



City Council Meeting Amended Agenda

Tuesday, September 24, 2019

SAM LICCARDO, MAYOR
CHAPPIE JONES, VICE MAYOR, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
RAUL PERALEZ, DISTRICT 3
LAN DIEP, DISTRICT 4
MAGDALENA CARRASCO, DISTRICT 5
DEV DAVIS, DISTRICT 6
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
JOHNNY KHAMIS, DISTRICT 10



The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- Strategic Support** - The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- Community & Economic Development** - Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- Neighborhood Services** - Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- Transportation & Aviation Services** - A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- Environmental and Utility Services** - Manage environmental services and utility systems to ensure a sustainable environment for the community.
- Public Safety** - Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- o **Fill out a Yellow Speakers Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- o When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerks table.

- o Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayors discretion, depending on the number of speakers or the length of the agenda.
- o To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 6 p.m. as needed, unless otherwise noted. The City Council, or less than a quorum, may adjourn any regular, special or adjourned meeting to a later date, time and place specified in the order of adjournment. If all members are absent, the City Clerk may declare the meeting adjourned to a stated date, time and place. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

• Call to Order and Roll Call

9:30 a.m.- Closed Session, Call to Order in Council Chambers
Open Session, Labor Negotiations Update (See Item 3.2)
Adjourn to Closed Session in Council Chambers Conference Room, W133
See Separate Agenda

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

19-674 Closed Session Agenda

- Invocation (District 8)
- Pledge of Allegiance
- Orders of the Day

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

- Closed Session Report

1. CEREMONIAL ITEMS

- 1.1 Presentation of a Proclamation to recognize Obesity Awareness Month (Davis)

2. CONSENT CALENDAR

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

2.1 Approval of City Council Minutes.

19-856 Approval of City Council Minutes.

Recommendation: Regular City Council Meeting Minutes of February 13, 2018.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

2.2 Final Adoption of Ordinances.

19-832 Final Adoption of Ordinances.

Recommendation: (a) Ord. No. 30308 - An Ordinance of the City of San José 1) Adding a new Title 27 of the San José municipal code 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) Amending Section 4.12.055 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; 3) Amending Chapter 4.84 of Title 4 to eliminate outdated insurance requirements and to allow the risk manager to set such requirements; 4) Repealing Chapters 14.04, 14.06, and 14.07 of Title 14, to be replaced by the new Title 27; 5) Repealing Chapter 14.08 of Title 14 which is outdated and no longer needed; and 6) Amending 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 6.06 of Title 6, Section 11.08.010 of Chapter 11.08 of Title 11, Section 15.28.120 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) Ord. No. 30309 - An Ordinance of the Council of the City of San José rezoning certain real properties of approximately 17.64- gross acres situated on the East Side of Elm Street, between West Hedding Street and Emory Street, Southwest corner of West Hedding Street and Elm Street, Southwest corner of Emory Street and Stockton Avenue, and North side of West Hedding Street, approximately 300 feet easterly of Elm Street (960 West Hedding Street) from the A(PD) planned development zoning district to the PQP(PD) planned development zoning district.

(c) Ord. No. 30310 - An Ordinance of the City of San José rezoning certain real property of approximately 6.98 gross acres situated on the northeast corner of South Bascom Avenue and Southwest Expressway (1330, 1388, and 1410 South Bascom Avenue; APNS: 282-26-007, 282-26- 011, and 282-26-012) from the CP commercial pedestrian zoning district to a CP(PD) planned development zoning district.

2.3 Approval of Council Committee Minutes.

19-857 Approval of Council Committee Minutes.

Recommendation: (a) Rules and Open Government Committee Minutes of January 23, 2019.
(b) Rules and Open Government Committee Minutes of January 30, 2019.
(c) Rules and Open Government Committee Minutes of February 13, 2019.
(d) Rules and Open Government Committee Minutes of February 20, 2019.
(e) Rules and Open Government Committee Minutes of March 6, 2019.
(f) Rules and Open Government Committee Minutes of March 13, 2019.
(g) Rules and Open Government Committee Minutes of March 27, 2019.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 19-818 Amendments to Master Consultant Agreements with AECOM Technical Services, Inc., Brown and Caldwell and Black & Veatch Corporation for General Engineering Services at the San José-Santa Clara Regional Wastewater Facility Capital Improvement Program.

