



City Council Meeting Agenda

Tuesday, October 1, 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

19-675

Closed Session Agenda

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

- Invocation (District 9)

Rev. Katherine Doar

- Pledge of Allegiance

- Orders of the Day

To be heard after Ceremonial Items

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

- Closed Session Report

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS

2. CONSENT CALENDAR

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

2.1 Approval of City Council Minutes.

2.2 Final Adoption of Ordinances.

2.3 Approval of Council Committee Minutes.

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 19-858 Adoption of an Ordinance Ratifying Final Expenditures in Various Appropriations for 2018-2019.

Recommendation: (a) Adopt an ordinance ratifying final 2018-2019 expenditures in various appropriations as detailed in the report to Council.

(b) Adopt the following 2018-2019 Appropriation Ordinance amendments in the Airport Maintenance and Operation Fund:

- (1) Increase the Airline Reserve Funds Distribution appropriation by \$13,943,476; and
- (2) Decrease the Master Trust Agreement Reserve by \$13,943,476.

(c) Adopt the following 2018-2019 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:

- (1) Increase the Construction and Conveyance Tax estimate by \$8,357,873;
- (2) Increase the Needs-Based Allocation Transfer to District 1 by \$639,149;
- (3) Increase the Needs-Based Allocation Transfer to District 2 by \$427,974;
- (4) Increase the Needs-Based Allocation Transfer to District 3 by \$331,339;
- (5) Increase the Needs-Based Allocation Transfer to District 4 by \$329,786;
- (6) Increase the Needs-Based Allocation Transfer to District 5 by \$609,237;
- (7) Increase the Needs-Based Allocation Transfer to District 6 by \$594,920;
- (8) Increase the Needs-Based Allocation Transfer to District 7 by \$701,766;
- (9) Increase the Needs-Based Allocation Transfer to District 8 by \$539,167;
- (10) Increase the Needs-Based Allocation Transfer to District 9 by \$505,426;
- (11) Increase the Needs-Based Allocation Transfer to District 10 by \$305,498;
- (12) Increase the Transfer to the Parks City-Wide Construction and Conveyance Tax Fund appropriation by \$2,491,630; and
- (13) Increase the Transfer to the General Fund - Parks Eligible Maintenance Costs appropriation by \$881,981.

(d) Adopt the following 2018-2019 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:

(1) Increase the Construction and Conveyance Tax estimate by \$16,938; and

(2) Increase the Transfer to the General Fund - Park Yards Operating and Maintenance Expenses appropriation by \$16,938.

(e) Adopt the following 2018-2019 Appropriation Ordinance amendments in the Convention Center Facility District Revenue Fund:

(1) Increase the Debt Service: Special Tax Bonds appropriation by \$313; and

(2) Decrease the Unrestricted Ending Fund Balance by \$313.

(f) Adopt the following 2018-2019 Appropriation Ordinance amendments in the General Fund:

(1) Increase the Storm Fees appropriation by \$63,117;

(2) Decrease the Sanitary Sewer Fees appropriation by \$22,266; and

(3) Decrease the Non-Personal/Equipment appropriation to the Environmental Services Department by \$40,851.

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 Manager)

2.8 19-859 Agreement with the Silicon Valley Community Foundation to Administer the San José Voter Education Fund.

Recommendation: Approve a grant agreement between the City of San José and the Silicon Valley Community Foundation to administer the San José Voter Education Fund through January 30, 2021 totaling \$374,000, subject to City Council appropriation of funds.

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

2.9 19-860 Actions Related to the Purchase Order 56453 with Fleet Bodyworx Inc. for Collision Repair and Body Shop Services.

Recommendation: Adopt a resolution authorizing the City Manager to:

(a) Amend Purchase Order 56453 with Fleet BodyWorx, Inc. (San José, CA) to increase the amount of total compensation by \$100,000, for a revised maximum compensation not to exceed \$345,000 for the remainder of the current term ending on or about October 14, 2019; and

(b) Exercise the final option to renew the purchase order through October 2020, subject to the same terms and conditions, and 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)

2.10 19-861 Actions Related to the Purchase Order 56516 with Herc Rentals Inc. for Construction Equipment Rental Services.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Amend Purchase Order 56516 with Herc Rentals, Inc. (Dallas, TX) to increase the amount of total compensation by \$150,000, for a revised maximum compensation not to exceed \$400,000 for the remainder of the current term ending on or about October 31, 2019; and
- (b) Execute additional purchase orders for subsequent rentals with Herc Rentals, leveraging the pricing from the U.S. Communities Cooperative agreement through the five-year term ending October 31, 2023, subject to annual appropriations 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 19-864 Actions Related to the Funding and Reimbursement Agreement for Permitting Costs with Comcast Corporation.

Recommendation: Adopt a resolution authorizing the City Manager to execute a Funding and Reimbursement Agreement between the City and Comcast Corporation to cover the permitting costs related to encroachment permits.

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

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 19-849 Planning Commission Appointment.

Recommendation: (a) Interview applicants for appointment to the Planning Commission.
(b) Appoint one (1) applicant for an unexpired term ending June 30, 2020.
(c) Appoint one (1) applicant for an unexpired term ending June 30, 2022.

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

3.4 19-862 Acceptance of Retirement Plans' Comprehensive Annual Investment Fee Reports for Calendar Year 2018.

Recommendation: Accept the following reports:

- (a) Police and Fire Retirement Plan Comprehensive Annual Fee Report for calendar year 2018.
- (b) Federated City Employees' Retirement System Comprehensive Annual Fee report for calendar year 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. (Retirement Services)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 19-863 Public Hearing on the Vacation Setback Easement Located at 1064 West Riverside Way.

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 vacation of a 25-foot light and air easement at 1064 West Riverside Way.
- (b) Vacating a 25-foot front light and air easement at 1064 West Riverside Way.
- (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: Categorically Exempt, File No. 3-24857, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations. Council District 1. (Public Works)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY

8.1 19-866 Fireworks Ordinance Workplan Status Report.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on August 15, 2019, accept the status report on the implementation of the Fireworks Ordinance Workplan Post Fourth of July 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. (Fire)

[Public Safety, Finance and Strategic Support Committee referral
8/15/19 - Item (d)1]

[Deferred from 9/10/19 - Item 8.1 (19-771)]

9. REDEVELOPMENT – SUCCESSOR AGENCY

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

No Land Use items on 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.