



CITY COUNCIL AGENDA

FEBRUARY 1, 2011

SYNOPSIS

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
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 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.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:30 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.

1:35 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.
- **Invocation (District 2)**
Father Jon Pedigo of St. Julie Billiard Parish provided the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance accompanied by students of deVargas Elementary School (District 1).
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 8.2 dropped.
- **Closed Session Report**
The City Attorney reported Council's concurrence with the City Manager's selection of Chris Moore as the new Police Chief of the City of San José.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring the month of February 2011 as “American Heart Month” in the City of San José. (Mayor/Council)
(Rules Committee referral 01/19/11)
Mayor Reed and Council Members Kalra and Pyle recognized the month of February 2011 as “American Heart Month” in the City of San José.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of October 5, 2010.
- (b) Pavement Maintenance Study Session Minutes of October 12, 2010.
- (c) Joint City/County Minutes of October 15, 2010.
- (d) Regular Minutes of October 19, 2010.
- (e) Regular Minutes of October 26, 2010.

Approved.

2.2 Final adoption of ordinances.

None.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of January 12, 2011. (Mayor)
- (b) Rules and Open Government Committee Report of January 5, 2011. (Mayor)
[Deferred from 1/25/11 – Item 2.3(d)]

Approved.

2.4 Mayor and Council Excused Absence Requests.

None.

2.5 City Council Travel Reports.

Council Member Constant reported on his trip to the League of California Cities Public Safety Committee Meeting.

2. CONSENT CALENDAR

2.6 Spending Plan for the Supplemental Law Enforcement Services Fund.

Recommendation:

- (a) Approve the proposed 2010-2012 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund for \$1,230,297 and authorize the Chief of Police to amend the spending plan in conformity to the budget priorities set out in this memorandum in the event that State SLES Grant payments are less than expected.

Approved.

- (b) Adopt the following 2010-2012 Appropriation Ordinance and Funding Sources Resolution Amendments in the Supplemental Law Enforcement Services Fund (Fund 414):

- (1) Increase the Earned Revenue by \$126,732; and
- (2) Establish a SLES Grant 2010-2012 appropriation for the Police Department in the amount of \$126,732.

CEQA: Not a Project, File No.PP10-067(b). (Police/City Manager's Office)

Ordinance No. 28884 adopted.

Resolution No. 75616 adopted.

2.7 FY 2009-2010 Independent Auditor's Report and the Independent Accountant's Report of the Hayes Mansion Conference Center.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on December 16, 2010, accept the reports on the activities of the Hayes Mansion for the fiscal year ended June 30, 2010. The reports include:

- (a) The Independent Auditor's Report and Financial Statements;
- (b) The Independent Accountant's Report on applying Agreed-Upon Procedures; and
- (c) The Public Safety, Finance and Strategic Support Committee Report (Management Letter).

(Finance)

[Public Safety, Finance and Strategic Support Committee referral 12/16/10 – Item D(5)]

(Deferred from 1/25/11 – Item 2.16)

Accepted.

2.8 Project Diversity Screening Committee Appointment.

Recommendation: As recommended by the Rules and Open Government Committee on January 26, 2011, appoint Bob Dhillon to the Project Diversity Screening Committee for a term expiring December 31, 2012. (Herrera)

[Rules Committee referral 1/26/11 – Item G(1)(a)]

Approved.

2. CONSENT CALENDAR

2.9 *Let's Move! Campaign.*

Recommendation: As recommended by the Rules and Open Government Committee on January 26, 2011, adopt a resolution demonstrating the City Council's support for and participation in the National *Let's Move!* Campaign. (Liccardo)

[Rules Committee referral 1/26/11 – Item H(2)]

Resolution No. 75717 adopted.

2.10 **District 7 Vice Mayor Oath of Office Special Event.**

Recommendation: As recommended by the Rules and Open Government Committee on January 26, 2011:

- (a) Approve the District 7 Vice Mayor Oath of Office as a City Council sponsored Special Event;
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

(City Clerk)

[Rules Committee referral 1/26/11 – Item H(4)]

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 **Report of the City Manager, Debra Figone (Verbal Report)**

City Manager Figone formally introduced the new Police Chief, Chris Moore.

3.2 **Report on Election and Interview for the Appointment of a Fire Retiree Representative to the Board of Administration of the Police and Fire Department Retirement Plan.**

Recommendation:

- (a) Acknowledge receipt of the following:
 - (1) Certification by the City Clerk of results of elections conducted among the retired members of the Police and Fire Department Retirement Plan; and
 - (2) Recommendation from the panel convened to interview candidates for the Retiree Representative on the Police and Fire Retirement Board.
- (b) At the City Council's discretion:
 - (1) Appoint one retiree member to the Board of Administration of the Police and Fire Department Retirement Plan to a term expiring November 30, 2014; or
 - (2) If an appointment is not made, direct the City Clerk to conduct a new process to recommend the appointment of a retired member as necessary.

