



City Council Meeting Agenda

Tuesday, August 27, 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 Speaker's 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 Clerk's 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

19-653

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 7)
- 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.

19-723 Request for an Excused Absence for Vice Mayor Jones.

Recommendation: Request for an excused absence for Vice Mayor Chappie Jones from the Smart Cities and Service Improvements Committee on September 5, 2019 due to authorized City business: SVO Annual Study Mission. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Jones)

2.5 City Council Travel Reports.**2.6 Report from the Council Liaison to the Retirement Boards.**

- 2.7 19-668** **Amendment to Agreement with Hanson Bridgett LLP for Legal Services Related to *Preservation of Benefit Plan Retirees Association, et al v. City of San Jose, et al.***

Recommendation: Adopt a resolution authorizing the City Attorney to negotiate and execute a Fifth Amendment to the agreement with Hanson Bridgett LLP for legal services related to Preservation of Benefit Plan Retirees Association, et al v. City of San Jose, et al, to increase the compensation by \$100,000, for a total amount not to exceed \$1,000,000. 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 19-721 Boards and Commissions Appointments.

Recommendation: Approve the following Boards and Commissions appointments:

(a) Library and Early Education Commission:

(1) District 4 Seat: Appoint Commissioner to a term ending June 30, 2023;

(b) Senior Citizens Commission

(1) District 8 Seat: Appoint Commissioner to a term ending June 30, 2023;

(2) District 5 Seat: Appoint Commissioner to a term ending June 30, 2021;

(d) Parks and Recreation Commission:

(1) District 2 Seat: Appoint Commissioner to a term ending June 30, 2023;

(2) District 4 Seat: Appoint Commissioner to a term ending June 30, 2023;

(3) District 6 Seat: Appoint Commissioner to a term ending June 30, 2023;

(4) District 8 Seat: Appoint Commissioner to a term ending June 30, 2023;

(5) District 10 Seat: Appoint Commissioner to a term ending June 30, 2023;

(e) Housing and Community Development Commission:

(1) District 2 Seat: Appoint Commissioner to a term ending June 30, 2023;

(2) District 4 Seat: Appoint Commissioner to a term ending June 30, 2023;

(3) District 6 Seat: Appoint Commissioner to a term ending June 30, 2023;

(4) District 8 Seat: Appoint Commissioner to a term ending June 30, 2023;

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

2.9 19-670 Biennial Peer Review of the City Auditor's Office.

Recommendation: Approve an Agreement with the Association of Local Government Auditors (ALGA) to perform an audit of the City Auditor's Office for Fiscal Year 2017-18 and FY 2018-19, pursuant to the peer review guidelines of ALGA, in exchange for reimbursement of expenses for the audit team and the provision of reciprocal audit services by the City Auditor's Office.

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)

2.10 19-671 Designation of Voting Delegate to the General Assembly for the League of California Cities Annual Meeting.

Recommendation: Approve the designation of Councilmember Sergio Jimenez as the voting delegate and Councilmember Raul Perales as the alternate voting delegate to the General Assembly at the October 18, 2019 League of California Cities Annual Meeting.

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

2.11 19-710 Support for History San José's and African American Heritage House (In Partnership with History San José's) Grant Applications for Santa Clara County's Historic Grant Program.

Recommendation: Adopt a resolution to approve History San José's and African American Heritage House (in partnership with History San José's) applications to the County of Santa Clara's Historic Grant Program for restoration projects at the Zanker House and History Park.

CEQA: Categorically Exempt, File No. PP19-062, CEQA Guidelines Section 15301(a) Existing Facilities and Section 15331, Historical Resources Restoration/Rehabilitation. Council District 7. (Economic Development)

2.12 19-711 Actions Related to the Purchase Order for HealthView Preventative Medical Center, Inc. Health Screening Services.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute a Purchase Order with HealthView Preventative Medical Center, Inc. (Newport Beach, CA) for body scan health screening services for the City of San José Police Department for an initial twelve-month period, starting on or about September 1, 2019 and ending on or about August 31, 2020, for an amount not to exceed \$120,000; 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 August 31, 2024, subject to the annual 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)

2.13 19-712 Report on Request for Bids for Citywide Purchase Orders for Computer Parts, Peripherals, Audiovisual Equipment, and PC Software.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute Citywide purchase orders with ComputerLand of Silicon Valley (San José, CA), Oready, LLC (Campbell, CA), and SHI International Corp (Somerset, NJ) for the purchase of computer parts, peripherals, audio visual equipment, and PC software for an initial one-year term beginning September 1, 2019 and ending August 31, 2020 for a combined amount not-to-exceed \$1,200,000, subject to the appropriation of funds; and
- (b) Approve a contingency of \$300,000 to amend the purchase order(s) as may be required to meet unanticipated increases in City demand during the initial term, subject to the appropriation of funds; and
- (c) Execute purchase orders for up to four additional one-year options to extend the term through August 31, 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)

2.14 19-713 Amendment to the City Pay Plan for the Mayor's Public Information Officer.

Recommendation: Adopt a resolution to amend the City of San José Pay Plan effective August 27, 2019, to create the Mayor's Public Information Officer classification with a salary range of \$124,500.00 - \$200,850.00 annually.
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Human Resources)

2.15 19-714 Request for Authorization to Apply for the Senate Bill 2 Planning Grant Program.

