



City Council Meeting Agenda

Tuesday, March 16, 2021

1:30 PM

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
DAVID COHEN, DISTRICT 4
MAGDALENA CARRASCO, DISTRICT 5
DEV DAVIS, DISTRICT 6
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
MATT MAHAN, 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.sanjoselegistar.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. Please go to the Clerk's Records Database <https://records.sanjoseca.gov/Pages/Search.aspx> for the final document, or you may also contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov.

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. Click *6 to unmute when called.

Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free)

- 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.

For Closed Captions, please visit the City’s YouTube channel:

<https://www.youtube.com/CityofSanJoseCalifornia>, or website livestream

<https://www.sanjoseca.gov/news-stories/watch-a-meeting>.

- **Call to Order and Roll Call**

9:30 a.m. - Closed Session

1:30 p.m. - Regular Session

- **Pledge of Allegiance**

- Invocation (District 3)

- 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 21-451 Amendment to the Coyote Valley Master Transfer and Conservation Agreement.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a Third Amendment to the Coyote Valley Master Transfer and Conservation Agreement between the Peninsula Open Space Trust, Santa Clara Valley Open Space Authority, and the City of San José, dated November 6, 2019, allowing for Peninsula Open Space Trust to sell the property known as Brandenburg West, approximately 25.65 acres, to the Santa Clara Valley Habitat Agency for undertaking habitat restoration, upon the condition that Santa Clara Valley Habitat Agency assumes the obligations under the City's Right of First Refusal on the property and Santa Clara Valley Habitat Agency shall cause to be recorded against the property a notice of the Right of First Refusal held by the City.
CEQA: Categorically Exempt, File ER19-064, CEQA Guidelines 15307 Actions by Regulatory Agencies for Protection of Natural Resources and 15308 by Regulatory Agencies for Protection of the Environment. (Economic Development)

2.8 21-452 Electrical Utility Easement Agreement Between the City of San José and Pacific Gas and Electric Company.

Recommendation: Adopt a resolution authorizing the City Manager, or their designee, to execute an Easement Agreement with Pacific Gas and Electric Company for electrical utilities installation and maintenance on City-owned property at Assessor's Parcel Number 670-29-025.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 8. (Economic Development)

2.9 21-453 Retroactive Approval of City Hall Tower and Rotunda Lighting for St. Patrick's Day and in Celebration of the 35th Anniversary of the City's Sister City Relationship with Dublin, Ireland.

Recommendation: Retroactively approve City Hall Tower and Rotunda lighting in clover green scheduled March 15-21, 2021 for St. Patrick's Day and in celebration of the 35th anniversary of the City's sister city relationship with Dublin, Ireland.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Economic Development)

2.10 21-454 Actions Related to the Purchase Order for Rockwell Variable Frequency Drives Upgrade, Maintenance, Repair, and Inspection Services.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute a purchase order with Buckles-Smith Electric Company (Santa Clara, CA), for Rockwell Variable Frequency Drives (VFD) Upgrade, Maintenance, Repair, and Inspection Services for a twelve-month period, starting on or about March 16, 2021 and ending on March 15, 2022, for an amount not to exceed \$650,000; and
- (b) Exercise up to one option to extend the term through on or about March 15, 2023 for any additional necessary VFD upgrades, maintenance, repair and inspection services, subject to the appropriation of funds.

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

2.11 21-455 Actions Related to Purchase Order with SmartWAVE Technologies, LLC for Ruckus Wi-Fi Installation, Maintenance, and Support.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute purchase orders with SmartWAVE Technologies, LLC (Alpharetta, GA) for up to four (4) one-year option terms through April 20, 2025 for new and existing Ruckus Wi-Fi installations, including related labor, equipment, materials, maintenance, and support with a maximum compensation not to exceed \$300,000 for the option period beginning April 21, 2021 through April 20, 2022, subject to the appropriation of funds; and
- (b) Amend purchase orders as required for any unanticipated changes such as increases in demand, subject to the appropriation of funds.

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

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 21-456 Approval of the Fiscal Year 2021-2022 Mayor's March Budget Message.

Recommendation: (a) Conduct a Public Hearing on the FY 2021-2022 Mayor's March Budget Message.
(b) Approve the FY 2021-2022 Mayor's March Budget Message.
CEQA: Not a Project, File No. PP17-010, City Organization and Administrative Activities resulting in no changes to the physical environment. (Mayor)

3.4 21-457 Review of the Retirement Plan's Pension and Post-Employment Healthcare Plan Actuarial Valuations as of June 30, 2020.

Recommendation: Review the following actuarial valuation reports:
(a) Federated City Employees' Retirement System Actuarial Valuation (Pension) as of June 30, 2020; and
(b) Federated City Employees' Retirement System Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2020; and
(c) Police and Fire Department Retirement Plan Actuarial Valuation (Pension) as of June 30, 2020; and Police and Fire Department Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2020.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Retirement Services)

4. PUBLIC SAFETY SERVICES**4.1 21-458 Audit of Police Staffing, Expenditures, and Workload.**

Recommendation: Accept the report on the Police Staffing, Expenditures, and Workload 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)

4.2 21-459 Police Reforms: Independent Investigation of Police Misconduct Work Plan.

Recommendation: Approve the proposed workplan for independent investigation of police misconduct.
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)
[Deferred from 2/23/2021 - Item 4.1 (21-321) and 3/9/2021 - Item 4.1 (21-419)]

5. TRANSPORTATION & AVIATION SERVICES

5.1 21-460 Award of Construction Contract for the 2021 Local Streets Concrete #1 Project.

Recommendation: (a) Approve award of a construction contract for the 2021 Local Streets Concrete #1 Project, to the low bidder, Wattis Construction Co, Inc. in the amount of \$2,369,661.
(b) Approve an approximate ten percent contingency in the amount of \$236,900.
CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 3, 4, and 5.
(Transportation)

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 21-461 Purchase and Sale Agreement for Property Located at 300 Enzo Drive.

Recommendation: Adopt a resolution authorizing the City Manager, or his designee, to negotiate and execute:
(a) A Purchase and Sale Agreement with Mersho Investments LLC, a California limited liability company, for the City's as-is purchase of 4.77 acres of land, containing a 97,831 square foot manufacturing/warehouse building, located at 300 Enzo Drive, further identified as Assessor's Parcel Number 678-06-022, for the price of \$18,500,000; and
(b) All other necessary documents to complete the property transfer to the City.
CEQA: Exempt, File No. ER21-017, CEQA Guideline Section 15061(b)
(3). Council District 2. (Economic Development/Public Works/Police)

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.