



City Council Meeting Agenda

Tuesday, April 16, 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**

9:00 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

19-133 Closed Session Agenda

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

6:00 p.m.- Evening Session, Council Chambers, City Hall
Will not begin until 6pm or until after all afternoon items are heard.

- **Invocation (District 3)**

Hung Vuong Institute, Tae Kwon Do demonstration

- **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.

This meeting will be adjourned in memory of Betty Rose-Morales who passed away on January 22, 2019 at the age of 82. Betty and her husband, Hilbert Morales, owned and operated the El Observador news outlet in San Jose together since 1986, providing factual, truthful and useful information to the Hispanic-Latino community. She will be missed by many and remembered for her wisdom, kindness, common sense, and impressive humor.

- **Closed Session Report**

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing the week of April 14 - 20, 2019 as "National Public Safety Telecommunicators Week" in the City of San José honoring the San José Police and Fire Public Safety Dispatchers for their vital contributions that help protect the people of our community. (Perez)

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.**19-207 Approval of Council Committee Minutes.**

Recommendation: (a) Transportation and Environment Committee Minutes of October 1, 2018
(b) Rules and Open Government Committee Minutes of June 20, 2018
(c) Rules and Open Government Committee Minutes of October 3, 2018
(d) Rules and Open Government Committee Minutes of October 24, 2018
(e) Community and Economic Development Committee Minutes of June 25, 2018
(f) Community and Economic Development Committee Minutes of August 27, 2018
(g) Community and Economic Development Committee Minutes of September 24, 2018
(h) Public Safety, Finance, and Support Services Committee Minutes of October 4, 2018
(i) Smart Cities and Service Improvements Committee Minutes of October 18, 2018
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Clerk)

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 19-206 City Auditor's Travel to Kansas City, MO for the Association of Local Government Auditors 2019 Annual Conference.**

Recommendation: Authorize travel for Acting City Auditor Joseph Rois to Kansas City, MO on May 5-7, 2019 to participate in the Association of Local Government Auditors 2019 Annual Conference.
CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (City Auditor)

2.8 19-208 Actions Related to Councilmember Raul Perez's Surplus Campaign Funds.

Recommendation: Adopt the following 2018-2019 Appropriation Ordinance and Funding Source Resolution Amendments in the General Fund:

- (a) Increase the estimate for Other Revenue by \$16,381;
- (b) Increase the appropriation to Council District #3 in the amount of \$14,086;
- (c) Increase the appropriation to Council District #4 in the amount of \$1,084; and
- (d) Increase the appropriation to Council District #8 in the amount of \$1,211.

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. (City Clerk/City Manager)

2.9 19-209 Approval of City Hall Facility Free Use on Saturday, May 4, 2019, for Earth Ride.

Recommendation: Adopt a resolution authorizing "Free Use" for events and activities held at City Hall on Saturday, May 4, 2019 for Earth Ride.

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. (Environmental Services)

2.10 19-210 2019 ADA Sidewalk Accessibility Ramps Project.

Recommendation: (a) Approve award of a construction contract for the 2019 ADA Sidewalk Accessibility Ramps Project (No. 2092), to the low bidder, JJR Construction, Inc. in the amount of \$685,998.

(b) Approve a ten percent contingency in the amount of \$68,600.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301 (c), Existing Facilities. (Transportation)

2.11 19-211 List of Pavement Maintenance Projects Eligible for SB-1 Funding.

Recommendation: Adopt a resolution approving a list of pavement maintenance projects eligible for San Jose's 2019-2020 allocation of the Road Maintenance and Rehabilitation Account funding, which was made available by the approval of Senate Bill No. 1 (SB-1), otherwise known as the Road Repair and Accountability Act of 2017.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Citywide. (Transportation)

2.12 19-212 Agreement with Fehr & Peers for the Downtown Transportation Plan.

Recommendation: Adopt a resolution authorizing the City Manager or designee to negotiate and execute a contract with Fehr & Peers for planning & design consulting services to develop the Downtown Transportation Plan in an amount not to exceed \$675,000.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. Council Districts 3 & 6. (Transportation)

2.13 19-214 Actions Related to the Loan Assistance Program for Federal Workers at the Norman Y. Mineta San José International Airport.

Recommendation: Adopt the following 2018-2019 Appropriation Ordinance amendments in the General Fund:

(a) Increase the Budget Stabilization Reserve in the amount of \$10,500,000;

(b) Decrease the Federal Worker Loan Assistance Program City-wide expenses appropriation to the Finance Department in the amount of \$10,000,000; and

(c) Decrease the Federal Worker Loan Assistance Program Guaranty Reserve in the amount of \$500,000.

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 impact on the environment. (City Manager)

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 9:00 A.M.