Recommendation: Adopt a resolution authorizing the City Manager or designee to apply for the Senate Bill 2 Planning Grant (SB 2 Grant) administered by the California Department of Housing and Community Development (HCD) and, if awarded, authorizing the City Manager or designee to negotiate and execute grant agreements with HCD. SB2 Grant funding would be used for various planning efforts to facilitate housing production and to comply with recent changes in State law.
CEQA: Not a Project, PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. (Planning, Building, and Code Enforcement)

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 19-715 Employee Reimbursements Audit Report.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on June 20, 2019, accept the Employee Reimbursements 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 and Strategic Support Committee referral 6/20/19 - Item (d)1]
[Deferred from 8/6/19 - Item 3.3 (19-597)]

3.4 19-724 Public Member Appointment to the Board of Administration for Federated City Employees' Retirement System.

Recommendation: Interview applicant(s) for appointment to the Public Member Seat; and appoint one (1) applicant to the Public Member Seat on the Board of Administration for the Federated City Employees' Retirement System through November 30, 2020.

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

3.5 19-716 Ordinance Excluding Certain Office of Retirement Services Staff from Tier 3 Membership.

Recommendation: Approve an ordinance amending Chapter 3.49 of Title 3 of the Municipal Code to exclude Office of Retirement Services staff, including the Chief Executive Officer, Chief Investment Officer, and Investment Professional staff, hired after November 4, 2014 from Tier 3 membership.

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

3.6 19-717 Amendment to Title 14 and Title 27 of the San José Municipal Code for Public Works Municipal Code Revisions.

Recommendation: (a) Approve an ordinance amending the San José Municipal Code as follows:

(1) Add a new Title 27, titled “Procurement and Administration of Public Works,” that incorporates recent City Charter changes modernizing the construction contract procurement process, makes changes conforming the Code to current City practices, and otherwise updates, streamlines, clarifies and modernizes requirements for the procurement and administration of public works projects;

(2) Repeal Chapters 14.04, titled “Public Works,” 14.06, titled “Dispute Avoidance and Dispute Resolution Policy,” and 14.07, titled “Design-Build Contracts,” of Title 14, all of which are replaced by the new Title 27;

(3) Repeal Chapter 14.08 of Title 14, titled “Encumbrance of Funds for Construction Contracts,” which is outdated and no longer needed;

(4) Amend Sections 4.12.055, titled “Services,” of Chapter 4.12 of Title 4 to reflect recent City Charter changes clarifying that maintenance services can include repairs, construction, erection, improvement or demolition incidental to such maintenance;

(5) Amend Chapter 4.84, entitled “Insurance Requirements for Certain Public Works Contracts and Use or Occupancy of City-Owner Real Property,” of Title 4 to eliminate outdated insurance requirements and to allow the Risk Manager to set such requirements; and

(6) Amend Section 2.04.1420 of Chapter 2.04 of Title 2, Section 4.08.030 of Chapter 4.08 of Title 4, Section 5.06.390 of Chapter 5.06 of Title 5, Section 11.08.010 of Chapter 11.08 of Title 11, Section 15.26.120 of Chapter 15.26 of Title 15, and Section 19.32.120 of Chapter 19.32 of Title 19 to change references from Chapter 14.04 to Title 27.

(b) Adopt a resolution repealing the following resolutions, all of which address policies incorporated into the new Title 27:

(1) Resolution No. 71816, which sets forth the City’s prequalification policy;

(2) Resolution No. 71319, which sets forth the City’s contingency policy; and

(3) Resolution Nos. 72943, 75230 and 73532, which address the authority of the Director of Public Works to award and execute certain public works contracts for \$1,000,000 or less and establish the contingency for such contracts.

(c) Adopt a resolution amending Council Policy No. 1-18, entitled “Operating Budget and Capital Improvement Program Policy,” to change sections 1.i and 1.j under the Capital Improvement Program portion of the Policy to refer to the appropriate new sections of Title 27.

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

[Deferred from 6/18/19 - Item 3.7 (19-495) and 8/13/19 - Item 3.5 (19-624)]

RECOMMEND DEFERRAL TO 9/10/19 PER ADMINISTRATION

4. COMMUNITY & ECONOMIC DEVELOPMENT

5. NEIGHBORHOOD SERVICES

5.1 19-719 Update on Safe Parking Pilot Program.

Recommendation: As recommended by the Neighborhood Service and Education Committee on June 13, 2019, accept the report on the progress and status of the safe parking pilot program for families at Seven Trees Community Center and Library.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. Council District 7. (Housing)

[Neighborhood Services and Education Committee referral 6/13/19 - Item (d)2]

[Deferred from 8/13/19 - Item 5.1 (19-528)]

RECOMMEND DEFERRAL TO 9/10/19 PER ADMINISTRATION

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY

9. REDEVELOPMENT – SUCCESSOR AGENCY

- Open Forum

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

- Council will recess until 6:00 p.m.

10. LAND USE

Notice to the public: There will be no separate discussion of Land Use Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Land Use Consent Calendar (Item 10.1) and considered separately.

10.1 Land Use on Consent Calendar

- (a) **19-720** **C19-010 - Conventional Rezoning for Real Property Located at 419 North 5th Street.**

Recommendation: Approve an ordinance rezoning certain real property located on the west side of North 5th Street, approximately 150 feet northerly of Washington Street, from the LI Light Industrial Zoning District to the R-M Multiple Residence Zoning District on a 0.04-acre portion of a 0.22-gross acre site.

CEQA: Categorically Exempt, CEQA Guidelines Section 15331 for Historical Resource Restoration/Rehabilitation and Section 15303 for New Construction or Conversion of Small Structures. Council District 3. Planning Commission recommends approval (5-0-1, Oliverio absent). (Planning, Building and Code Enforcement)

**TO BE HEARD AT 1:30 P.M. IMMEDIATELY AFTER REGULAR
CONSENT CALENDAR**

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

- 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.