



CITY COUNCIL AGENDA

MARCH 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**
 - 9:02 a.m.** - Closed Session, Call to Order in Council Chambers
Open Session, Labor Negotiations Update (See Item 3.2)
Absent Council Members: Herrera, Oliverio.
 - 9:13 a.m.** Adjourn to Closed Session in Council Chambers Conference Room, W133
Absent Council Members: None.
 - 1:32 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

- **Invocation (District 3)**
Feeza Mohammad, Notre Dame High School Associate Student Body Commissioner of Service and Justine de la Rosa, Notre Dame High School Peer Ministry Leadership Team Member, presented the Invocation.

- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance accompanied by students from Payne Elementary. (District 1)

- **Orders of the Day**
The Orders of the day and the Amended Agenda were approved.

- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Target Stores in recognition of their importance as a key employer, as well as support of the Work2Future, economic development and arts and cultural programs in San Jose. (Herrera/Economic Development)
Mayor Reed and Council Member Herrera commended Target Stores in recognition of their importance as a key employer, as well as support of the Work2Future, economic development and arts and cultural programs in San Jose.
- 1.2 Presentation of a proclamation declaring the Month of March 2011 as “Women’s History Month” in the City of San José. (Herrera/Nguyen/Pyle/Rocha)
Mayor Reed, Vice Mayor Nguyen and Council Members Herrera, Pyle and Rocha recognized the Month of March 2011 as “Women’s History Month” in the City of San José.
- 1.3 Presentation of a commendation to Jack Bariteau for his many contributions to the commercial and sports life of San José and the Silicon Valley. (Liccardo)
Mayor Reed and Council Member Liccardo commended Jack Bariteau for his many contributions to the commercial and sports life of San José and the Silicon Valley.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28891 – Rezoning and rezoning certain real property situated on the northwest corner of Blossom Hill Road and Southcrest Way from Unincorporated and R-1-8 Single-Family Residence District to A(PD) Planned Development Zoning District. PDC10-007

Ordinance No. 28891 adopted.

- 2.3 **Approval of Council Committee Reports.**

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of January 26, 2011. (Mayor) [Deferred from 2/15/11 – Item 2.3(a)]
- (b) Rules and Open Government Committee Report of February 2, 2011. (Mayor)
- (c) Transportation and Environment Committee Report of February 7, 2011. (Liccardo)
- (d) Rules and Open Government Committee Report of February 9, 2011. (Mayor)
- (e) Neighborhood Services and Education Committee Report of February 10, 2011. (Pyle)

Approved.

2. CONSENT CALENDAR

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Councilmember Herrera from the Regular Meeting of the Transportation and Environment Committee on February 7, 2011, the Closed Session and Regular City Council Meeting on February 8, 2011, the City Council Study Session on February 14, 2011 and the Closed Session and Regular City Council Meeting on February 15, 2011 due to illness. (Herrera)
(Rules Committee referral 02/16/11)
- (b) Request for an excused absence for Vice Mayor Nguyen from the Regular Meeting of the Rules and Open Government Committee on February 16, 2011 due to Authorized City Business: Sacramento Delegation Trip. (Nguyen)
(Rules Committee referral 02/16/11)
- (c) Request for an excused absence for Vice Mayor Nguyen from the City Council Study Session on February 22, 2011 due to illness. (Nguyen)
(Rules Committee referral 02/23/11)
- (d) Request for an excused absence for Vice Mayor Nguyen from the Regular Meeting of the Rules and Open Government Committee on February 23, 2011 due to illness. (Nguyen)
(Rules Committee referral 02/23/11)

Excused.

2.5 City Council Travel Reports.

Vice Mayor Nguyen and Council Members Kalra, Pyle and Rocha reported on their trip to Sacramento on February 16 to meet with members of the State Legislature.

2.6 Annual Status Report on Library Bond Program.

Recommendation: Accept the annual status report on the Branch Library Bond Projects for FY 2009-2010. CEQA: Not a Project, File No. PP10-069(a), Annual Report.

