



City Council Meeting Amended Agenda

Tuesday, September 1, 2020

11:00 AM

Virtual Meeting <https://sanjoseca.zoom.us/j/91325378626>

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 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 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 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, 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**

9:00 a.m. - Closed Session, Call to Order

20-955 Closed Session Agenda

11:00 a.m. - Regular Session

- **Pledge of Allegiance**

- Invocation (District 8)

- 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 20-956 Affordable Housing Impact Fee Fund Annual Report for Fiscal Year 2019-2020.

Recommendation: Accept the Fiscal Year 2019-2020 Annual Report prepared in accordance with the Mitigation Fee Act (Government Code section 66000 et seq.) on the status of the City’s Affordable Housing Impact Fee.

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)

2.8 20-957 2020 Regional Active Transportation Program Grant for Five Wounds Trail: Story Road to Julian Street. - RENUMBERED TO ITEM 7.2

Recommendation: Adopt a resolution to:

- (a) Identify the City Manager or his designee as the authorized representative to submit a grant to the State of California's Transportation Commission to pursue Active Transportation Program grant funding for the subject project;
- (b) If awarded a grant through this program, authorize the City Manager to negotiate and execute a grant agreement and associated documents with the Metropolitan Transportation Commission (MTC); and
- (c) Recognize that staff will return in the future with a funding plan that is reasonably expected to be available and sufficient to complete the project via a \$33,610,683 grant subject to 80 percent reimbursement and \$423,000 for non-eligible expenses, with an obligation to fund all additional expenses which may not be fully understood at this early stage of project development.

CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. Council Districts 3 and 7. (Parks, Recreation and Neighborhood Services)

[RENUMBERED TO ITEM 7.2 (20-989)]

2.9 20-958 Amendment to Title 27 of the San José Municipal Code to Clarify Sections Related to the Procurement of Public Works.

Recommendation: Approve an ordinance amending Title 27 of the San José Municipal Code to set forth the manner in which the City will adjust for inflation the threshold amount used to define a Major Public Works Contract and clarify the review and approval process for Major Public Works solicitation documents.

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

2.10 20-959 Cost Sharing Agreement Between City of San José and City of Cupertino for Pavement Maintenance on Bollinger Road.

Recommendation: Approve a Cost Sharing Agreement with the City of Cupertino for pavement maintenance improvements on Bollinger Road between Miller Avenue and Lawrence Expressway as part of the 2020 Pavement Maintenance Phase 2 Project in an amount not to exceed \$707,286.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council District 1. (Transportation)

3. STRATEGIC SUPPORT

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

- 20-960** (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 20-964 San José Food Distribution Update.

Recommendation: As recommended by the Smart Cities and Service Improvements Committee on August 6, 2020, accept the report on the update on food and necessities distribution work in support of the City's Pandemic Response which reviews accomplishments, lessons learned, and the transition back to Santa Clara County.
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 Manager)
[Smart Cities and Service Improvements Committee referral 8/6/2020 - Item (d)2]
[Deferred from 8/25/2020 - Item 3.3 (20-924)]
TO BE HEARD AFTER ITEM 3.1

3.4 20-971 Coronavirus Relief Funds for Resident Assistance Efforts.

Recommendation: Approve the Resident Assistance funding allocation plan for approximately \$2 million in Coronavirus Relief Funds.
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)
TO BE HEARD AFTER ITEM 3.3

3.5 20-961 Audit of Fire Development Services.

Recommendation: Accept the report on the Fire Development Services 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)

3.6 20-962 Audit of Park Maintenance.

Recommendation: Accept the report on the Park Maintenance 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)

3.7 20-965 Report on Bids and Award of Construction Contract for the 8674 - Trail: Coyote Creek (Story Road to Phelan Avenue) Project.

