 2036;

(d) Direct staff to exclude Junk Pickup services from future residential solid waste services and return to Council with an approach for delivering this service in the future; and

(e) Direct staff to continue negotiations with GreenWaste Recovery for residential street sweeping services and return to Council with a recommendation.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Environmental Services) [Deferred from 12/4/18 Item 7.1 (18-1607); and 12/18/18 Item 7.1 (18-1706)]

7.2 18-1805 Actions Related to Recycle Plus Residential Solid Waste Agreements and China's Policy On Importing Recyclable Material.

Recommendation: Adopt a resolution authorizing the City Manager to waive all or a portion of the contractor disincentives for not meeting the required diversion rates for calendar year 2018 if by March 1, 2019 the City Manager determines that the Recycle Plus contractors are unable to meet their required diversion rates because of China's "National Sword" policy on the import of recyclable materials.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Environmental Services) [Deferred from 12/4/18 Item 7.2 (18-1599); and 12/18/18 Item 7.2 (18-1707)]

7.3 18-1806 Actions Related to Implementing Living Wage Requirements for Recycle Plus Residential Garbage and Recycling Contracts.

Recommendation: (a) Accept the staff report on:
(1) The proposed methodology to implement a Modified Living Wage for Recycle Plus Customer Service Representatives, Mechanics, and Materials Recovery Facility workers; and
(2) The updated labor peace plans from Recycle Plus contractors.
(b) Direct staff to negotiate the inclusion of a Modified Living Wage requirement, as approved by Council, in future residential garbage and recycling agreements for the Recycle Plus program.
CEQA: Not a Project, File PP17 003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Environmental Services/Public Works)
[Deferred from 12/4/18 Item 7.3 (18-1600) and 12/18/18 Item 7.3 (18-1708)]

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.

- Adjournment

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions: § No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Council, Committee, Board or Commission.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.