(Citizen Oversight Committee for the Library Bond Projects)

[Deferred from 1/25/11 – Item 2.15]

Deferred to 3/8/11 per Administration.

2.7 Continuation Agreement for Elections Commission Evaluator Services.

Recommendation: Adopt a resolution authorizing the City Attorney to execute a Second Continuation Agreement with Hanson, Bridgett LLP to provide legal and investigative services as the Evaluator to the San José Elections Commission for services through December 31, 2010, extending the term through March 31, 2011 to allow for payment, and increasing compensation by \$22,620, for a total amount of compensation not to exceed \$202,620. CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney's Office)

Resolution No. 75735 adopted.

2. CONSENT CALENDAR

2.8 Amendment to Orrick Herrington Legal Services Agreement.

Recommendation: Adopt a resolution authorizing the City Attorney to negotiate and execute a Fifteenth Amendment to the agreement with Orrick Herrington & Sutcliffe LLP for legal services related to the financing of improvements at the Norman Y. Mineta San José International Airport and the City's outstanding Airport revenue debt, extending the term through June 30, 2012 and increasing compensation by \$60,000 for a total amount not to exceed \$535,000. CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney's Office)

Resolution No. 75736 adopted.

2.9 Actions Related to the 2011 Amgen Tour of California Stage Finish.

Recommendation: Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund to receive private sponsorships for the Amgen Tour of California:

- (a) Increase the City-wide San José Cycling Events appropriation in the amount of \$100,000; and
- (b) Increase the estimate for Other Revenue by \$100,000.

CEQA: File PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager's Office)

Ordinance No. 28892 adopted.

Resolution No. 75737 adopted.

2.10 Agreement with the County of Santa Clara for Countywide Household Hazardous Waste Collection Program.

Recommendation: Approve an amendment to the Agency Agreement with the County of Santa Clara for Countywide Household Hazardous Waste Collection Program for 2010-2011 for additional appointments for San Jose residential property owners at a cost of \$200,000. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)

Approved.

2.11 Acceptance of Program Funds for the 2010 Emergency Management Performance Grant.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to execute an agreement with the County of Santa Clara, acting as the fiscal agent for the Federal Department of Homeland Security, to accept program funds for the 2010 Emergency Management Performance Grant for the Fire Department in the amount of \$153,193, and to negotiate and execute additional amendments to the agreement and all related documents without further City Council action other than appropriation of funds.

Resolution No. 75738 adopted.

(Item Continued on the next page)

2. CONSENT CALENDAR

2.11 Acceptance of Program Funds for the 2010 Emergency Management Performance Grant (Cont'd.)

- (b) Adopt the following Appropriation Ordinance and Funding Sources resolution amendments in the General Fund in Fiscal Year 2010-2011:
- (1) Establish a city-wide appropriation to the Fire Department for the 2010 Emergency Management Performance Grant in an amount of \$153,193; and
 - (2) Increase the estimate for Revenue from the Federal Government by \$153,193.

CEQA: Not a Project, File No. PP10-1066(e), 2010 EMPG Agreement. (Fire/City Manager's Office)

Ordinance No. 28893 adopted.

Resolution No. 75739 adopted.

2.12 Annual Report on the Park Trust Fund.

Recommendation: Accept the annual report on the Park Trust Fund for fiscal year 2009-2010, ended June 30, 2010. CEQA: Not a project, File No. PP10-069 (a), Annual Reports. (Parks, Recreation and Neighborhood Services)

Accepted, with direction to Staff to explore alternatives to collaborate with private sector developers in the building, operation and maintenance of parks and to look into an offer of dedication approach for private developers.

2.13 Refund Procedures and Policy for Parkland Fees Collected.

Recommendation:

- (a) Adopt a resolution setting forth the refund procedures and policy for parkland fees collected pursuant to Chapters 14.25 ("Park Impact Ordinance") and 19.38 ("Park Dedication Ordinance") of the San José Municipal Code.

