



City Council Meeting Amended Agenda

Tuesday, April 13, 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

9:00 a.m. - Closed Session

21-682

Closed Session Agenda

1:30 p.m. - Regular Session

6:00 p.m. - Evening Session - Recommend Cancellation

- Pledge of Allegiance
- Invocation (District 4)

Imam Tahir Anwar, South Bay Islamic Association

- 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

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.

21-715 Final Adoption of Ordinances.

Recommendation: (a) Ordinance No. 30550 - An Ordinance of the City of San José Amending Sections 17.85.200, 17.85.300, 17.85.410, 17.85.420, 17.85.510, 17.85.520, And 17.85.540 of Chapter 17.85 of Title 17 of the San José Municipal Code Related to the San José Energy and Water Building Performance Ordinance.

[Passed for Publication on 3/30/2021- Item 2.10 (21-567)]

(b) Ordinance No. 30552 - An Ordinance of the City of San José Amending San José Municipal Code Chapter 25.08 to Eliminate the Requirement for On-Demand Taxicab Company and Driver Access Permits at the Norman Y. Mineta San José International Airport and Authorizing the Director of Aviation to Re-institute the On-Demand Taxicab Company and Driver Airport Access Permit Requirements, Including the 300 Permit Cap, in the Event that Efficient Airport Operations, Passenger Service Needs and the Public Interest Require a Limitation on the Number of On-Demand Ground Transportation Providers at the Airport.

[Passed for Publication on 3/30/2021- Item 5.1 (21-581)]

(c) Ordinance No. 30554 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.06-Gross Acre Situated on the South Side of East Empire Street at the Southwest Corner of East Empire Street and North Sixth Street (236 East Empire Street) (APN: 249-47-017) from the CN Commercial Neighborhood Zoning District to the R-1-8 Single Family Residence Zoning District.

[Passed for Publication on 3/30/2021- Item 10.1(b) (21-591)]

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 21-683 Amendment to the Mount Chual Antenna Site Lease Schedule.

Recommendation: Adopt a resolution authorizing the City Manager, or his designee, to negotiate and execute a First Amendment to the Antenna Site Lease Schedule dated August 29, 2001 between the City of San José and ComSites West, LLC, a California limited liability company to extend the lease term from May 1, 2021 to April 30, 2036, for a total of 15 years for a total cost of approximately \$540,000, with two additional five-year options to renew for a total cost of approximately \$759,000 if one option term is exercised and \$1,000,000 if both option terms are exercised, 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.
(Economic Development)

2.8 21-684 Amendment to Purchase Order OP 57257 with Tucker Construction for Building Maintenance and Repair Services for Citywide Facilities.

Recommendation: Adopt a resolution authorizing the City Manager to amend purchase order OP 57257 with Tucker Construction Company (San José, CA) for building maintenance and repair services, to increase compensation by \$200,000 for a revised total amount not-to-exceed \$520,000 through June 30, 2021.
CEQA: Not a Project, File No. PP17-008, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
(Finance/Public Works)

2.9 21-685 Amendment to the COVID-19 Purchase Order OP 58765 with United Site Services, Inc. for Temporary Fencing Rentals & Repair Services.

Recommendation: Adopt a resolution authorizing the City Manager to amend COVID-19 Purchase Order OP 58765 with United Site Services, Inc. (San José, CA) for temporary fencing rentals and repair services, to add portable restroom and handwashing station rental services, to increase compensation by \$635,000 for a revised maximum compensation not-to-exceed \$955,000, and to retroactively extend the term from April 17, 2020 through December 31, 2021.
CEQA: Not a Project, File No. PP17-008, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
(Finance/Public Works)

2.10 21-686 Pavement Maintenance Projects Eligible for Senate Bill No. 1 Funding.

Recommendation: Adopt a resolution approving a list of pavement maintenance projects eligible for San Jose's 2021-2022 allocation of the Road Maintenance and Rehabilitation Account funding, which was made available by the approval of Senate Bill No. 1 (SB-1), otherwise known as the Road Repair and Accountability Act of 2017.