3.3 19-213 Board of Fair Campaign and Political Practices Response and Proposed Recommendations to October 16, 2018 Council Referral Regarding Shifting Mayoral Elections from the Gubernatorial Election Cycle to the Presidential Election Cycle.

Recommendation: Accept the recommendation from the Board of Fair Campaign and Political Practices to shift the City's mayoral election from the gubernatorial cycle to the presidential cycle.
CEQA: Not a Project, File No. PP17 010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Clerk)
[Deferred from 10/16/2018 - Item 3.9 (18 1393), 3/26/2019 - Item 3.7 (19 137); and 4/9/2019 - Item 3.4]

3.4 19-215 Review of the Retirement Plan's Pension and Post-Employment Healthcare Plan Actuarial Valuations as of June 30, 2018.

Recommendation: Review the following actuarial valuation reports:
(a) Police and Fire Department Retirement Plan Actuarial Valuation (Pension) as of June 30, 2018;
(b) Police and Fire Department Postemployment Healthcare Plan Actuarial Valuation (Pension) as of June 30, 2018;
(c) Federated City Employees' Retirement System Actuarial Valuation (Pension) as of June 30, 2018; and
(d) Federated City Employees' Retirement System Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2018.
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Retirement Services)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 19-216 Actions Related to the Memorandum of Understanding with Sharks Ice, LLC for the Expansion of the Solar4America Ice.

Recommendation: (a) Accept status report on City and Sharks Ice, LLC (Sharks Ice) process for the Fourth Expansion of Solar4America Ice at San Jose.
(b) Adopt a resolution authorizing the City Manager to negotiate and execute a memorandum of understanding with Sharks Ice outlining each party's roles in the proposed expansion of Solar4America Ice at San Jose, including the following:
(1) Completion of the feasibility study needed for bond financing;
(2) Development and review of possible parking solutions for the facility;

(3) City's review and approval of Sharks Ice project delivery and contractor prequalification process; and

(4) Terms and conditions for reimbursing Sharks Ice for work performed by the design team it has assembled, including reimbursement being contingent on the Council approving the project and proposed taxable debt financing, and the proceeds of the financing being enough to pay for construction and design costs of the project.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Economic Development)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 19-227 Launch of Service to Small Commercial Customers by San José Clean Energy in June 2019.

Recommendation: Adopt a resolution approving San José Clean Energy to launch service to non-City small commercial customers in June 2019.

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

7.2 19-218 Actions Related to the Agreements with ABB Inc. for Maintenance Services at the San Jose/Santa Clara Regional Wastewater Facility.

Recommendation: Adopt a resolution authorizing the City Manager to:

(a) Execute an agreement with ABB Inc., dba ABB DE, Inc., (Wickliffe, OH) to upgrade distributed control units at the San José/Santa Clara Regional Wastewater Facility, including hardware, software, programming, configuration, and related professional services, beginning May 1, 2019 and ending December 31, 2022 for a maximum not-to-exceed compensation of \$6,377,000, subject to the appropriation of funds;

(b) Execute the Water Care Enhanced Agreement with ABB Inc., dba ABB DE, Inc. (Wickliffe, OH) and annual purchase orders pursuant to the terms of the Water Care Enhanced Agreement for ongoing support

and maintenance (\$233,194 per year) and as-needed parts replacement and repair and rebuilding services (estimated at \$500,000-\$750,000 per year) for a five-year term beginning May 1, 2019 and ending April 30, 2024 and for a combined compensation not to exceed \$3,915,970, subject to the appropriation of funds; and

(c) Negotiate and execute amendments and change orders to the agreements as required for unanticipated changes, subject to the appropriations of funds.

CEQA: Categorically Exempt, File No. PP18-104, CEQA Guidelines Section 15301(a), Existing Facilities. (Finance/Environmental Services)

8. PUBLIC SAFETY

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 19-219 Disposition and Development Agreement for Block H with Z & L Properties for the North San Pedro Housing Project.

Recommendation: Adopt a resolution finding that Fulton Street Ventures (Z & L Properties) is in default of its obligations pursuant to a Disposition and Development Agreement for Block H in the North San Pedro Housing Project Area and authorizing the Executive Officer to pursue all available remedies, including but not limited to exercising the Successor Agency's right to retake and offer the property for sale (Right of Reverter), pursuant to the terms of the Disposition and Development Agreement and refer approval of this default action to the County-wide Oversight Board for its approval.

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

- Open Forum
- Adjournment

This meeting is adjourned in memory of Betty Rose-Morales who passed away on January 22, 2019 at the age of 82. Betty and her husband, Hilbert Morales, owned and operated the El Observador news outlet in San Jose together since 1986, providing factual, truthful and useful information to the Hispanic-Latino community. She will be missed by many and remembered for her wisdom, kindness, common sense, and impressive humor.

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.