Recommendation: (a) Approve the First Amendment to the Master Agreement with AECOM Technical Services, Inc. for the 7995 - General Engineering Services, extending the term from June 30, 2021 to June 30, 2024 at no additional cost to the City.
(b) Approve the First Amendment to the Master Agreement with Brown and Caldwell for the 7995 - General Engineering Services, extending the term from June 30, 2021 to June 30, 2023 at no additional cost to the City.
(c) Approve the First Amendment to the Master Agreement with Black & Veatch Corporation for the 7995 - General Engineering Services, extending the term from June 30, 2021 to December 31, 2023 at no additional cost to the City.
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 PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Environmental Services)

2.8 19-819 Report on Bids and Award of Construction Contract for 8983 - Environmental Services Building Lab HVAC Ducting Replacement Project at the San José-Santa Clara Regional Wastewater Facility.

Recommendation: Report on bids and award of contract for the 8983 - Environmental Services Building Lab HVAC Ducting Replacement Project to the sole bidder, Kinetics Mechanical Services, Inc., in the amount of \$538,000, and approval of a fifteen percent contingency in the amount of \$80,700. CEQA: Categorically Exempt, File No. PP17-049, CEQA Guidelines Section 15301, Existing Facilities. (Public Works/Environmental Services)

2.9 19-820 First Amendment to the Master Agreement with Cornerstone Earth Group for Environmental Support Services.

Recommendation: Approve the First Amendment to the Master Agreement with Cornerstone Earth Group for environmental consulting services, increasing the amount of compensation by \$500,000, for a total agreement not to exceed \$1,000,000. No extension is being recommended on the term of the agreement, which expires on June 30, 2020.

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 PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Environmental Services)

3. STRATEGIC SUPPORT

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

3.2 Labor Negotiations Update.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 19-823 Actions Related to the Increase in Income and Rent Limits in the Event of a Foreclosure and Additional Amendments for Second Street Studios.

Recommendation: Adopt a resolution:

(a) Authorizing an increase to rents and income up to 60% AMI (low income) for new tenants in the event of foreclosure or expiration of subsidy contracts for the Second Street Studios development, provided the City has determined the increase is needed for feasibility of the development and allowed by other funds and authorizing the Director of Housing to negotiate and execute loan documents, amendments, and all other documents related to these changes; and

(b) Authorizing the Director to negotiate and execute amendments to the HOME restriction and HOME Agreement, as needed, to ensure compliance with Housing and Urban Development (HUD) HOME Investment Partnerships Program regulations and guidance.

CEQA: Mitigated Negative Declaration, File No. PDC07-086, adopted 8/26/2008. Council District 3. (Housing)

4.2 19-822 Housing Crisis Workplan Update.

Recommendation: Accept staff report including an update to the City Council approved Housing Crisis Workplan and an addendum to the Affordable Housing Investment Plan to add a place-based strategy for the upcoming Notice of Funding Availability for financing affordable housing development.

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/Housing)

4.3 19-821 Downtown High-Rise Incentive Program.

Recommendation: Accept the report on the Downtown High-Rise Feasibility Assessment and direct staff to return to Council with the appropriate ordinance and resolution to enact the following:

- (a) Extending the certificate of occupancy deadline for the Affordable Housing Impact Fee exemption to December 31, 2023.
- (b) Amending Title 4.46 and align the construction tax reduction with the certificate of occupancy deadline for the Affordable Housing Impact Fee exemption, and removing the planning and build permit requirements.

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)

4.4 19-827 City Council Priority #7: Accessory Dwelling Unit Amnesty Program.

Recommendation: Accept staff analysis of a potential amnesty program for unpermitted accessory dwelling units as required by City Council Policy Priority #7, and provide additional input to staff.

CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Planning, Building and Code Enforcement)

4.5 19-825 2018-2019 Consolidated Annual Performance Evaluation Report.

Recommendation: As recommended by the Neighborhood Services and Education Committee on September 12, 2019, conduct a Public Hearing on the Fiscal Year 2018-2019 Consolidated Annual Performance Evaluation Report (CAPER) regarding the use of federal funds from the U.S. Department of Housing and Urban Development (HUD) and approve the 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)

[Neighborhood Services & Education Committee referral - 9/12/19 - Item d (3)]

4.6 19-826 Homelessness Annual Report.

Recommendation: As recommended by the Neighborhood Services and Education Committee on September 12, 2019, accept the annual report on homelessness for 2018-2019.