CEQA: Not a Project. (City Clerk)

Deferred to 2/8/11 per City Clerk.

3. STRATEGIC SUPPORT SERVICES

3.3 Audit of Police Department Staffing.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on December 16, 2010, accept the audit of Police Department Staffing. (City Auditor)
[Public Safety, Finance and Strategic Support Committee referral 12/16/10 – Item D(7)]
(Deferred from 1/25/11 – Item 3.5)
Accepted.

3.4 Appeals Hearing Board Interviews.

Recommendation: Interview applicants and consider an appointment to the Appeals Hearing Board filling an unexpired term ending December 31, 2011. (City Clerk)
(Rules Committee referral 01/19/11)
David Parker was selected to serve on the Appeals Hearing Board.

3.5 Tax Qualification Ordinances for Retirement Plans.

Recommendation:

- (a) Approve an ordinance amending Chapter 3.28 of Title 3 of the San José Municipal Code to incorporate provisions related to primary purpose of the Federated City Employees Retirement Plan, use of retirement plan assets, prohibited retirement plan transactions, pension benefit vesting, pension benefit and contribution limits, required benefit payments, permissive purchases of service credit, rollover of employee contributions into other tax qualified plans and accounts, permissive retirement plan investment vehicles, qualified domestic relations orders and contributions, benefits, service credit for qualified military service, date of establishment of medical benefits account, and to make other technical amendments related to Internal Revenue Code provisions for qualified governmental retirement plans.
Ordinance No. 28885 passed for publication, with language added in the Federated City Employees Retirement Plan and Police and Fire Department Retirement Plan under the section “Vesting”, as follows: “Nothing contained in this section shall be construed or interpreted to limit modifications of benefits to the extent that such modification is otherwise allowed under Federal and State law.”

(Item Continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.5 Tax Qualification Ordinances for Retirement Plans (Cont'd.)

- (b) Approve an ordinance amending Chapter 3.36 of Title 3 of the San José Municipal Code to incorporate provisions related to primary purpose of the Police and Fire Department Retirement Plan, use of retirement plan assets, prohibited retirement plan transactions, pension benefit vesting, pension benefit and contribution limits, required benefit payments, permissive purchases of service credit, rollover of employee contributions into other tax qualified plans and accounts, permissive retirement plan investment vehicles, qualified domestic relations orders and contributions, benefits, service credit for qualified military service, date of establishment of medical benefits account, and to make other technical amendments related to Internal Revenue Code provisions for qualified governmental retirement plans.

CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Attorney's Office) (Deferred from 1/25/11 – Item 3.3)

Ordinance No. 28886 passed for publication, with language added in the Federated City Employees Retirement Plan and Police and Fire Department Retirement Plan under the section “Vesting”, as follows: “Nothing contained in this section shall be construed or interpreted to limit modifications of benefits to the extent that such modification is otherwise allowed under Federal and State law.”

3.6 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update. (City Manager's Office)
(Rules Committee referral 01/26/11)
Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Cultural Connection: San José's Cultural Plan for 2011-2020.

Recommendation: Adopt the Cultural Connection: San José's Cultural Plan for 2011-2020. CEQA: Not a Project, File No. PP10-066(e), Services that involved no physical changes to the environment. (Economic Development)

(Deferred from 1/11/10 – Item 4.1 and 1/25/10 – Item 4.1)

Adopted, with direction to Staff to: (a) Develop a priority list of Top 10 short-term recommendations and actions to be implemented in 2011-2013, in consultation with the Arts Commission and other key stakeholders; and (b) Return to City Council to obtain approval of the priority list, associated work plans and resources needed.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Public Hearing and Approval of the Ninth Amendment to the Countywide Nondisposal Facility Element.

Recommendation: Conduct a public hearing and adopt a resolution approving the Ninth Amendment to the Countywide Nondisposal Facility Element to identify the following nondisposal facilities in San José: the Recology Silicon Valley Processing and Transfer Facility, 1675 Rogers Avenue; Zero Waste Energy Development Company Anaerobic Digestion Facility, 2100 Los Esteros Road; Green Earth Management LLC Kings Row Recycling Facility, 650 Kings Row; Environmental Resource Recovery Inc. (Valley Recycling) Medium Volume Construction Demolition Debris Facility, 1615 B South 7th Street; and Smurfit-Stone Recycling San Jose Facility, 205 East Alma Avenue. CEQA: Statutorily Exempt, CEQA Guidelines Section 15262, Other Statutory Exemptions. (Environmental Services)

Public Hearing held.