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

2.11 21-687 Award of Construction Contracts for the 2021 Major Streets Concrete and ADA Ramps Major Project and the 2021 Major Streets Remove & Replace Project.

Recommendation: (a) Approve award of a construction contract for the 2021 Major Streets Concrete and ADA Ramps Major Project, to the low bidder, McKim Corporation, in the amount of \$1,538,654 and approve an approximate 10% contingency in the amount of \$153,900.

(b) Approve award of a construction contract for the 2021 Major Streets Remove & Replace Project, to the low bidder, Radius Earthwork, Inc., in the amount of \$1,427,100 and approve an approximate 10% contingency in the amount of \$142,700.

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

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 9:00 A.M.

3.3 21-699 Board of Fair Campaign and Political Practices Appointments.

Recommendation: (a) Interview applicants for appointment to the Board of Fair Campaign and Political Practices.

(b) Appoint two (2) applicants for a term ending March 1, 2025.

(c) Appoint one (1) applicant to a term ending March 1, 2023.

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

3.4 21-691 Return Together.

Recommendation: As recommended by the Rules and Open Government Committee on March 24, 2021:

(a) City Council take the following action:

(1) Adopt an uncodified urgency ordinance requiring certain specified employers to offer reemployment to any worker laid off due to the COVID-19 pandemic if the employer is hiring for the same or substantially similar job formerly held by the laid off worker, and setting forth the facts constituting the urgency; and

(2) Approve an ordinance requiring certain specified employers to offer reemployment to any worker laid off due to the COVID-19 pandemic if the employer is hiring for the same or substantially similar job formerly held by the laid off worker.

PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES. City Charter Section 605(d).

(b) If the City Council is unable to take the action in part “a” of this recommendation by the required vote of eight (8) City Council members, approve an ordinance requiring certain specified employers to offer reemployment to any worker laid off due to the COVID-19 pandemic if the employer is hiring for the same or substantially similar job formerly held by the laid off worker.

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

[Rules Committee referral 3/24/2021 - Item G.3]

4. PUBLIC SAFETY SERVICES

4.1 21-697 Police Department Duty Manual Updates Report.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on March 18, 2021, accept a report on updates to the Police Department's Duty Manual, including but not limited to Section S4312 Sexual Assault Cases and Section S4313 Domestic Violence, for the purposes of improving the Police Department's interaction with survivors of domestic violence, child abuse, sexual assault, human trafficking, and other vulnerable populations, including 1) requiring officers to respond to and investigate all calls for service for domestic violence, child abuse, sexual assault, and human trafficking for potential high lethality and write a police report if a crime occurred, and 2) ensuring a trauma-informed approach to an officer's response by providing survivors with access to an in-person advocate and/or a referral to such advocate by telephone, pamphlet, or resource card before the officer leaves the scene regardless if the survivor asks for the referral services.

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

[Public Safety, Finance and Strategic Support Committee referral
3/18/2021 - Item (d)2]

5. TRANSPORTATION & AVIATION SERVICES**6. ENVIRONMENTAL & UTILITY SERVICES**

6.1 21-707 Santa Clara Valley Water District Efforts to Develop Purified Water Projects in Santa Clara County. - TO BE HEARD AT 4:00 P.M.

Recommendation: Accept staff's recommendation to accept the report regarding the status of the Santa Clara Valley Water District's (Valley Water) Purified Water Project in Santa Clara County and direct the Administration to:

- (a) Negotiate an amended or new Master Agreement between Valley Water and the City of San José relating to Valley Water's Payment for City's support services to the expedited purified water program for an amount adequate to fund all costs incurred by the City to support negotiation of new agreements including legal services and a facilitator.
- (b) Coordinate with Valley Water to negotiate and enter into a three-party agreement with a consultant to facilitate negotiation meetings between the City and Valley Water for six months; and establish the executive steering committee comprised of representatives from the San José City Council and Valley Water Board, staff from each agency only if the negotiation with the facilitator requires additional guidance.
- (c) Negotiate with Valley Water an agreement to fund the reservation of wastewater effluent for potential water reuse projects with terms and conditions substantially similar to the Partnership Agreement to Advance Resilient Water Reuse Programs in Santa Clara County between Valley Water and the cities of Palo Alto and Mountain View dated December 10, 2019.
- (d) Return to the San José City Council in December 2021 for action/consideration on a reservation of wastewater effluent agreement with Valley Water.
- (e) Following the reservation of wastewater effluent, engage Valley Water to negotiate an amended or new Ground Lease and Property Use Agreement for the existing Advanced Water Treatment Facility, concurrently with an amended or new Recycled Water Facilities and Programs Integration Agreement.
- (f) Direct the administration to continue prior Council direction on negotiating the expanded use of recycled water with Valley Water to increase a local, drought-resilient water supply and reduce reliance on imported water.
- (g) Return to the San José City Council on June 15, 2021 with an update regarding the status of the negotiations.