Recommendation: Report on bids and award of construction contract for the 8674 - Trail: Coyote Creek (Story Road to Phelan Avenue) Project to the low bidder, Teichert Construction, for the base bid in the amount of \$2,089,885, and approval of a ten percent contingency in the amount of \$208,989.
CEQA: Mitigated Negative Declaration for the Coyote Creek Trail Project Story Road to Phelan Avenue, File No. PP14-051. Council District 7. (Public Works)

4. PUBLIC SAFETY SERVICES**5. TRANSPORTATION & AVIATION SERVICES****6. ENVIRONMENTAL & UTILITY SERVICES****6.1 20-966 Master Agreements for Consultant Services for Microgrid and Energy Resilience Studies and Projects.**

Recommendation: Approve master consultant agreements with Worley Group, Inc. (DBA Advisian) and AECOM Technical Services, Inc. for microgrid and energy resilience studies and projects, from the date of execution through September 30, 2023, in a total amount not to exceed \$1,500,000 for each agreement, subject to the appropriation of funds.
CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works/Community Energy)

7. NEIGHBORHOOD SERVICES

7.1 20-967 Actions Related to the Future Public Park within the Japantown Square Development. - DROP

Recommendation: (a) Accept one of the following recommendations regarding the future public park within the Japantown Square Development along North 6th Street:

(1) Approve the Parks and Recreation Commission recommended name of “Sakura Park”; OR

(2) Approve the staff recommendation of “Heinlerville Park”; OR

(3) Approve Item (1) or (2) and direct staff to work with the community to name an amenity within the park after the name not approved for the new park. OR

(b) Select and approve an alternative name from the list of conforming names generated through the outreach process.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making results in no changes to the physical environment. Council District 3. (Parks, Recreation and Neighborhood Services)

DROP

7.2 20-989 2020 Regional Active Transportation Program Grant for Five Wounds Trail: Story Road to Julian Street. - RENUMBERED FROM ITEM 2.8

Recommendation: Adopt a resolution to:

(a) Identify the City Manager or his designee as the authorized representative to submit a grant to the State of California’s Transportation Commission to pursue Active Transportation Program grant funding for the subject project;

(b) If awarded a grant through this program, authorize the City Manager to negotiate and execute a grant agreement and associated documents with the Metropolitan Transportation Commission (MTC); and

(c) Recognize that staff will return in the future with a funding plan that is reasonably expected to be available and sufficient to complete the project via a \$33,610,683 grant subject to 80 percent reimbursement and \$423,000 for non-eligible expenses, with an obligation to fund all additional expenses which may not be fully understood at this early stage of project development.

CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. Council Districts 3 and 7. (Parks, Recreation and Neighborhood Services)

[RENUMBER FROM ITEM 2.8 (20-957)]

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 20-968 Citywide Residential Anti-Displacement Strategy.

Recommendation: (a) Accept the staff report and approve the 10 recommendations of the Citywide Residential Anti-Displacement Strategy.
(b) Approve workplans for the first three recommendations:
(1) Support Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners;
(2) Establish a Neighborhood Tenant Preference for Affordable Housing; and
(3) Explore a Community Opportunity to Purchase Program/Ordinance.
(c) Direct staff to return to the City Council with an update on progress in 12 months.
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)

NOT TO BE HEARD BEFORE 6:00 P.M.

8.2 20-969 Council Policy Priority # 5: Commercial Linkage Impact Fee.

Recommendation: (a) Hold a public hearing regarding the establishment of a Commercial Linkage Fee on new non-residential developments to address the need for affordable housing associated with such new development;
(b) Accept the “Commercial Linkage Fee Nexus Analysis - San José, California” dated July 2020 prepared by Keyser Marston Associates, Inc.; and
(c) Take the following actions:
(1) Approve an ordinance adding Chapter 5.11 to Title 5 of the San José Municipal Code enacting a requirement that new non residential development pay a commercial linkage fee for the provision of affordable housing.
(2) Adopt a resolution establishing the amounts of commercial linkage fees in accordance with Chapter 5.11 of Title 5 of the San José Municipal Code.

CEQA: Not a Project, Section 15378(b)(4) of the CEQA Guidelines which excludes the following from the definition of projects subject to the environmental review requirements: “The creation of a government funding mechanism or other government fiscal activities which do not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment (File No. PP17-004) Citywide. (Housing/Economic Development)
[Deferred from 8/25/2020 - Item 3.6 (20-927)]

TO BE HEARD IMMEDIATELY AFTER ITEM 8.1 BUT NOT BEFORE 1:30 P.M.

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
- 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.