



CITY COUNCIL AGENDA

MARCH 8, 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**
 - 9:03 a.m.** - Open Session, Labor Negotiations Update (See Item 3.2)
Absent Council Members: All Present.
 - 9:17 a.m.** Adjourn to Closed Session in Council Chambers Conference Room, W133
Absent Council Members: All Present.
 - 1:35 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.

- **Invocation (District 3)**
Symphony Silicon Valley performed a symphonic piece for the Invocation.

- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance accompanied by third-grade students from Lynhaven Elementary.

- **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 San José resident, Juan Valencia, for his courageous efforts to rescue a woman being attacked by two pit bull dogs. (Herrera)
(Deferred from 2/15/11 – Item 1.1)
Mayor Reed and Council Member Herrera recognized and commended San José resident, Juan Valencia, for his courageous efforts to rescue a woman being attacked by two pit bull dogs.
- 1.2 Presentation of a commendation to the Tzu Chi Foundation for its partnership relationship with Orchard School on education and community service. (Chu)
Mayor Reed and Council Members Chu and Kalra recognized and commended the Tzu Chi Foundation for its partnership relationship with Orchard School on education and community service.
- 1.3 Presentation of a commendation to Ariana Lena, who was selected as a Student Ambassador for the 2011 People to People Student Ambassador Program. (Nguyen)
Mayor Reed, Vice Mayor Nguyen and Council Member Campos recognized and commended Ariana Lena, who was selected as a Student Ambassador for the 2011 People to People Student Ambassador Program.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None.
- 2.2 **Final adoption of ordinances.**
None.
- 2.3 **Approval of Council Committee Reports.**
Recommendation: Approval of Council Committee Reports.
(b) Public Safety, Finance and Strategic Support Committee Report of February 17, 2011. (Constant)
Approved.
(a) Rules and Open Government Committee Report of February 16, 2011. (Mayor)
(c) Rules and Open Government Committee Report of February 9, 2011. (Mayor)
[Deferred from 3/1/11 – Item 2.3(d)]
Deferred to 3/15/11 per City Clerk.
- 2.4 **Mayor and Council Excused Absence Requests.**
None.

2. CONSENT CALENDAR

2.5 City Council Travel Reports.

Council Member Chu reported on a League of California Cities emergency teleconference board meeting held on March 8 and an online campaign signature drive, “myvotecountsca.org”.

2.6 Agreement with ACME Building Maintenance for Custodial Services.

Recommendation: Adopt a resolution authorizing the Director of Finance to:

- (a) Execute the third amendment to the Custodial Services Agreement for City Hall with ACME Building Maintenance, Inc. (ACME) to expand the scope of services to include custodial services at the San José Police Department, Mexican Heritage Plaza, and Animal Care Services.
- (b) Execute amendments to the agreement as required to add or delete locations without further Council action and subject to the appropriation of funds.
- (c) Execute any amendments required to extend the ACME agreements for City Hall and the Airport for up to four additional months (from July 9, 2011 to November 9, 2011) subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for Maintenance Service. (Finance)

Resolution No. 75746 adopted.

2.7 Award of Open Purchase Orders for the Repair/Replacement of HVAC Equipment.

Recommendation: Authorize the Director of Finance to:

- (a) Execute two Open Purchase Orders to Environmental Systems, Inc. (Santa Clara, CA) and EMCOR Services (Hayward, CA) in the amounts of \$757,131 and \$504,754, respectively, for Heating, Ventilation, and Air Conditioner (HVAC) Installation Services.
- (b) Shift funding between the two Purchase Orders such that the total compensation of the two Purchase Orders does not exceed \$1,261,885.00.

CEQA: Exempt, File No. PP11-005. (Finance)

Approved.

2.8 Amendments to City Pay Plan.

Recommendation: Adopt a resolution to:

- (a) Amend the City of San José Pay Plan effective March 8, 2011 to create the following classification:
 - (1) Environmental Sustainability Manager (8206).
- (b) Amend the City of San José Pay Plan effective March 8, 2011 to change the job classification title of:
 - (1) Investment Officer (7504) (formerly titled Retirement Investment Officer)

CEQA: Not a Project, File No. PP10-068 (b), Municipal Code, Title 3. (Human Resources)

Resolution No. 75747 adopted.