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

[3/19/2021 Joint City Council/Santa Clara Valley Water District Board Special Meeting - Item 5]

TO BE HEARD AT 4:00 P.M.

6.2 21-708 Overview on Water Supply Planning and Water Charge Rates Setting Processes. - TO BE HEARD AT 4:00 P.M.

Recommendation: Receive information on the Santa Clara Valley Water District's (Valley Water's) water supply planning efforts and the Fiscal Year 2021-2022 water charge setting process.

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. (Mayor)

[3/19/2021 Joint City Council/Santa Clara Valley Water District Board Special Meeting - Item 6]

TO BE HEARD AT 4:00 P.M.

7. NEIGHBORHOOD SERVICES

7.1 21-700 Public Park Naming Located at Gimelli Way.

Recommendation: Approve "Delano Manongs Park" as the name of a new park located on Gimelli Way per the Parks and Recreation Commission's and the Parks, Recreation and Neighborhood Services Department's recommendation consistent with public response.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making results in no changes to the physical environment. Parks and Recreation Commission recommends approval (8-0). Council District 5. (Parks, Recreation and Neighborhood Services)

[Parks and Recreation Commission referral 2/3/21 - Item VII.B]

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 21-701 Actions Related to the Park Avenue Reconfiguration Project.

Recommendation: (a) Conduct a Public Hearing to allow each person whose property is to be acquired a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030 of Cal. Cod of Civ. Proc.

(b) Adopt a resolution determining that the public interest and necessity require the acquisition through condemnation of Parcel A (consisting of $\pm 1,281$ square feet and owned by the heirs and devisees of James Smith, deceased), with the Parcel referred to as a "Property" for the Park Avenue Reconfiguration Project in conformance with Cal. Code Civ. Proc. Section 1245.220, et. seq., and making the following findings and determinations to declare that:

(1) The City is authorized to acquire the Property and exercise the power of eminent domain to and in accordance with Article 1, Section 19 of the California Constitution, the California Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.), Section 200 of the City of San José Charter, and Government Code Sections 37350, 37350.5, 37351, 37353 and 40404;

(2) The public interest and necessity require the project, described below, which is in the Park Avenue public right-of-way, at the corner of Almaden Boulevard and Park Avenue as described in Exhibit "A" to Parcel A's proposed resolution of necessity, to be posted separately and by reference made a part hereof, for the Park Avenue Reconfiguration Project;

(3) The Property to be acquired for the proposed Park Avenue Reconfiguration Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

(4) The acquisition of Property, as described in Exhibit "A" to Parcel A's proposed resolution of necessity, to be posted separately, is necessary for the public uses proposed in the Park Avenue Reconfiguration Project;

(5) The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, for the acquisition of the Property, has not been made by the City to the owner of record, the heirs and devisees of James Smith, deceased, because the heirs or devisees of the deceased owner cannot be identified with reasonable diligence;

(6) The City has complied with all conditions and statutory requirements that are necessary for approval and adoption of the Park Avenue Reconfiguration Project, including those prescribed by the California Environmental Quality Act (“CEQA”, Pub. Res. Code § 21000, et seq.). On September 3, 2019, the City prepared a Determination of Consistency of the Park Avenue Reconfiguration Project to the Downtown Strategy 2040 Final Environmental Impact Report certified by the City on December 18, 2018 (State Clearinghouse No. 2003042127). The City has also determined that the Park Avenue Reconfiguration Project is exempt from environmental review under the provisions of Section 15301(c) of the State Guidelines for Implementation of CEQA as an existing public facility;