Resolution No. 75740 adopted.

- (b) Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):

- (1) Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$100,000 for the Park Fee Reimbursement project; and
- (2) Reduce the Reserve: Future PDO/PIO Projects by \$100,000.

CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 28894 adopted.

2. CONSENT CALENDAR

2.14 California Clean Cars Campaign.

Recommendation: As recommended by the Rules and Open Government Committee on February 9, 2011, adopt a resolution in support of the California Air Resources Board's leadership in promoting clean and energy efficient motor vehicles, energy independence, zero emission technologies and improved quality of life in the City of San José and the State of California. (Kalra/Nguyen/Rocha)

[Rules Committee referral 2/9/11 – Item H(4)]

Resolution No. 75741 adopted.

2.15 1,000 Hearts for 1,000 Minds Event.

Recommendation: As recommended by the Rules and Open Government Committee on February 23, 2011:

- (a) Approve the “1,000 Hearts for 1,000 Minds” Event as a City Council sponsored Special Event for purposes of using the City Name and Emblem on promotional materials; and
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

(Liccardo/Campos/Rocha)

[Rules Committee referral 2/23/11 – Item H(2)]

Approved.

2.16 District 4 Community Education Series.

Recommendation: As recommended by the Rules and Open Government Committee on February 23, 2011:

- (a) Approve the District 4 Community Education Series as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

(City Clerk)

[Rules Committee referral 2/23/11 – Item H(3)]

Approved.

2.17 Report from the Council Liaison to the Retirement Boards.

[Rules Committee referral 2/23/11 – Item A(1)(a). Note: Item 2.17 will be revised as standing Item 2.6 on the Council Agendas beginning 03/15/11]

Report Accepted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)
City Manager Debra Figone provided a budget update.

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.
(Rules Committee referral 02/16/11)

Accepted. Council adjourned to Closed Session to continue Labor Negotiations discussion.

3.3 Team San José Management Agreement.

Recommendation: Adopt a resolution authorizing the City Manager to execute a Second Amendment to the “Agreement for the Management of the San Jose Convention Center and Cultural Facilities between the City of San José and Team San José.” CEQA: Not a Project, File No.PP10-066(e), Agreements/Contracts. (Economic Development) (Deferred from 2/15/11 – Item 3.3)

Resolution No. 75742 adopted.

3.4 Team San José Spending Reduction Plan for Convention Center Expansion.

Recommendation:

- (a) Accept status report on the update for the Team San José Spending Reduction Plan and Convention Center and Cultural Affairs Fund Forecast for the proposed Convention Center expansion and direction to the City Manager to proceed accordingly.
- (b) Approve changes to Team San José performance and incentive measures for 2010-2011.

Approved.

- (c) Adopt the following Appropriation Ordinance Amendments in the Convention and Cultural Affairs Fund:
 - (1) Establish an appropriation for the Center for Performing Arts Improvements in the amount of \$700,000.
 - (2) Establish an appropriation for Convention Facilities Industry Advisor in the amount of \$50,000.
 - (3) Increase the appropriation for the Team San Jose Executive Management Fee by \$62,500.
 - (4) Decrease the appropriation for the Team San Jose Management Fee for Performance by \$62,500.
 - (5) Decrease the unrestricted Ending Fund Balance by \$750,000.

CEQA: Not a Project, File No.PP10-066(e), Agreements/Contracts. (Economic Development/City Manager’s Office)

(Deferred from 2/15/11 – Item 3.4)

Ordinance No. 28895 adopted.

3. STRATEGIC SUPPORT SERVICES

3.5 Actions Related to Seniority Rules for Layoffs.

Recommendation:

- (a) Authorize the Administration to initiate the process to change “Bumping” for Program Manager I and II, Division Manager, Associate and Senior Engineer and Other Classifications subject to any applicable meet and confer obligations.
- (b) Direct the Administration to do further research and analysis on including performance as a factor in selecting employees for layoff and whether any changes to the layoff process could be effective for Fiscal Year 2012-2013.