Resolution No. 75718 adopted.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**
Shirley Vargas suggested elimination of the Redevelopment Agency to allow enhanced funding of education, social programs and public safety.
- **Adjournment**
The Council of the City of San José adjourned at 4:46 p.m. in memory of Cynthia Filarca, a committed teacher in the Evergreen Elementary School District for over thirty years and longtime resident of San José, who was dedicated to serving beyond the classroom through her volunteer work in the community. (Herrera)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

The Joint Redevelopment Agency Board convened at 4:11 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

8.1 Discussion of proposed State budget actions and impacts to Redevelopment Agency budgeting and acceptance of the Financial Progress Report.

Recommendation:

- (a) Acceptance of the Agency's Financial Progress Report;
- (b) Discussion of proposed State budget actions and impacts to Redevelopment Agency and City of San Jose budgets; and,
- (c) Direction to Agency and City Administrations.

CEQA: Not a project. [MERGED] **(Deferred from 1/25/11, Item 8.1)**

Accepted.

8.2 Authorization for the Executive Director and City Manager to negotiate and execute a Cooperation Agreement relating to funding certain Redevelopment Agency capital improvements, public improvements and obligations.

Recommendation: Adoption of resolutions by the Agency Board and City Council authorizing the Executive Director and City Manager to negotiate and execute a Cooperation Agreement between the City of San Jose and the San Jose Redevelopment Agency relating to funding certain Redevelopment Agency capital improvements, public improvements and obligations located within currently designated redevelopment project areas. CEQA: Not a project. [MERGED] **(Deferred from 1/19/11 and 1/25/11, Item 8.4(b))**

Dropped per Orders of the Day.

ADJOURN CITY COUNCIL PORTION OF THE MEETING

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
FINANCING AUTHORITY/AGENDA**

1:30 P.M.

TUESDAY, FEBRUARY 1, 2011

CHAMBERS

- 1. Call to Order and Roll Call**
- 2. Agreement with The Housing Trust of Santa Clara County for Construction of the Ford and Monterey Special Needs Apartments.**

Recommendation:

- (1) Adopt a resolution of the City Council:
 - (a) Authorizing the Director of Housing to negotiate and execute an amended consortium agreement with The Housing Trust of Santa Clara County (“HTSCC”) under the Neighborhood Stabilization Program 2 (“NSP2”) in an amount up to \$3,000,000 for construction of the 20-unit Ford and Monterey Special Needs Apartments;
 - (b) Approving a funding commitment to Eden Housing, Inc. (“Eden”), or its designated affiliate for up to \$3,000,000 for a Project construction/permanent loan funded from NSP2 (Fund 448);
 - (c) Approving a pledge of a City owned 3.06 acre land parcel as collateral to secure a \$500,000 predevelopment from the Housing Trust of Santa Clara County to Eden Housing, Inc. or its designated affiliate (“Eden”) and authorizing the Director of Housing to negotiate and execute an intercreditor agreement with HTSCC;
 - (d) Authorizing the Director of Housing to negotiate and execute an agreement with the City of San José Financing Authority related to the ground lease revenues of the Project and ultimate disposition of the Project improvements and the Project site (the “Site”).
- (2) Adopt a resolution of the City of San José Financing Authority Board:
 - (a) Authorizing the Executive Director of the City of San José Financing Authority, (the “Authority”), or designee, to acquire the Site from the City and negotiate and execute a ground lease of the Site to the Borrower for a term of up to 75 years with an annual rent of \$1.00 for the first 55 years; and,

(Item continued on the next page)

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
FINANCING AUTHORITY/AGENDA (CONT'D.)**

1:30 P.M.

TUESDAY, FEBRUARY 1, 2011

CHAMBERS

- 2. Agreement with The Housing Trust of Santa Clara County for Construction of the Ford and Monterey Special Needs Apartments. (Cont'd.)**

Recommendation:

- (2) (b) Authorizing the Executive Director of the Authority, or designee, to negotiate and execute an agreement with the City of San José related to the ground lease revenues from the Project and the ultimate disposition of the Project Improvements and the Site.

CEQA: Mitigated Negative Declaration, File No. PDC09-022. Council District 2.
(Housing/Finance)

(Rules Committee referral 01/19/11)

(Deferred from 1/25/11 – Item SJFA #2)

Dropped per Administration.

- 3. Open Forum**
None.