(7) All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property have been complied with by the City;

(8) Authorizing the City Attorney, or their designee, to institute, maintain, and prosecute to final judgment, in the name of the City of San José, proceedings in eminent domain in the Superior Court of the State of California, County of Santa Clara, for the condemnation of the Property herein described, and to take all steps necessary, including applying for an Order for Possession before Judgment, for said condemnation in the name of the City and correcting any errors or to making or agreeing to non-material changes in the description of the Property interests to be acquired that are deemed necessary for the conduct of the condemnation action; and

(9) Authorizing the City Attorney, or their designee, to make a deposit in the State Treasury Condemnation Fund from lawfully available funds of the City, in the amount determined by the summary appraisals of the Property or by the court in which eminent domain proceedings concerning the Acquisition Parcels herein authorized are commenced or which may otherwise be required by law for the maintenance of the proceeding in eminent domain. The deposit is conditioned on the availability of funds under the Real Property Purchase and Sale and Cost Payment Agreement dated December 4, 2020 between SJ CityView LLC and the City of San José.

PLEASE NOTE: Approval of this item requires 8 or more affirmative votes (2/3).

(c) Adopt a resolution determining that the public interest and necessity require the acquisition through condemnation of Parcel B (consisting of $\pm 2,849$ square feet and owned by the heirs and devisees of Jose M. Villar, deceased (Brad Jepson, Trustee of Estate of Charleyne Nobes, Janet Lipscomb, Karen Washburn, Michael Nobes, Rose Nobes Rawcliffe, Carol Nobes, Garret Nobes, Kyle Nobes, Lyndsey Nobes and Tammy Nobes Hill), with the Parcel referred to as a "Property") for the Park Avenue Reconfiguration Project in conformance with Cal. Code Civ. Proc. Section 1245.220, et. seq., and making the following findings and determinations to declare that:

(1) The City is authorized to acquire the Property and exercise the power of eminent domain to and in accordance with Article 1, Section 19 of the California Constitution, the California Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.), Section 200 of the City of San José Charter, and Government Code Sections 37350, 37350.5, 37351, 37353 and 40404;

(2) The public interest and necessity require the project, described below, which is in the Park Avenue public right-of-way, at the corner of Almaden Boulevard and Park Avenue as described in Exhibit "A" to Parcel B's proposed resolution of necessity, to be posted separately and by reference made a part hereof, for the Park Avenue Reconfiguration Project;

(3) The Property to be acquired for the proposed Park Avenue Reconfiguration Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

(4) The acquisition of Property, as described in Exhibit "A" to Parcel B's proposed resolution of necessity, to be posted separately, is necessary for the public uses proposed in the Park Avenue Reconfiguration Project;

(5) The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, for the acquisition of the Property, has been made by the City to the living heirs and devisees of the last owner of record Jose M. Villar, deceased;

(6) The City has complied with all conditions and statutory requirements that are necessary for approval and adoption of the Park Avenue Reconfiguration Project, including those prescribed by the California Environmental Quality Act (“CEQA”, Pub. Res. Code § 21000, et seq.). On September 3, 2019, the City prepared a Determination of Consistency of the Park Avenue Reconfiguration Project to the Downtown Strategy 2040 Final Environmental Impact Report certified by the City on December 18, 2018 (State Clearinghouse No. 2003042127). The City has also determined that the Park Avenue Reconfiguration Project is exempt from environmental review under the provisions of Section 15301(c) of the State Guidelines for Implementation of CEQA as an existing public facility;

(7) All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property have been complied with by the City;

(8) Authorizing the City Attorney, or their designee, to institute, maintain, and prosecute to final judgment, in the name of the City of San José, proceedings in eminent domain in the Superior Court of the State of California, County of Santa Clara, for the condemnation of the Property herein described, and to take all steps necessary, including applying for an Order for Possession before Judgment, for said condemnation in the name of the City and correcting any errors or to making or agreeing to non-material changes in the description of the Property interests to be acquired that are deemed necessary for the conduct of the condemnation action; and

(9) Authorizing the City Attorney, or their designee, to make a deposit in the State Treasury Condemnation Fund from lawfully available funds of the City, in the amount determined by the summary appraisals of the Property or by the court in which eminent domain proceedings concerning the Acquisition Parcels herein authorized are commenced or which may otherwise be required by law for the maintenance of the proceeding in eminent domain. The deposit is conditioned on the availability of funds under the Real Property Purchase and Sale and Cost Payment Agreement dated December 4, 2020 between SJ CityView LLC and the City of San José.

