CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

CITY COUNCIL AGENDA

SPECIAL MEETING ON MEDICAL MARIJUANA

SYNOPSIS

DECEMBER 13, 2010

PETE CONSTANT	DISTRICT 1		PIERLUIGI OLIVERIO	DISTRICT 6
ASH KALRA	DISTRICT 2		MADISON P. NGUYEN	DISTRICT 7
SAM LICCARDO	DISTRICT 3	CHUCK REED MAYOR	ROSE HERRERA	DISTRICT 8
KANSEN CHU	DISTRICT 4		JUDY CHIRCO, VICE MAYOR	DISTRICT 9
XAVIER CAMPOS	DISTRICT 5		NANCY PYLE	DISTRICT 10

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Office of the City Clerk

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 Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***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.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***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.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any 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 Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **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.
- When the Council reaches your item on the agenda, Mayor Reed 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.
- 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.
- 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 7 p.m. as needed, unless otherwise noted. 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 www.sanjoseca.gov/clerk/agenda.asp. 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, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

- Call to Order and Roll Call

  1:30 p.m. - Special Meeting, Council Chambers, City Hall
  Absent Council Member: Chu. (Excused)

CITY COUNCIL SPECIAL MEETING

1. Purpose of Special Meeting on Medical Marijuana.
Consideration of various issues related to the regulation of medical marijuana establishments in the City of San José.

2. Presentation of Medical Marijuana.
(a) Legal Analysis
(b) Land Use Ordinance & Policy Options
(c) Regulatory Framework & Policy Options
(d) Taxes
(e) Fees
Accepted.

3. City Council Discussion and Possible Actions.

(a) Provide Input to Regulate & Tax Medical Marijuana Establishments.

Possible Action for Policy Option 1:
(1) Direction to staff to continue to develop medical marijuana regulations that result in the adoption of ordinances providing:
(a) Operating Regulations;

(Item continued on the next page)

3. City Council Discussion and Possible Actions. (Cont'd.)

(a) Provide Input to Regulate & Tax Medical Marijuana Establishments. (Cont'd.)

(1) Direction to staff to continue to develop medical marijuana regulations that result in the adoption of ordinances providing:
- (b) Land Use Restrictions;
- (c) Budget action that results in a 100% cost recovery program;
- (d) Authorization of the addition of staff to support this new regulatory program; and,
- (e) Establishment of fines for various violations related to these regulations.

Approved.

(2) Adoption of an ordinance amending Section 4.66.250 of Chapter 4.66 of Title 4 of the San José Municipal Code to set the rate of the Marijuana Business Tax at 5% of gross receipts for all marijuana businesses.

Ordinance No. 28867 adopted, with direction to implement Measure U (78.3% approval) including the following: all collectives provide financial audits to the City, acknowledge the exchange of currency so that gross receipts can be taxed and the Marijuana Business Tax will be set at 7%.
(8-2-1. Noes: Constant, Herrera. Absent: Chu.)

(b) **Ban Medical Marijuana Establishments.**

Possible Action for Policy Option 2:

(1) Adoption of an urgency ordinance amending the Section 20.10.040 of Chapter 20.10 and adding a new Part 9.5 to Chapter 20.80 of Title 20 of the San José Municipal Code to clarify that businesses involving the cultivation, dispensation, distribution, transportation or sale of marijuana in the City for any purpose are prohibited and setting forth the facts constituting such urgency.

(2) Adoption of a resolution initiating proceedings to amend Section 20.10.040 of Chapter 20.10 and adding a new Part 9.5 to Chapter 20.80 of Title 20 of the San José Municipal Code to clarify that businesses involving the cultivation, dispensation, distribution, transportation or sale of marijuana in the City for any purpose are prohibited, setting a public hearing for the ordinance and referring said ordinance to the Planning Commission for its review and recommendation.

CEQA: Not a Project, File No. PP10-068(c), Municipal Code amendments involving no physical changes to the environment.

No ban approved; instead, direction given that no business licenses will be issued to new medical marijuana establishments and continue enforcement priorities as directed by Council on June 22, 2010. (8-0-3. Absent: Chirco, Chu; Pyle.)

(c) **Establish a Workplan and Meeting Schedule.**

Possible Action for Policy Option 3:

(1) Direct staff to return to the Rules & Open Government Committee with a work plan and meeting schedule to complete review of the medical marijuana regulatory policy options and appropriately direct staff.

CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy.

Approved, with referral to the Rules and Open Government Committee and subsequent referral to the Public Safety, Finance and Strategic Support Committee.

- Public Comments

Sixty members of the public expressed views on the regulation, taxation and control of medical marijuana establishments.

- Adjournment

The Council of the City of San José was adjourned at 5:20 p.m.