2. CONSENT CALENDAR

2.9 Annual Status Report on Library, Public Safety and Parks and Recreation Bond Programs.

Recommendation:

- (a) Accept the annual status report on the Safe Neighborhood Parks and Recreation Bond Projects for FY 2009-2010.
- (b) Accept the annual status report on the Branch Library Bond Projects for FY 2009-2010.
[Deferred from 1/25/11 – Item 2.15 and 3/1/11 – Item 2.6]
- (c) Accept the annual status report on the Public Safety Bond Program for FY 2009-2010.

CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (Citizen Oversight Committee for the Library Bond Projects/Citizen Oversight Committee for the Public Safety Bond Program/Citizen Oversight Committee for the Parks and Recreation Bond Projects)

Accepted.

2.10 Grant Application to Santa Clara Valley Water District Under the 2011 Trails and Open Space Program for the Three Creeks Trail Interim Improvements Project.

Recommendation: Adopt a resolution:

- (a) Authorizing the City Manager, or designee, to submit a grant application in the amount not to exceed \$450,000 to Santa Clara Valley Water District under the 2011 Trails and Open Space Program for the Three Creeks Trail (Los Gatos Creek to Guadalupe River) Interim Improvements project (“Project”) with a local contribution of \$200,000 for a total project cost of \$650,000;
- (b) Certifying that the City has or will have sufficient funds to operate and maintain the Project, provided the City has obtained the necessary property interests in real properties for the Project;
- (c) Agreeing to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines for Project;
- (d) Certifying that the City has reviewed, understands and agrees to the Special Provisions, General Provisions and Financial Provisions contained in the Agreement;
- (e) Delegating the authority to the City Manager, or designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project; and
- (f) Authorizing the City Manager, or designee, to resubmit the grant application in subsequent years for the same amount and grant requirements described in this memorandum if the City is unsuccessful in receiving an award with the initial grant application and to negotiate and execute any documents to effectuate the grant.

CEQA: Exempt, File No. PP02-370. (Parks, Recreation and Neighborhood Services)

Resolution No. 75748 adopted.

2. CONSENT CALENDAR

**2.11 Report from the Council Liaison to the Retirement Boards.
Report accepted.**

2.12 Actions Related to Councilmember Constant's Travel to Washington, D.C.

Recommendation:

- (a) Approve travel by Councilmember Constant to Washington, D.C. on March 15 – 17, 2011 to participate in the Silicon Valley Leadership Group's Annual Washington, D.C. Advocacy Trip. Source of Funds: Mayor & Council Travel Fund & Office Budget. (Constant)
- (b) Request for an excused absence for Councilmember Constant from the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on March 17, 2011 due to Authorized City Business: Silicon Valley Leadership Group Annual Washington, D.C. Advocacy Trip. (Constant)

(Rules Committee referral 3/2/11)

Approved.

2.13 Actions Related to Councilmember Kalra's Travel to Washington, D.C.

Recommendation:

- (a) Approve travel by Councilmember Kalra to Washington, D.C. on March 15 – 18, 2011 to participate in the Silicon Valley Leadership Group's Annual Washington, D.C. Advocacy Trip. Source of Funds: District 2 Office Funds. (Kalra)
- (b) Request for an excused absence for Councilmember Kalra from the Closed Session, the Regular City Council Meeting and Evening City Council Meeting on March 15, 2011 due to Authorized City Business: Silicon Valley Leadership Group Annual Washington, D.C. Advocacy Trip. (Kalra)

(Rules Committee referral 3/2/11)

Approved.

3. STRATEGIC SUPPORT SERVICES

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

The City Manager reported that the Fitch Ratings Agency affirmed an A-minus rating on all outstanding debt at the San José International Airport.

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

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

3. STRATEGIC SUPPORT SERVICES

3.3 Status Report on the Alternative Service Delivery Evaluation for Workers' Compensation Administration and Employee Health Services.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on February 17, 2011, accept the status report on the Alternative Service Delivery Evaluation for Workers' Compensation Administration and Employee Health Services and direct staff to continue to work on the recommendations noted in the report and to expand their comparison of injury rates to other jurisdictions by incorporating in the analysis job classifications and risk factors; include disability pay borne by individual departments in cost analyses; and look at best practices employed by other jurisdictions who approach workers' compensation and wellness from the perspective of treating employees and returning them to work, versus simply the management of claims. (City Manager's Office/Human Resources)
[Public Safety, Finance and Strategic Support Committee referral 2/17/11 – Item D(2)]
Accepted, with direction to Staff to return to the Public Safety, Finance & Strategic Support Committee in Fall 2011 with a comprehensive workplan.