PLEASE NOTE: Approval of this item requires 8 or more affirmative votes (2/3).

(d) Adopt a resolution determining that the public interest and necessity require the acquisition through condemnation of Parcel C (consisting of ± 782 square feet owned by the heirs and devisees of Carmen I. De Queveda, deceased, Adelena Quevedo and Alfonso Quevedo), with the Parcel referred to as a “Property”) for the Park Avenue Reconfiguration Project in conformance with Cal. Code Civ. Proc. Section 1245.220, et seq., and making the following findings and determinations to declare that:

(1) The City is authorized to acquire the Property and exercise the power of eminent domain to and in accordance with Article 1, Section 19 of the California Constitution, the California Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.), Section 200 of the City of San José Charter, and Government Code Sections 37350, 37350.5, 37351, 37353 and 40404;

(2) The public interest and necessity require the project, described below, which is in the Park Avenue public right-of-way, at the corner of Almaden Boulevard and Park Avenue as described in Exhibit “A” to Parcel C’s proposed resolution of necessity, to be posted separately and by reference made a part hereof, for the Park Avenue Reconfiguration Project;

(3) The Property to be acquired for the proposed Park Avenue Reconfiguration Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

(4) The acquisition of Property, as described in Exhibit “A” to Parcel C’s proposed resolution of necessity, to be posted separately, is necessary for the public uses proposed in the Park Avenue Reconfiguration Project;

(5) The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, for the acquisition of the Property, has been made by the City to the living heirs and devisees of Carmen I. De Queveda, deceased;

(6) The City has complied with all conditions and statutory requirements that are necessary for approval and adoption of the Park Avenue Reconfiguration Project, including those prescribed by the California Environmental Quality Act (“CEQA”, Pub. Res. Code § 21000, et seq.). On September 3, 2019, the City prepared a Determination of Consistency of the Park Avenue Reconfiguration Project to the Downtown Strategy 2040 Final Environmental Impact Report certified by the City on December 18, 2018 (State Clearinghouse No. 2003042127). The City has also determined that the Park Avenue Reconfiguration Project is exempt from environmental review under the provisions of Section 15301(c) of the State Guidelines for Implementation of CEQA as an existing public facility;

(7) All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property have been complied with by the City;

(8) Authorizing the City Attorney, or their designee, to institute, maintain, and prosecute to final judgment, in the name of the City of San José, proceedings in eminent domain in the Superior Court of the State of California, County of Santa Clara, for the condemnation of the Property herein described, and to take all steps necessary, including applying for an Order for Possession before Judgment, for said condemnation in the name of the City and correcting any errors or to making or agreeing to non-material changes in the description of the Property interests to be acquired that are deemed necessary for the conduct of the condemnation action; and

(9) Authorizing the City Attorney, or their designee, to make a deposit in the State Treasury Condemnation Fund from lawfully available funds of the City, in the amount determined by the summary appraisals of the Property or by the court in which eminent domain proceedings concerning the Acquisition Parcels herein authorized are commenced or which may otherwise be required by law for the maintenance of the proceeding in eminent domain. The deposit is conditioned on the availability of funds under the Real Property Purchase and Sale and Cost Payment Agreement dated December 4, 2020 between SJ CityView LLC and the City of San José.

PLEASE NOTE: Approval of this item requires 8 or more affirmative votes (2/3).

