



# City Council Meeting Agenda

**Tuesday, August 11, 2020**

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.
- **Public Safety** - Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.
- **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.
- **Neighborhood Services** - Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **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.

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 <https://www.sanjose.legistar.com/Calendar.aspx>. 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](mailto:CityClerk@sanjoseca.gov) for the final document.

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

**Accommodations:** Any member of the public who needs accommodations should email the ADA Coordinator at [ADA@sanjoseca.gov](mailto:ADA@sanjoseca.gov) or by calling (408) 535-8430. The ADA Coordinator will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

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

**\* COVID-19 NOTICE \***

Consistent with the California Governor's Executive Order No. N-29-20, Resolution No. 79485 from the City of San José and the Santa Clara County Health Officer's March 16, 2020 Shelter in Place Order, the City Council meeting will not be physically open to the public and the City Council will be teleconferencing from remote locations.

**How to observe the Meeting (no public comment):**

- 1) Cable Channel 26,
- 2) <https://www.sanjoseca.gov/news-stories/watch-a-meeting>, or
- 3) <https://www.youtube.com/CityofSanJoseCalifornia>

**How to submit written Public Comment before the City Council Meeting:**

- 1) Use the eComment tab located on the City Council Agenda page. eComments are also directly sent to the ilegislate application used by City Council and staff.
- 2) By email to [city.clerk@sanjoseca.gov](mailto:city.clerk@sanjoseca.gov) by 10:00 a.m. the day of the meeting. Those emails will be attached to the Council Item under "Letters from the Public." Please identify the Agenda Item Number in the subject line of your email.

**How to submit written Public Comment during the City Council Meeting:**

- 1) Email during the meeting to [councilmeeting@sanjoseca.gov](mailto:councilmeeting@sanjoseca.gov), identifying the Agenda Item Number in the email subject line. Comments received will be included as a part of the meeting record but will not be read aloud during the meeting.

**How to provide spoken Public Comment during the City Council Meeting:**

- 1) By Phone: (888) 475 4499. Webinar ID is 913 2537 8626. Click \*9 to raise a hand to speak.
- 2) Online at: <https://sanjoseca.zoom.us/j/91325378626>
  - a. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
  - b. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
  - c. When the Mayor calls for the item on which you wish to speak, click on "raise hand." Speakers will be notified shortly before they are called to speak.
  - d. When called, please limit your remarks to the time limit allotted.

**• Call to Order and Roll Call**

9:30 a.m. - Closed Session, Call to Order

**20-857**

Closed Session Agenda

1:30 p.m. - Regular Session

6:00 p.m. - Evening Session

\*RECOMMEND CANCELLATION

- Pledge of Allegiance
- Invocation (District 7)
- 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 20-859 Second Amendment to the Agreement with Macias, Gini & O'Connell to Provide Annual Financial and Compliance Audits**

**Recommendation:** Approve the second amendment to the agreement with Macias, Gini & O'Connell LLP to add audit services related to the financial statements for the San José Clean Energy Fund and the Public Safety and Infrastructure Bond Fund, and delete services related to the Hayes Mansion, increasing total compensation under the term of the agreement by an amount not to exceed \$154,741, with revised maximum total compensation of \$4,171,182.  
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Auditor)

**2.8 20-845 Amendment to the Agreement with Schindler Elevator Corporation for Citywide Elevator Maintenance Services.**

**Recommendation:** Adopt a resolution authorizing the City Manager to execute the First Amendment to the Agreement for Citywide Elevator Maintenance Services with Schindler Elevator Corporation (San Leandro, CA) to extend services for up to eight additional one-year option terms through August 31, 2028 under the same terms and conditions for a maximum compensation of \$385,766 for September 1, 2020 through August 31, 2021, 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)

**2.9 20-846 Amendment to the Master Agreement with the Santa Clara Valley Transportation Authority for the BART Extension to Berryessa Project.**

