



City Council Meeting Agenda

Tuesday, March 19, 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 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. 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

18-1777 Closed Session Agenda

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

- Invocation (District 3)
- 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

- 1.1 Presentation of a commendation to San José Climate Smart Champions. (Mayor)

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 19-085 Settlement of Cooper v. City of San José.

Recommendation: Approve a settlement in the amount of \$215,000, and authorize the City Attorney to execute a Settlement Agreement to settle the case of Cooper v. City of San José.

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

2.8 19-071 Amendment to the Agreement with Raimi + Associates, Inc. for Services in the Diridon Station Area.

Recommendation: Adopt a resolution authorizing the City Manager to execute the Continuation and First Amendment to the Agreement for Consultant Services between the City of San José and Raimi + Associates, Inc. (Raimi) to extend the term through June 30, 2020 and increase compensation to \$505,000 (currently \$230,000) for services including branding and website, civic engagement and project management.

CEQA: Not a Project, File Nos. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action; and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Economic Development)

2.9 19-072 Report on Bids and Award of Contract for 8716 - South Bay Water Recycling Pump Station 5 VFD Replacement Project.

Recommendation: Report on bids and award of contract for the 8716 - South Bay Water Recycling Pump Station 5 VFD Replacement project to the low bidder, CESCOP dba CAL ELECTRIC, in the amount of \$243,100 and approve a contingency in the amount of \$24,300, for a total of \$267,400.

CEQA: Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities(b), File No. PP17-068. (Environmental Services)

2.10 19-073 Actions Related to the Purchase Order with Six Degrees Consulting for Check Point Technical and Support Services.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute a Purchase Order with Six Degrees Consulting (Chicago, IL) for Check Point technical services, maintenance, and support for an initial twelve-month period beginning on or about March 25, 2019 and ending on or about March 25, 2020 for a not-to-exceed amount of \$220,062;
- (b) Approve a contingency of \$44,000 to amend the Purchase Order as required during the initial term for any unanticipated changes; and
- (c) Execute up to four additional one-year option terms to extend services through March 25, 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)

2.11 19-074 Action Related to the Fiscal Year 2018 Internet Crimes Against Children Grant Award.

Recommendation: (a) Adopt a resolution accepting the Fiscal Year 2018 Internet Crimes Against Children Task Force Award in the amount of \$1,000,000 and authorizing the City Manager to execute the Grant Agreement and all related documents and to execute additional amendments and related documents without further Council action.

(b) Adopt the following 2018-2019 Appropriation Ordinance and the Funding Sources Resolution amendments in the General Fund:

- (1) Establish a City-Wide appropriation to the Police Department for the Internet Crimes Against Children State Grant 2018-2020 in the amount of \$360,000; and
- (2) Increase the estimate for Revenue from State of California by \$360,000.

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

2.12 19-081 Request for Travel for Mayor's Staff.

Recommendation: Authorize travel, accept travel payments to the City of San José, and designate Mayor's staff, Shireen Santosham, as the City representative to attend the Aspen Institute's Future of Cities: Connecting Innovation, Equity and Empowerment Conference in Washington, D.C. from April 8, 2019 to April 10, 2019. (Source of Funds: Aspen Institute)
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Mayor)

2.13 19-075 Railroad Maintenance Agreement with Peninsular Corridor Joint Powers Board.

Recommendation: Approve the Railroad Maintenance Agreement with the Peninsular Corridor Joint Powers Board for the grade crossing improvements at West Virginia Street and at Auzerais Avenue.
CEQA: Peninsula Corridor Electrification Program Final Environmental Impact Report (SCH # 2013012079), File No. PP16-061. Council District 6. (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 19-076 Approval of the Fiscal Year 2019-2020 Mayor's March Budget Message.

Recommendation: (a) Conduct a Public Hearing on the FY 2019-2020 Mayor's March Budget Message.
(b) Approve the FY 2019-2020 Mayor's March Budget Message.
CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no changes to the physical environment. (Mayor)

3.4 19-077 9-1-1 and 3-1-1 Call Answering Audit Response.

Recommendation: As recommended by the Public Safety, Finance, & Strategic Support Committee on February 21, 2019, accept a report on the 911-311 Call Answering Audit.
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)
[Public Safety, Finance, & Strategic Support Committee referral 2/21/19 - Item (d)3]

3.5 19-078 Report on Request for Proposal for Financial Services (Banking Services) RFP 17-18-05.