(e) Adopt a resolution determining that the public interest and necessity require the acquisition through condemnation of Parcel D (consisting of 1,312 square feet owned by the heirs and devisees of Francois Baptiste Christian, deceased), with the Parcel referred to as a “Property”) for the Park Avenue Reconfiguration Project in conformance with Cal. Code Civ. Proc. Section 1245.220, et. seq., and making the following findings and determinations to declare that:

(1) The City is authorized to acquire the Property and exercise the power of eminent domain to and in accordance with Article 1, Section 19 of the California Constitution, the California Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.), Section 200 of the City of San José Charter, and Government Code Sections 37350, 37350.5, 37351, 37353 and 40404;

(2) The public interest and necessity require the project, described below, which is in the Park Avenue public right-of-way, at the corner of Almaden Boulevard and Park Avenue as described in Exhibit “A” to Parcel D’s proposed resolution of necessity, to be posted separately and by reference made a part hereof, for the Park Avenue Reconfiguration Project;

(3) The Property to be acquired for the proposed Park Avenue Reconfiguration Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

(4) The acquisition of Property, as described in Exhibit “A” to Parcel D’s proposed resolution of necessity, to be posted separately, is necessary for the public uses proposed in the Park Avenue Reconfiguration Project;

(5) The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, for the acquisition of the Property, has not been made by the City to the owner of record, the heirs and devisees of Francois Baptiste Christian, deceased, because the heirs or devisees of the deceased owner cannot be identified with reasonable diligence;

(6) The City has complied with all conditions and statutory requirements that are necessary for approval and adoption of the Park Avenue Reconfiguration Project, including those prescribed by the California Environmental Quality Act (“CEQA”, Pub. Res. Code § 21000, et seq.). On September 3, 2019, the City prepared a Determination of Consistency of the Park Avenue Reconfiguration Project to the Downtown Strategy 2040 Final Environmental Impact Report certified by the City on December 18, 2018 (State Clearinghouse No. 2003042127). The City has also determined that the Park Avenue Reconfiguration Project is exempt from environmental review under the provisions of Section 15301(c) of the State Guidelines for Implementation of CEQA as an existing public facility;

(7) All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property have been complied with by the City;

(8) Authorizing the City Attorney, or their designee, to institute, maintain, and prosecute to final judgment, in the name of the City of San José, proceedings in eminent domain in the Superior Court of the State of California, County of Santa Clara, for the condemnation of the Property herein described, and to take all steps necessary, including applying for an Order for Possession before Judgment, for said condemnation in the name of the City and correcting any errors or to making or agreeing to non-material changes in the description of the Property interests to be acquired that are deemed necessary for the conduct of the condemnation action; and

(9) Authorizing the City Attorney, or their designee, to make a deposit in the State Treasury Condemnation Fund from lawfully available funds of the City, in the amount determined by the summary appraisals of the Property or by the court in which eminent domain proceedings concerning the Acquisition Parcels herein authorized are commenced or which may otherwise be required by law for the maintenance of the proceeding in eminent domain. The deposit is conditioned on the availability of funds under the Real Property Purchase and Sale and Cost Payment Agreement dated December 4, 2020 between SJ CityView LLC and the City of San José.

PLEASE NOTE: Approval of this item requires 8 or more affirmative votes (2/3).

(f) Adopt a resolution:

(1) Approving the report of the Director of Public Works setting forth the facts justifying the conditional summary vacation of the 14,348 square feet portion of Park Avenue between Almaden Boulevard and Market Street (“Subject Property”);

- (2) Conditionally vacating the Subject Property, which after the satisfaction of the condition, will be superseded by relocation; and
 - (3) After the satisfaction of the condition, directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.
 - (g) Accept the funds of \$310,000 from a Real Property and Sale and Cost Payment Agreement to reimburse the City for any City-incurred costs, fees, and expenses associated with the pursuit and/or completion of the purchase or condemnation action related to the Acquisition Parcels to support the construction of the Park Avenue Reconfiguration Project and CityView Development Project.
 - (h) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
 - (1) Increase the estimate for Other Revenue by \$310,000; and
 - (2) Increase the Office of Economic Development's Non-Personal/Equipment appropriation in the amount of \$310,000.
- CEQA: Supplemental Environmental Impact Report to the Downtown Strategy 2040 Final Environmental Impact Report (Resolution No. 79586) for CityView, File No. H19-016; Addendum to the Downtown Strategy 2040 Final Environmental Impact Report for 200 Park Avenue Office Project, File No. H18-045; Determination of Consistency to the Downtown Strategy 2040 Final Environmental Impact Report for the Park Avenue Reconfiguration Project, File No. PP19-071. Council District 3. (Economic Development/Public Works/City Manager)

