



City Council Meeting Amended Agenda

Tuesday, February 12, 2019

SAM LICCARDO, MAYOR
CHAPPIE JONES, VICE MAYOR, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
RAUL PERALEZ, DISTRICT 3
LAN DIEP, DISTRICT 4
MAGDALENA CARRASCO, 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

18-1773 Closed Session Agenda

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

- Invocation (District 2)

TO BE DETERMINED

- Pledge of Allegiance
- Adjournment

We adjourn today's meeting in memory of Harry Powers who passed away at the age of 91 on Monday, December 3, 2018, surrounded by family. Harry is warmly remembered as a gifted and prolific sculptor and painter, an Emeritus Professor of Art at San José State University, an active member of the San José -Dublin Sister City Program and creator of their Spirit of Ireland Award, a loving husband, father, and friend, and a champion of the arts and of the City of San José.

- Orders of the Day

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- Closed Session Report

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation recognizing February 2019 as Dental Health Awareness Month in the City of San José. (Arenas)
- 1.2 Presentation of commendation to District 6 resident Patricia Gardner, Executive Director of Silicon Valley Council of Nonprofits, for all her work helping non-profit communities connect and establish stronger voices. (Davis)

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.**(a) 18-1906 Approval of City Council Minutes.**

Recommendation: (a) Regular Council Meeting Minutes of August 8, 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.

2.2 Final Adoption of Ordinances.**18-1892 Final Adoption of Ordinances.**

Recommendation: (a) Ord No. 30214 - An Ordinance of the City of San José Amending Chapter 11.18 of Title 11 of the San José Municipal Code Related to the Installation of Stop Signs.

(b) Ord No. 30215 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.54- Gross Acre Situated at the Northwest Corner of Monterey Road and Roeder Road (5260 Monterey Road), from the CN Commercial Neighborhood Zoning District to the CP Commercial Pedestrian Zoning District.

2.3 Approval of Council Committee Minutes.**(a) 18-1911 Approval of Council Committee Minutes.**

Recommendation: (a) Regular Joint Meeting for the Rules and Open Government Committee of January 16, 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.

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 18-1875 Actions Related to the Refund of Construction Fees and Taxes for Westfield DDC, LLC for Project Located at 2847 Stevens Creek Boulevard.

Recommendation: (a) Approve a refund of construction fees and taxes in the amount of \$679,964.82 to Westfield DDC, LLC for a project located at 2847 Stevens Creek Boulevard.
(b) Approve a refund for the Strong Motion Instrument Program Assessment fee in the amount of \$4,201.02.
(c) Approve a refund for the Building Standards Administration Special Revolving Fund fee in the amount of \$600.00.
(d) Adopt the following 2018-2019 Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:
(1) Increase the Developer Refunds appropriation to the Department of Planning, Building and Code Enforcement in the amount of \$82,000 and
(2) Decrease the Building and Structure Construction Tax Unrestricted Ending Fund Balance by \$82,000.
CEQA: Not a Project, File No. PP17-004, Adjustment to Fees, Rates & Fares without changes to or expansion of services. (Planning, Building, and Code Enforcement/Transportation/City Manager)

2.8 18-1876 Amendment to the Agreement with Buster Simpson for Artwork at the Co-Generation Plant. - DROP

Recommendation: Approve an amendment to the agreement with artist Buster Simpson to increase the budget by \$55,438 to design, fabricate and install an artwork at the Co-Generation Plant for an amount not to exceed \$345,438.
CEQA: Categorically Exempt, File No. PP16-006, CEQA Guidelines Section 15301, Existing Facilities. (Economic Development)
DROP

2.9 18-1877 Amendment to the Agreement with LSG Sky Chef, Inc. for Lease of Airport Premises.

Recommendation: Adopt a resolution authorizing the Director of Aviation to negotiate and execute the Fifth Amendment to the Lease of Airport Premises for in-flight catering services with LSG Sky Chefs, Inc. for a five-year extension through February 14, 2024, subject to early termination by the City with a one year notice.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts resulting in no physical changes to the environment. (Airport)

2.10 18-1888 Agreement with the California Independent System Operator for San José Clean Energy to Operate as Scheduling Coordinator.

