



City Council Meeting Amended Agenda

Tuesday, May 4, 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

21-942

Closed Session Agenda

1:30 p.m. - Regular Session

- **Pledge of Allegiance**

- Invocation (District 5)
- Adjournment

The City Council will adjourn in honor and memory of Natalia Smüt Lopez. An Afro-Rican transgender woman of San José and beloved drag artist and entertainer of the South Bay, Natalia was senselessly killed on April 23 in Milpitas, California. She was best known for her powerful energy, motivating and creative spirit, captivating performances, and for her ability to fearlessly live her truth. She is the 17th victim this year of anti-transgender violence in the U.S. Today, the City of San José remembers, cherishes, honors, and celebrates the life of Natalia Smüt Lopez.

- Orders of the Day

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

- Closed Session Report

1. CEREMONIAL ITEMS

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.

21-952 Final Adoption of Ordinances.

Recommendation: Ordinance No. 30562 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.28 Gross Acre, Situated on the Northeast Corner of Woodard Road and Calico Avenue (15415 Woodard Road) (APN: 414-27-018) from Unincorporated Territory within the County of Santa Clara to the R-1-8 Single-Family Residence Zoning District.
[Passed for Publication on 4/20/2021- Item 10.1(a) (21-741)]

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 21-950 Amendment to Agreement with Keyes & Fox, LLP for Legal Services Related to the San José Clean Energy Program.**

Recommendation: Adopt a resolution authorizing the City Attorney to negotiate and execute a fifth amendment to the agreement with Keyes & Fox, LLP for legal services related to the San José Clean Energy program, increasing the amount of compensation by \$250,000 for a total amount not to exceed \$570,000.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

3. STRATEGIC SUPPORT**3.1 Report of the City Manager, David Sykes (Verbal Report)**

- 21-943** (a) City Manager's COVID-19 Update (Verbal Report)
(b) City Manager's Report on Other City Matters (Verbal Report)

3.2 Labor Negotiations Update.

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

3.3 21-944 COVID-19 Preliminary Operational Assessment Report Revision. - TO BE HEARD IMMEDIATELY AFTER ITEM 3.1

Recommendation: Accept the revised COVID-19 Preliminary Operational Assessment Report, white papers and Operational Adjustment Plan.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)
TO BE HEARD IMMEDIATELY AFTER ITEM 3.1

3.4 21-945 Fiscal Recovery Update and Appropriation Actions to Continue the City's COVID-19 Pandemic Response. - TO BE HEARD IMMEDIATELY AFTER ITEM 3.3

Recommendation: (a) Receive a report on the status of the City's fiscal recovery efforts related to the COVID-19 pandemic.
(b) Adopt 2020-2021 Appropriation Ordinance and Funding Sources Resolution amendments in the Coronavirus Relief Fund, the Emergency Reserve Fund, and the General Fund as described in Attachment A to the staff memorandum.
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(City Manager)

TO BE HEARD IMMEDIATELY AFTER ITEM 3.3

3.5 21-946 Report on Bids and Award of Contract for the 9110 - Park: Pellier Park Project.

Recommendation: Report on bids and award of contract for the 9110 - Pellier Park Project to the low bidder, QLM, Inc., in the amount of \$2,144,778, and approve a ten percent contingency in the amount of \$214,478.
CEQA: Addendum to the Brandenburg Mixed Use Project/North San Pedro Housing Sites Final Environmental Impact Report (FEIR), File No. PP19-046 and HP19-004. Council District 3. (Public Works)

3.6 21-951 Community and Economic Recovery Strategy and Approach Study Session. - TO BE HEARD AT 6:00 P.M.

Recommendation: Community and Economic Recovery Strategy and Approach Study Session:
(a) Transition from Emergency Operations Center to Community Healing and Economic Recovery.
(b) City Roadmap for Recovery.
(1) Principles, structure, and team.
(2) Key Initiatives Now, Next Year, Later.
(c) COVID-19 Taskforce and Build Back Better Initiative.
(d) Conclusions and Next Steps.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)
TO BE HEARD AT 6:00 P.M.