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

[Neighborhood Services & Education Committee referral - 9/12/19 - Item d (4)]

4.7 19-824 Revise Shelter Crisis Declaration and Amendment to the Agreement with HomeFirst Services of Santa Clara County for Homeless Emergency Aid Program Funding for Overnight Warming Locations During Cold Weather Season. -DROP

Recommendation: (a) Adopt a resolution declaring the continued existence of a shelter crisis in the City of San José pursuant to, and in accordance with, the provisions of California Government Code section 8698 et seq. and designating the following two city-owned facilities to be occupied as Overnight Warming Locations by homeless individuals during the cold weather season:

(1) Bascom Community Center and Library, 1000 S. Bascom Avenue, San José, CA 95128; and

(2) Roosevelt Community Center, 901 E. Santa Clara Street, San José, CA 95116.

(b) Adopt a resolution authorizing the Director of Housing to negotiate and execute a First Amendment to the grant agreement with HomeFirst increasing the maximum total amount of compensation by \$800,000 from \$350,000 to \$1,150,000 to continue to implement the Overnight Warming Locations through June 30, 2020.

CEQA: Categorically Exempt, File No. PP18-093. CEQA Guidelines Section 15269, Emergency Project, and Section 15301, Existing Facilities. Council Districts 3 and 6. (Housing)

DROP

4.8 19-828 Actions Related to the Revenue Capture Agreement with eBay Inc.

Recommendation: (a) Conduct a Public Hearing pursuant to California Government Code Section 53083 in connection with a Revenue Capture Agreement between the City and eBay Inc. (eBay).

(b) Adopt a resolution authorizing the City Manager to negotiate and execute a Revenue Capture Agreement between the City and eBay from October 1, 2019 - June 30, 2034, which allows the City to capture additional sales tax revenues and to make certain payments to eBay equal to 30% of the increased revenues to the City in excess of the minimum sales tax threshold of \$5 million, increased by 3% annually, as set forth herein.

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

4.9 19-868 Approval of the Issuance of Tax-Exempt Multifamily Housing Revenue Bonds and the Loan of the Proceeds Thereof and Approval of Related Documents and Changes to Existing Loan and Grant Terms for the Markham Plaza I Project.

Recommendation: (a) Adopt a resolution:

(1) Authorizing the issuance of (a) tax-exempt multifamily housing revenue bonds designated as “City of San José Multifamily Housing Revenue Bonds (Markham Plaza I), Series 2019B-1” (the “Series 2019B-1 Bonds”) and “City of San José Multifamily Housing Revenue Bonds (Markham Plaza I), Subordinate Series 2019B-2” (the “Series 2019B-2 Bonds”) and with the “Series 2019B-1 Bonds, the “2019B Bonds”) in an aggregate principal amount not to exceed \$23,000,000;

(2) Approving the loan of the proceeds of the 2019B Bonds to Markham Plaza I, L.P. a California limited partnership created by Core Development, Inc., a California corporation, to finance the acquisition and rehabilitation of a 153-unit multifamily project known as the Markham Plaza I apartments (formerly known as Tully Gardens I) located at 2000 Monterey Road, in San José (the “Development”);

(3) Approving in substantially final form the Indenture of Trust, Subordinate Indenture of Trust, the Loan Agreement, the Subordinate Loan Agreement and Regulatory Agreement, and Declaration of Restrictive Covenants (the “Series 2019B Bond Documents”); and

(4) Authorizing and directing the City Manager, Director of Housing, Director of Finance or the Assistant Director of Finance, or their designees, to execute and deliver the Series 2019B Bond Documents together with any documents ancillary to the Series 2019B Bond Documents.

(b) Adopt a resolution approving changes in terms for the City’s outstanding \$4,836,559 loan and outstanding \$4,866,000 grant for the Development, approving a loan to value ratio in excess of 100% and authorizing the Director of Housing to negotiate and execute documents and amendments related to those changes.

CEQA: Categorically Exempt, File No. PP19-057, CEQA Guideline Section 15301, Existing Facilities. Council District 7. (Housing/Finance) [Deferred from 9/17/19 - Item 4.2 (19-796)]

RECOMMEND DEFERRAL TO 10/1/19 PER ADMINISTRATION

5. NEIGHBORHOOD SERVICES**6. TRANSPORTATION & AVIATION SERVICES****7. ENVIRONMENTAL & UTILITY SERVICES****8. PUBLIC SAFETY****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**

Roman Gabriel Rocha passed away on August 25, 2019 in San Jose, CA at the age of 47, just shy of his 48th birthday. Roman was born on September 16, 1971 in San Jose, CA to parents Andrew and Esther Carranza Rocha. He is survived by his son, Gabriel Paz Rocha, and a large and extended loving family. Roman was an experienced Journeyman Plumber and a member of the Local 393 Plumbers Union. He will be remembered for many things, however he will be remembered most for his beautiful smile and his big heart.

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.