

CITY COUNCIL AGENDA

MARCH 29, 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.sanjooseca.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@sanjooseca.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**
 - 9:00 a.m.** - Closed Session, Call to Order in Council Chambers
Open Session, Labor Negotiations Update (See Item 3.2)
Absent Council Members: All Present
 - 9:06 a.m.** Adjourn to Closed Session in Council Chambers Conference Room, W133
Absent Council Members: All Present
 - 1:30 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present

- **Invocation (District 3)**
Reverend Dana Bainbridge of First Christian Church provided the Invocation.

- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.

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

- **Closed Session Report**
City Manager Debra Figone announced the appointment of Hans Larsen as the Director of Transportation for the City of San José.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Chavez Family Vision in recognition of their work to ensure the continuation of Cesar Chavez’s legacy for the generations. (Campos)
Mayor Reed and Council Members Campos, Chu, Kalra, Liccardo and Rocha commended the Chavez Family Vision.
- 1.2 Presentation of a proclamation declaring March 25, 2011 as “Greek Independence Day” in the City of San José. (Constant)
(Deferred from 3/22/11 – Item 1.1)
Deferred to 4/5/11 per District 1.
- 1.3 Presentation of a proclamation recognizing the Iranian New Year “Nowruz” in the City of San José. (Nguyen/Pyle)
(Rules Committee referral 3/23/11)
Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Pyle recognized the Iranian New Year “Nowruz” in the City of San José.
- 1.4 Presentation of a proclamation recognizing the Assyrian New Year “Akitu” in the City of San José. (Nguyen/Pyle)
(Rules Committee referral 3/23/11)
Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Pyle recognized the Assyrian New Year “Akitu” in the City of San José.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None.

- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28898 – Rezoning certain real property situated on the east side of South Bascom Avenue, approximately 450 feet northerly of Fruitdale Avenue, to the CN Commercial Neighborhood Zoning District. C10-024

Ordinance No. 28898 adopted.

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

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of March 9, 2011. (Mayor)
(b) Public Safety, Finance and Strategic Support Committee Report of March 17, 2011. (Constant)

Approved.

2. CONSENT CALENDAR

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Councilmember Constant from the Regular Meeting of the Rules and Open Government Committee on March 23, 2011.
(Constant)
(Rules Committee referral 03/23/11)
Excused.

2.5 City Council Travel Reports. None presented.

2.6 Report from the Council Liaison to the Retirement Boards. Accepted.

2.7 Agreement with Couch Guy Incorporated for the Lease of Real Property Located at 108 Paseo de San Antonio.

Recommendation: Adopt a resolution authorizing the City Manager to execute an agreement with Couch Guy Incorporated, a California corporation, for the lease of real property located at 108 Paseo de San Antonio for purposes of operating a retail store, for total rental revenue to City as follows: Year 1 \$17,856; Year 2 \$18,972; Year 3 \$20,646; Year 4 \$22,381.38; Year 5 \$23,019.34; Year 6 \$23,676.44 for total compensation to City of \$126,551.16. Council District 3. CEQA: Exempt, File No. PP10-066(f), lease of existing space for same use. (Economic Development)
Deferred to 5/3/11 per Administration.

2.8 Agreement with AmeriPride Uniform Service for Uniform Rental and Laundry Services.

Recommendation: Adopt a resolution authorizing the Director of Finance:

- (a) To execute the Second Amendment to the Agreement with AmeriPride Services, Inc. (Petaluma, CA) for Uniform Rental and Laundry Services to add a fifth one-year option to renew the Agreement for a total cost not to exceed \$250,000;, and
(b) To exercise the fifth one-year option to renew.

CEQA: Not a Project, File No. PP10-066(c), Services that involve no physical changes to the environment. (Finance)

Resolution No. 75763 adopted.

2. CONSENT CALENDAR

2.9 Semi-Annual Recommendation Follow-up Report on all Outstanding Audit Recommendations for the Six Months Ended December 31, 2010.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on March 17, 2011, accept the Semi-Annual Recommendation Follow-up Report on all outstanding audit recommendations for the six months ended December 31, 2010. (City Auditor)
[Public Safety, Finance and Strategic Support Committee referral 3/17/11 – Item D(1)]
Accepted.