3.7 21-954 Return Together. - RECOMMEND DEFERRAL

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 uncodified 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 uncodified 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. (Perales, Jimenez and Cohen)

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

[Deferred from 4/13/2021 - Item 3.4 (21-691); 4/27/2021 - Item 3.3 (21-890)]

RECOMMEND DEFERRAL TO 5/11/2021 PER ADMINISTRATION

3.8 21-955 Public Purpose Bonds Issued by a Joint Powers Authority for Moderate-Income Rental Housing. - RECOMMEND DEFERRAL

Recommendation: Accept the staff report on public purpose bonds issued by a joint powers authority (JPA) for moderate-income housing, and direct the Administration not to move forward with releasing a term sheet in order to pursue membership in one or more JPAs for moderate-income housing at this time.

CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body.
(Finance/Housing)

[Deferred from 4/27/2021 - Item 3.7 (21-885)]

RECOMMEND DEFERRAL TO 5/11/2021 PER ADMINISTRATION

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

7.1 21-948 Urban Confluence Silicon Valley Design Rankings and Future Work Plan.

Recommendation: (a) Accept the staff report on the Urban Confluence Silicon Valley Project including the jury recommended rankings of the three finalists, and acceptance of Breeze of Innovation as the winning design;
(b) Approve the expected work plan for next phases of the project; and
(c) Acknowledge the staff and budget resources required to move this project forward.

CEQA: Not a Project, File No. PP17-007 Preliminary direction to staff and eventual action requires approval from decision-making body; and File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.
Council District 3. (Parks, Recreation and Neighborhood Services)

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 21-949 Approval of a Loan Commitment to The Kelsey Ayer Station, L.P., for the Development of The Kelsey Ayer Station Apartments Located at 447 North First Street.

Recommendation: (a) Adopt a resolution:

(1) Approving a total commitment of up to \$15,925,000 with \$10,875,000 in Low and Moderate Income Housing Asset Funds and \$5,100,000 in Inclusionary Fee Funds for an Acquisition & Construction-Permanent Loan to The Kelsey Ayer Station, L P. or an affiliated entity (“The Kelsey” or “Developer”), for The Kelsey Ayer Station Apartments, a new affordable development to be located at 447 North First Street (“Site”), which is being developed to offer 113 rent- and income--restricted apartments for extremely low-income, very low-income and low-income households and two unrestricted manager’s units (“Development”);

(2) Authorizing the Director of Housing to acquire the Site from the Developer for a price not to exceed the Acquisition Loan balance at the time of transfer, and to negotiate and execute loan documents, the documents related acquisition and ground leasing of the Site and all other documents, including any amendments thereto, related to the City financing for the Development;

(3) Approving a loan-to-value ratio of greater than 100% for this loan; and

(4) Making a determination that, consistent with Government Code Section 37364, after acquisition, the Site can be leased to the Developer without first offering the Site to the public for any other use, since the Site will be restricted so as to provide housing affordable to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code or as defined by the United States Department of Housing and Urban Development or its successors, and that this use is in the City’s best interests.

(b) Adopt a resolution allowing an exception to the City’s Policy for the issuance of Multifamily Housing Revenue Bonds for the Kelsey Ayer Station Apartments, to permit the California Housing Finance Agency (CalHFA) to issue Bonds.

(c) Adopt the following 2020-2021 Appropriation Ordinance Amendments in the Low and Moderate Income Housing Asset Fund:

(1) Decrease the Housing Project Reserve appropriation by \$10,875,000; and

(2) Increase the Housing Loans and Grants appropriation to the Housing Department by \$10,875,000.

(d) Adopt the following 2020-2021 Appropriation Ordinance Amendments in the Inclusionary Fee Fund:

(1) Decrease the Housing Project Reserve appropriation by \$5,100,000; and

(2) Establish a Housing Loans and Grants appropriation to the Housing Department in the amount of \$5,100,000.

CEQA: Exempt per Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15369, Ministerial Project pursuant to Government Code Section 65913.4, File No. ER20-109. Council District 3. (Housing/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

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**

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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.