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) 21-702 C18-030, H18-051 & T18-048 - Rezoning, Site Development Permit and Vesting Tentative Map for Property Located at 967 North Capitol Avenue. - TO BE HEARD IMMEDIATELY AFTER CONSENT

Recommendation: (1) Approve an ordinance rezoning certain real property located at the west side of North Capitol Avenue approximately 300 feet easterly of Berryessa Road (967 North Capitol Avenue) from the A Agricultural Zoning District to the R-M Multiple Residence Zoning District on an approximately 0.3-gross acre site.

(2) Adopt a resolution approving, subject to conditions, the Vesting Tentative Subdivision Map to subdivide one parcel into six residential condominium units and one common area parcel.

(3) Adopt a resolution approving, subject to conditions, a Site Development Permit for the demolition of an existing single-family residence, accessory building, and the removal of three ordinance-size trees for the construction of six multifamily units on an approximately 0.3-gross acre site.

CEQA: Exempt per CEQA Guidelines Section 15303 for New Construction. Planning Commission recommends approval (6-0-1; Oliverio absent). Council District 4. (Planning, Building and Code Enforcement)

TO BE HEARD IMMEDIATELY AFTER CONSENT

- (b) 21-703 C20-018 - Conforming Rezoning for Property Located at 359 North 4th Street and 405 North 4th Street. - TO BE HEARD IMMEDIATELY AFTER CONSENT

Recommendation: Approve an ordinance rezoning certain real property located on the western side of North 4th Street and Washington Street (359 North 4th Street and 405 North 4th Street), approximately 400 feet northwest of E Julian Street, from the LI Light Industrial and R-M Multiple Residence Zoning Districts to the PQP Pubic/Quasi-Public Zoning District on an approximately 2.66-acre site.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. Council District 3. (Planning, Building and Code Enforcement)

TO BE HEARD IMMEDIATELY AFTER CONSENT

- (c) **21-704** **C21-005 - Conforming Rezoning for Property Located at 60 North Third Street. TO BE HEARD IMMEDIATELY AFTER CONSENT**

Recommendation: Approve an ordinance rezoning certain real property located on the northeast side of North Third Street, approximately 170 feet southeasterly of East Saint John Street (60 North Third Street) from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District on an approximately 0.81-gross acre site. CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. Council District 3. (Planning, Building and Code Enforcement) **TO BE HEARD IMMEDIATELY AFTER CONSENT**

- (d) **21-705** **C21-006 - Conforming Rezoning for Property Located at 0 Montague Expressway. TO BE HEARD IMMEDIATELY AFTER CONSENT**

Recommendation: Approve an ordinance rezoning certain real property located on the north side of Montague Expressway, approximately 640 feet west of North First Street from the A(PD) Planned Development Zoning District to the IP Industrial Park Zoning District on an the approximately 11.19-gross acre site. CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. Council District 4. (Planning, Building and Code Enforcement) **TO BE HEARD IMMEDIATELY AFTER CONSENT**

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 21-706 H19-033 - Site Development Permit for Property Located at 282 South Market Street.

Recommendation: (a) Adopt a resolution certifying the Block 8 Mixed Use Office Project Supplemental Environmental Impact Report and making certain findings concerning significant impacts, mitigation measures, and alternatives, and adopting a Statement of Overriding Considerations and a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA).
(b) Adopt a resolution approving, subject to conditions, a Site Development Permit, to allow the construction of an 18-story commercial building with approximately 12,771 square feet of commercial retail and approximately 482,026 square feet of commercial office, an alternative parking arrangement, and a Downtown Design Guideline exception on an approximately 1.49-gross acre site.
CEQA: Block 8 Mixed Use Office Supplemental Environmental Impact Report (SCH# 2003042127) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). Planning Commission recommends approval (7-0). Council District 3. (Planning, Building and Code Enforcement)

- **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.