**Recommendation:** Approve the fourth amendment to Master Agreement with the Santa Clara Valley Transportation Authority to retroactively extend the term of the agreement to December 31, 2020.  
CEQA: Determination of Consistency with the BART Extension to Milpitas, San Jose, and Santa Clara Final EIR, BART Extension to Milpitas, San Jose, and Santa Clara Final Supplemental EIR, and BART Silicon Valley Phase 1 - Berryessa Extension Final 2nd Supplemental EIR, and Addenda thereto, Resolution No. 76126. Council District 4. (Public Works)

**2.10 20-847 Grant Franchise to Hummingbird Energy Storage, LLC for PG&E Metcalf Substation.**

**Recommendation:** Adopt a resolution:

- (a) Declaring the intention of the City Council to grant a franchise to Hummingbird Energy Storage, LLC, for the purpose of transmission of electricity to PG&E's Metcalf Substation;
  - (b) Setting a Public Hearing on August 25, 2020, at 1:30 p.m., to hear any objections to the granting of the franchise; and
  - (c) Directing the City Clerk to publish notice of the public hearing.
- CEQA: Initial Study/Mitigated Negative Declaration for the Hummingbird Energy Storage Project, File No. CP19-020. Council District 2. (Public Works)

**2.11 20-848 Agreement with San José Water Company for Water Facility Services for the Fire Station No. 37 Project.**

**Recommendation:** Approve an agreement with the San José Water Company for installation of water facilities to serve the new Fire Station No. 37 project, in the amount of \$192,501.  
CEQA: Mitigated Negative Declaration, File No. PP09-150. Council District 7. (Public Works)

### **3. STRATEGIC SUPPORT**

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

- 20-849** (a) City Manager's COVID 19 Update (Verbal Report)  
(b) City Manager's Report on Other City Matters (Verbal Report)  
**TO BE HEARD BEFORE CONSENT CALENDAR**

**3.2 Labor Negotiations Update.**

Accept Labor Negotiations Update.  
TO BE HEARD AT 9:30 A.M.

**3.3 20-850 Report on Police Misconduct Complaints Received During Period of Civil Unrest.**

**Recommendation:** Accept the report on the police misconduct complaints received during the period of civil unrest.  
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Independent Police Auditor)

### **3.4 20-844 Improvements to the Public Engagement Process in City Council, Council Committees and Other City Public Meetings.**

**Recommendation:** As recommended by the Rules and Open Government Committee on June 24, 2020:

- (a) Visually display the agenda item number and title on Zoom or any other platforms that host public meetings and remain visible until the item is finalized.
  - (b) The Meeting Chair to verbally announce the agenda item name and number during the following times: a. At the start, prior to discussion on any item b. Before starting public comment.
  - (c) Provide visual directions regarding access to closed captions on Zoom and other platforms that host the City of San José's public meetings.
  - (d) After the vote on an agenda item, visually display on Zoom and other platforms that host San José's public meetings a statement of the final motion (with amendments) and the voting results.
  - (e) Use best practices for translation services and analyze existing effective solutions to do the following:
    - (1) A statement regarding translation services will be made before each item on Zoom and other platforms that host San José's public meetings.
    - (2) Visually display a statement in English, Spanish and Vietnamese on Zoom and other platforms that host San José's public meetings and explore a Spanish and Vietnamese translation option as part of their broadcast and as standard practice.
    - (3) Meeting agendas and packet information should be translated as a standard practice.
  - (f) Participants shall be given full opportunity to make public comment, taking into account virtual latency time. The Meeting Chair shall provide adequate time (e.g. 30 seconds) after naming the person who appears to be the last in the speaker queue before proceeding to the debate of the body.
  - (g) Issues regarding housing and COVID policies should be agendaized for evening council sessions to ensure more essential workers and families can participate.
- CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.  
(Perales)  
[Rules Committee referral 6/24/2020 - Item G.7]

## **4. PUBLIC SAFETY SERVICES**



**4.1 20-851 Police Department Duty Manual Amendments.**

**Recommendation:** Approve various amendments to the Police Department Duty Manual that follow the direction provided by the City Council as part of the police reforms work plan.