Recommendation: Adopt a resolution authorizing the Director of Community Energy or her designee to execute the Scheduling Coordinator Agreement and the Meter Service Agreement with the California Independent System Operator allowing San José Clean Energy to operate as a Scheduling Coordinator and to execute any other necessary agreements with the California Independent System Operator to perform its obligations as a Scheduling Coordinator.

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

2.11 18-1895 Retroactive Approval of Coffee Hour Sponsored by Council District 8 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 January 30, 2019:

(a) Retroactively approve the Coffee Hour scheduled on January 24, 2019 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. (Arenas)
[Rules Committee referral 1/30/19 - Item G.1.b]

3. STRATEGIC SUPPORT

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

3.2 Labor Negotiations Update.

3.3 18-1878 Approval of the 2018- 2019 Mid-Year Budget Review Report.

Recommendation: (a) Approve the 2018-2019 Mid-Year Budget Review Report.
(b) Adopt a resolution amending the 2018-2019 Schedule of Fees and Charges (Resolution No. 72737, as amended) to decrease the Vehicle Impound Fee from \$290.00 per release to \$122.00 per release.
(c) Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) of the 2018-2019 Mid-Year Budget Review 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; and File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (City Manager)

3.4 18-1880 Status Report on Measure T - Disaster Preparedness, Public Safety and Infrastructure Bond.

Recommendation: Accept the status report on the workplan and implementation of projects included in the approved Disaster Preparedness, Public Safety and Infrastructure Bond measure.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Public Works/Transportation)

3.5 18-1879 Actions Related to the Donor Advised Governance Structure Proposed for the San José Digital Inclusion Fund.

Recommendation: (a) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the City and the California Emerging Technology Fund (CETF) to manage small cell usage fee revenue and matching fundraising revenue allocations (from the City to CETF), subject to appropriation of funds, to implement a Digital Inclusion Fund. (b) Adopt the following 2018-2019 Funding Sources Resolution and Appropriation Ordinance amendments in the General Fund:

(1) Increase the Estimate from Other Revenue by \$750,000; and

(2) Increase the Digital Inclusion Program appropriation to the City Manager's Office by \$750,000.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment and File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (City Manager)

NOT TO BE HEARD BEFORE 3:30 P.M.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 18-1881 Substantial Amendment to the Fiscal Year 2017-2018 Annual Action Plan.

Recommendation: (a) Hold a Public Hearing on the proposed Substantial Amendments to the Fiscal Year 2017-2018 Annual Action Plan to fund a new activity not previously described in that Action Plan in order to expend \$124,764 in remaining grant funding on homelessness prevention programs.

(b) Adopt a resolution approving the proposed Substantial Amendment for submission to U.S. Department of Housing and Urban Development.

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)

4.2 18-1882 Report on the Feasibility of Deferring Both the Business License Tax and Residential Occupancy and Apartment Rent Ordinance Fees Paid by Landlords Impacted by the Federal Shutdown Tenant Eviction Moratorium.

Recommendation: Accept the staff report regarding the feasibility of deferring taxes and fees paid by landlords affected by the federal shutdown tenant eviction moratorium.

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

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 18-1886 Report on Bids and Award of Contract for the 8946 - Sanitary Sewer Repairs FY 18-19 Package I Project.

Recommendation: Report on bids and award of contract for the 8946 - Sanitary Sewer Repairs FY 2018-2019 Package I to the low bidder, Devaney Engineering, Inc. in the amount of \$1,117,856 and approval of a contingency in the amount of \$111,786.

CEQA: Categorically Exempt, File No. PP17-029, CEQA Guidelines Sections 15301, Existing Facilities and 15302, Replacement or Reconstruction. Council District 1. (Public Works)

7.2 18-1887 Summary Vacation of a 25-Foot Wide Sidewalk Easement Along East Brokaw Road, Bering Drive, and Devcon Court.

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 summary vacation of a 25-foot wide sidewalk easement along East Brokaw Road between Bering Drive and US-101 off-ramp, Bering Drive between East Brokaw Road and Devcon Court, and the north side of Devcon Court;
 - (b) Summarily vacating the sidewalk easement, which has been determined to be excess; 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: Addendum to the North San José Development Policies Update Final Environmental Impact Report (Resolution No. 72768), Envision San José 2040 General Plan Final Environmental Impact Report (Resolution No. 76041), Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto (File No. HA13-040-02). Council District 3. (Public Works)

8. PUBLIC SAFETY

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

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.

- Open Forum
- Adjournment

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**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.