Recommendation: (a) Adopt a resolution authorizing the City Manager to take one of the following actions:
(1) Reject all proposals for RFP 17-18-05, and
(a) Issue a new RFP for banking services; or
(b) Explore the feasibility of an alternative delivery model for banking services and report back to the City Council prior to issuing a new RFP based on a new model on or before June 30, 2020; or
(2) As an alternative to rejecting all proposals for RFP 17-18-05, waive Wage Theft Prevention Council Policy 0-44 as applied to the procurement for and agreements to provide banking, lockbox, merchant card, and securities custodial services, issue a Notice of Intent to award to JPMorgan Chase Bank (San Francisco, CA) for general banking and lockbox services, and merchant card services.
(b) Adopt a resolution authorizing the City Manager to negotiate and execute amendments to extend the term of the current agreements with Wells Fargo for general banking and lockbox services, merchant card services, and securities custodial services through June 30, 2021 (to cover the period necessary to either issue a new RFP, or explore the feasibility of an alternative delivery model and transition services following a new RFP, or to allow sufficient time for implementation with JP Morgan Chase), subject to the appropriation of funds.
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. (Finance)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 19-079 Housing Crisis Workplan.

Recommendation: (a) As recommended by the Community and Economic Development Committee on February 26, 2019, accept staffs' report updating the Committee on staffs' progress implementing the City Council approved Housing Crisis Workplan. Staff will provide details on policy actions underway and completed, an update on the Housing Catalyst team, and market-rate and affordable housing production.

(b) Accept verbal staff report on recontrol provisions in the City's Ellis Act ordinance and provide direction to staff.

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/Planning, Building & Code Enforcement/Housing)

[Community and Economic Development Committee referral 2/25/19 - Item (d)2]

RECOMMEND DEFERRAL TO 3/26/19 PER ADMINISTRATION

4.2 19-080 Annual Progress Report on the Implementation of the San José General Plan Housing Element and the Housing Successor to the Redevelopment Agency Annual Report.

Recommendation: (a) Accept the Calendar Year 2018 Annual Progress Report on the Implementation of the San José 2014-23 Housing Element.

(b) Accept the Fiscal Year 2017-18 Housing Successor to the Redevelopment Agency Annual 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. (Housing/Planning, Building and Code Enforcement)

5. NEIGHBORHOOD SERVICES

5.1 19-082 Report on Quality Standards for Early Education Programming.

Recommendation: As recommended by the Neighborhood Services & Education Committee on February 14, 2019, accept the staff report on the development of quality standards for City programs that serve young children, as specified by the Education and Digital Literacy Strategy. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Library)
[Neighborhood Services & Education Committee referral 2/14/19 - Item (d)3]

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 19-083 Amendment to Title 26 for San José Clean Energy Rates.

Recommendation: Approve an ordinance amending Section 26.40.020 of Chapter 26.40 of Title 26 of the San José Municipal Code to permit San José Clean Energy to (1) decrease rates, and (2) adjust rates that are fixed against Pacific Gas and Electric Company rates, without requiring written notice to customers or a finding of extraordinary circumstances by City Council if the rate is decreased or modified more than twice a year. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Community Energy)

7.2 19-084 Actions Related to Power Supply Procurement for Fiscal Years 2020, 2021, and 2022.

Recommendation: Adopt a resolution authorizing the Director of Community Energy or her designee to negotiate and execute power supply contracts, with modifications, as appropriate, in consultation with the City Attorney, for Calendar Years 2020, 2021 and 2022 for Energy, Renewable Energy, Renewable Energy Credits, Resource Adequacy, and Low Carbon power and attributes using the Edison Electric Institute Agreement or the Western Systems Power Pool Agreement in an amount not to exceed \$380,000,000 in aggregate from January 2020 through December 2022, subject to the Energy Risk Management Policy and the appropriation of funds. Funding for costs in fiscal years 2019-2020, 2020-2021, 2021-2022 and 2022-2023 is subject to the appropriation of funds in 2019-2020, 2020-2021, 2021-2022, and 2022-2023.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
(Community Energy)

8. PUBLIC SAFETY

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

- 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.