3.4 Elections Commission Interviews.

Recommendation:

- (a) Interview applicants and appoint up to three (3) members of the Elections Commission for terms of office expiring March 1, 2015.
- (b) If less than three applicants are appointed, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.

(City Clerk)

Deferred to 3/15/2011.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Annual Status Report on the Citywide Capital Improvement Program.

Recommendation:

- (a) Accept the Annual Status Report on the Citywide Capital Improvement Program.
Accepted.
- (b) Streamline the process of procuring public works professional services for architectural, landscape architectural, engineering, environmental, land surveying, and construction management firms (collectively "Public Works Professional Service Contracts") by doing each of the following:

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Annual Status Report on the Citywide Capital Improvement Program (Cont'd.)

- (b) (1) Approve an ordinance that amends Title 4 of the San José Municipal Code as follows:
- (a) Deletes from Section 4.04.020 the exclusion of Public Works Professional Service Contracts from the definition of "services" so that - as with other consultant agreements - the City Manager can execute such contracts up to a maximum amount of \$250,000.
 - (b) Delete from Section 4.12.055 the exclusion of Public Works Professional Service Contracts from the definition of "services" so that these contracts are subject to the same procurement requirements as other consultant service agreements.
 - (c) Delete Subdivision C of Section 4.12.110, which would no longer be necessary to make the small and local business preferences applicable to Public Works Professional Service Contracts.
- Ordinance No. 28897 passed for publication.**

- (2) Adopt a resolution rescinding Council Policy 8-15 ("Qualification Based Consultant Selection (QBCS) Policy"), which sets forth a separate administrative process for procuring Public Works Professional Service Contracts.

CEQA: Not a Project, File No. PP10-069 (a) Annual Reports. Council District: Citywide. (Public Works)

Resolution No. 75749 adopted.

4.2 Public Hearing on an APPEAL of the Planning Director's Environmental Determination.

Recommendation:

- (a) Conduct an Administrative Hearing on and Consideration of an Appeal of the Planning Director's use of an addendum (File No. PD10-025) to the Foster Towers Initial Study (File No. PDC06-130) prepared in connection with the use of the Final Environmental Impact Report for the Vision North San José Area Development Policy (FEIR), approved under Resolution No. 72768, as environmental clearance for the Director's approval of Planned Development Permit File No. PD 10-025 for the Garden City Casino relocation project, implementing that certain rezoning adopted by City Council on May 25, 2010 (PDC10-003).

Hearing held, appeal denied.

(Item Continued on the next page)

4.2 Public Hearing on an APPEAL of the Planning Director's Environmental Determination (Cont'd.)

- (b) Adopt a resolution finding that:
- (1) The City Council has read and considered the Addendum to the Foster Towers Initial Study (File No. PDC06-130) prepared in connection with File No. PD10-025 implementing PD Rezoning PDC10-003, as well as the FEIR; and
 - (2) The FEIR, together with the Addendum (File No. PD10-025) has been prepared and completed in compliance with the California Environmental Quality Act of 1970, together with state and local implementation guidelines ; and
 - (3) The FEIR, together with the Addendum (File No. PD10-025) reflects the independent judgment and analysis of the City of San José; and
 - (4) Preparation of a subsequent or supplemental Environmental Impact Report is not required because no new environmental impacts have been identified and no new mitigation measures are required; and
 - (5) The Director of Planning, Building and Code Enforcement shall transmit copies of the FEIR and the Addendum to any other decision-making body of the City of San José for the project.

CEQA: Resolution to be adopted.

PDC10-025 – Council District 3.

(Continued from 3/1/11 – Item 4.1)

Resolution No. 75750 adopted.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Amendment to the Urban Area Security Initiative Memorandum of Understanding.

Recommendation: Adopt a resolution authorizing the City Manager to execute an amendment to extend the term of the joint Memorandum of Understanding with the City and County of San Francisco, City of Oakland, Alameda County, and Santa Clara County as partners in the San Francisco Bay Urban Area Security Initiative grant program from December 31, 2010 to June 30, 2011. CEQA: Not a Project, File No. PP10-067(g), Memorandum of Understanding. (Fire/City Manager's Office)

Resolution No. 75751 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Notice of City Engineer's Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10071	E/S of S. White Road approximately 400 feet South of Cunningham Avenue	8	Ponderosa Homes II, Inc.	16 Lots / 14 Units	SFDR