(City Manager’s Office)

[Rules Committee referral 2/9/11 – Item H(2)]

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Public Hearing on an APPEAL of the Planning Director’s Environmental Determination.

Recommendation: Conduct a Public Hearing and consider an APPEAL of the Planning Director’s Environmental Determination, Re-Use of North San José Area Development Policy EIR, Resolution No. 72768, and Addendum thereto, for a Planned Development Permit to demolish existing buildings on site and construct a new approximately 88,000 square-foot building, including an 8-story tower (measuring approximately 62 feet x 62 feet and reaching 160 feet in height) for the purposes of relocating a cardroom to the subject site, and operating a public eating and drinking establishment, all with late night hours of operation past midnight on a 6.08 gross acre site, in the IP(PD) Planned Development Zoning District, located at/on the southeast corner of Airport Parkway and Old Bayshore Highway (44 Airport Parkway). CEQA: NSJEIR, Resolution No. 72768, and Addendum thereto.

PD10-025 – Council District 3

Continued to 3/8/11 per Administration.

5. NEIGHBORHOOD SERVICES

5.1 Library Materials and Services Council Policy Update.

Recommendation: As recommended by the Neighborhood Services and Education Committee on February 10, 2011, adopt a resolution approving revisions to Council Policy 0-3, “Library Materials and Services,” which guides library activities for materials selection, related programming and information services to the public. (Library)

[Neighborhood Services and Education Committee referral 2/10/11 – Item D(2)]

Resolution No. 75743 adopted.

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Various Actions Related to the Automated Field Reporting and Records Management System Project.

Recommendation:

- (a) Adopt the following 2010-2011 Appropriation Ordinance and Funding Sources Resolution Amendments in the Supplemental Law Enforcement Services (SLES) Fund (Fund 414):
- (1) Increase the Earned Revenue by \$101,332; and
 - (2) Increase the SLES Grant 2010-2012 appropriation for the Police Department in the amount of \$101,332.

Ordinance No. 28896 adopted.

Resolution No. 75744 adopted.

- (b) Accept the report on the Request for Proposal for the purchase of an Automated Field Reporting and Records Management System (AFR/RMS) for the San José Police Department and adopt a resolution authorizing the Director of Finance to:
- (1) Negotiate and execute an agreement with Versaterm Inc. (Ottawa, Ontario, Canada) for the purchase of an AFR/RMS and implementation of Phase 1 (AFR portion only) to include system development, hardware, software (including 3rd party licenses), installation, related professional services, taxes, and first year warranty period, for a not-to-exceed amount of \$3,368,576; and
 - (2) Execute an option to expand the scope of services to include Phase 2 (RMS implementation) in an amount not to exceed \$715,803, subject to the appropriation of funds; and
 - (3) Negotiate and execute an amendment to the agreement with Versaterm Inc. to expand the scope of services to include Phase 3 (RMS modules interface) in an amount not to exceed \$996,355, subject to the appropriation of funds; and
 - (4) Execute change orders to cover any unanticipated changes in the system design and implementation for a not to exceed amount of \$635,514 for Phases 1, 2 and 3, subject to appropriation of funds; and
 - (5) Execute one-year options to extend the agreement to provide ongoing maintenance and support after initial implementation of each applicable phase, subject to the annual appropriation of funds.

CEQA: Not a Project, File No. PP10-066 (a) Agreements and Contracts. (Police/ Finance/ Information Technology/City Manager's Office)

Resolution No. 75745 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**
 - (1) **David Wall expressed opinions regarding the City Manager's Employment Agreement.**
 - (2) **Steven Solseth recommended a strategy for enforcement of the vehicle code for handicapped parking infractions to raise revenue for the City and to promote public awareness. The Mayor referred Mr. Solseth to Assistant City Manager Ed Shikada.**
- **Adjournment**

The Council of the City of San José adjourned at 5:24 p.m.