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

**5. TRANSPORTATION & AVIATION SERVICES****5.1 20-852 Report on Bids and Award of Contract for the 8418 - Senter Road Vision Zero Safety Improvements Project (Between Keyes Street and Singleton Road), Federal Project No. Hsipl-5005(149).**

**Recommendation:** Report on bids and award of contract for the 8418 - Senter Road Vision Zero Safety Improvements Project to the low bidder, Granite Rock Company, in the total amount of \$2,592,093 and approval of an approximate 10% contingency in the amount of \$259,200.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council District 7. (Public Works/Transportation)

**6. ENVIRONMENTAL & UTILITY SERVICES****7. NEIGHBORHOOD SERVICES****8. COMMUNITY & ECONOMIC DEVELOPMENT****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**

- (a) **20-853** **PDC17-035 - Planned Development Rezoning for Property Located at 7201 Bark Lane.**

**Recommendation:** (1) Adopt a resolution adopting the Bark Lane Planned Development Rezoning Project Mitigated Negative Declaration and associated mitigation monitoring and reporting plan pursuant to the California Environmental Quality Act, as amended.  
(2) Approve an ordinance rezoning certain real property located on the north side of Bark Lane approximately 150 feet west of Weyburn Lane (7201 Bark Lane) from the A Agricultural (PD) Planned Development Zoning District to the R-M Multiple Residence (PD) Planned Development Zoning District for up to 85 units on an approximately 0.91-gross acre site.  
CEQA: Bark Lane Planned Development Rezoning Project Mitigated Negative Declaration (File No. PDC17-035). Planning Commission recommends approval (6-0). Council District 1. (Planning, Building and Code Enforcement)

**TO BE HEARD IMMEDIATELY AFTER CONSENT**

- (b) **20-854** **PP20-008 - Temporary Extension of Certain Land Use Permits and Certain Tree Removal Permits.**

**Recommendation:** Approve an ordinance of the City of San José temporarily extending the term of specified land use permits by two years from the set expiration date, and Tree Removal permits by eight months from the set expiration date.  
CEQA: Exempt, CEQA Guidelines Section 15061(b)(3), which states that if it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment, then the activity is not subject to CEQA (File No. PP20-008). Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement)

**TO BE HEARD IMMEDIATELY AFTER CONSENT**

- (c) **20-855** **PDC19-022, PT19-022, PD19-018 - Planned Development Rezoning, Tentative Map, and a Planned Development Permit for Property Located at 4349 San Felipe Road.**

**Recommendation:** (1) Approve an ordinance rezoning certain real property located on the west side of San Felipe Road approximately 2,000 feet north of Yerba Buena Road from the R-1-5 Single-Family Residence Zoning District to the A (PD) Planned Development Zoning district on an approximately 1.01-gross acre site.

(2) Adopt a resolution approving, subject to conditions, a Tentative Map to subdivide one lot into three lots to allow residential and commercial uses.

(3) Adopt a resolution approving, subject to conditions, a Planned Development Permit to allow demolition of an existing residential structure, construction of two single-family residences and associated grading, and establish an existing unpermitted commercial parking lot, and allow the removal of one ordinance-size tree on a 1.01-gross acre site.

CEQA: Categorically Exempt, CEQA Guidelines Section 15303(a) for New Construction and Section 15301 for Existing Facilities. (File Nos. PD19-018, PT19-022, PDC19-022). Planning Commission recommends approval (7-0). Council District 8. (Planning, Building and Code Enforcement)

**TO BE HEARD IMMEDIATELY AFTER CONSENT**

**END OF CONSENT CALENDAR**

## **10 Land Use - Regular Agenda**

- Open Forum
- 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.