- **Open Forum**

1. **Dan Rush, representing the United Food & Commercial Workers Union Local #5, applauded the Council for their support of the medical cannabis ordinance and for providing job opportunities in the industry.**
2. **Dave Hodges recommended revisions to the text of Measure U and submitted edited text for Council's review.**
3. **Norman Larsen recommended an independent investigation of Southside Advisory Council officers.**
4. **Sal Galvan recommended changes to bylaws of the Southside Advisory Council and replacement of the Center supervisor. He provided a written list of concerns to the Council.**
5. **Douglas Chloupek, representing Medmar Healing Center, asked that light industrial be considered in addition to commercial general designation for medical marijuana clubs.**

- **Continue RDA Board Meeting**

- **Adjournment**

The Council of the City of San José adjourned at 5:33 in memory of Sal Sunseri, who was a beloved resident as well as youth baseball and soccer coach in District 9. (Rocha)

8. JOINT REDEVELOPMENT AGENCY/COUNCIL

The Joint Redevelopment Agency Board convened at 4:55 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

8.1 Actions related to the San Jose Diridon Development Authority Joint Powers Agreement.

Recommendations: Adoption of resolutions by the City Council and Redevelopment Agency Board:

- (a) Authorizing the City Manager to execute, on behalf of the City, a joint powers agreement for the San Jose Diridon Development Authority;
Resolution No. 75752 adopted.

- (b) Authorizing the Executive Director to: (i) execute, on behalf of the Redevelopment Agency, a joint powers agreement for the San Jose Diridon Development Authority; and (ii) execute such documents as necessary to transfer various Agency properties to the San Jose Diridon Development Authority for potential development by the San Jose Diridon Development Authority.

CEQA: Not a Project; File No. PP10-066(g), Memorandum of Understanding.
[MERGED]

Redevelopment Agency Resolution No. 6008 adopted.

8.2 Actions Related to the Transfer and Acceptance of Public Facilities.

Recommendation: Adoption of resolutions by the City Council and Redevelopment Agency Board:

- (a) Authorizing the City Manager to negotiate and execute, on behalf of the City, a Cooperation Agreement with the Redevelopment Agency, which provides for the transfer to the City of various properties which are public facilities; and,
Resolution No. 75753 adopted.

- (b) Authorizing the Executive Director to negotiate and execute, on behalf of the Redevelopment Agency, a Cooperation Agreement with the City to provide for the transfer to the City of various Agency-owned properties acquired by the Agency and developed for, or to be developed for, public facilities.

CEQA: Not a Project. [MERGED]

Redevelopment Agency Resolution No. 6009 adopted.

The RDA adjourned to a meeting of the Diridon Development Authority at 5:18 p.m.



**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
DIRIDON DEVELOPMENT AUTHORITY AGENDA**

5:19 P.M.

TUESDAY, MARCH 8, 2011

CHAMBERS

- 1. Swearing in of Directors (Oath of Office).**
City Clerk Dennis Hawkins administered the Oath of Office to members of the San José Diridon Development Authority.
- 2. Public Comment.**
Members acknowledged letter from the Office of the County Counsel, County of Santa Clara.
- 3. Action on Consent Calendar:**
 - a. Adoption of a resolution to adopt Fair Political Practices Model Conflict of Interest Code and submit such code to the Code Reviewing Body.
Diridon Development Authority Resolution No. 100.1 adopted.
 - b. Adoption of a resolution to adopt Standard CEQA Guidelines.
Diridon Development Authority Resolution No. 101.1 adopted.
 - c. Authorization for the Authority's Executive Director to execute all documents and pay all fees necessary to: obtain a federal tax ID number; and comply with State law requirements for new public entities, including listing on the roster of public agencies.
Approved.
 - d. Adoption of a resolution setting Regular Meeting location, date and time for annual meetings of the Authority.
Diridon Development Authority Resolution No. 102.1 adopted.
 - e. Adoption of a resolution approving the Authority bylaws.
Diridon Development Authority Resolution No. 103.1 adopted.

SAN JOSÉ DIRIDON DEVELOPMENT AUTHORITY

4. Adoption of a resolution authorizing the Authority's Executive Director to execute such documents needed and take such other actions needed for the acceptance of property transferred to the San Jose Diridon Development Authority.

Diridon Development Authority Resolution No. 104.1 adopted.

5. **Adjourn the meeting of the San Jose Diridon Development Authority**
The meeting was adjourned at 5:23 p.m.