2.10 Actions Related to the San José Environmental Innovation Center Project.

Recommendation:

- (a) Reject all bids received for the San José Environmental Innovation Center Project; and
 - (b) Authorize the Director of Public Works to re-advertise and re-bid the project.
- CEQA: Negative Declaration, File No. PP09-138. Council District 3. (Public Works)
(Rules Committee referral 03/23/11)
Approved.

2.11 Great American Litter Pickup.

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

- (a) Approve the Great American Litter Pickup Event as a City Council sponsored Special Event; and
- (b) Approve and Accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (City Clerk)
[Rules Committee referral 03/23/11 – Item H(2)]
Approved.

2.12 Cities Association of Santa Clara County Expenditure Review.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on March 17, 2011, accept the Cities Association of Santa Clara County Expenditure Review: Fiscal Years Ending June 30, 2010 & 2009. (City Auditor)
[Public Safety, Finance and Strategic Support Committee referral 3/17/11 – Item D(3)]
Accepted.

3. STRATEGIC SUPPORT SERVICES

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

The City Manager provided an update on the Convention Center expansion bond and Director of Parks, Recreation and Neighborhood Services Albert Balagso was congratulated upon his retirement and honored for this 35 years of service to the City of San José.

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

Heard at 9 a.m.

Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Actions Related to the Installation of a Fuel Cell Based Energy Saver System for the Ice Centre.

Recommendation:

(a) Approve a first amendment to the Amended and Restated Lease and Management Agreement to provide \$2,000,000 from the Ice Center Revenue Fund to Silicon Valley Sports and Entertainment, Inc., on behalf of San Jose Arena Management, Manager of the Ice Centre of San Jose, for the purchase and installation of a fuel cell based Energy Saver System for the Ice Centre.

Approved.

(b) Adopt the following Appropriation Ordinance amendments in the Ice Centre Revenue Fund (Fund 432):

(1) Establish an appropriation to the Finance Department in the amount of \$2,000,000 for Fuel Cell Equipment, and

(2) Decrease the Ending Fund Balance by \$2,000,000.

CEQA: Exempt, File No. PP11-031. Council District 7. (Economic Development/City Manager's Office)

Ordinance No. 28902 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Tax-Exempt Multifamily Revenue Bonds to Acquire and Rehabilitate Elena Gardens Apartments TEFRA Hearing.

Recommendation:

- (a) Hold a Tax Equity and Fiscal Responsibility Act (“TEFRA”) public hearing for the issuance of up to \$23,000,000 of tax-exempt private-activity bonds by the California Municipal Finance Authority (“CMFA”) for the acquisition, rehabilitation and improvement of the 168-unit Elena Gardens Apartments affordable housing project, located at 1900 Lakewood Drive, San José, CA (the “Project”).

Public Hearing held

Approved.

- (b) Adopt a resolution approving the issuance of Tax-Exempt Revenue Bonds by CMFA in an aggregate principal amount not to exceed \$23,000,000 to be used to finance the Project and pay certain expenses incurred in connection with the issuance of the bonds.

CEQA: Categorically Exempt, File No. PP11-038. (Housing/Finance)

Resolution No. 75764 adopted.

4.3 Public Hearing and Actions Related to the Ford and Monterey Special Needs Apartments and Family Apartments.

Recommendation: Hold a public hearing and adopt a resolution:

- (a) Accepting the Summary 33433 Report pursuant to the California Health and Safety Code Section 33433 for the groundleasing and development of the 3.06 acre City-owned property located at the north side of Ford Road approximately 550 feet east of Monterey Road (the “Site”) for the Ford Road and Monterey Special Needs Apartments and Family Apartments (the “Project”), under the terms and conditions of the proposed Disposition and Development Agreement (“DDA”);
- (b) Approving a DDA between the City of San Jose and Eden Housing, Inc., or its affiliate, along with a 75-year Groundlease with Eden Housing, Inc., or its affiliate, of the Site for the Project, and authorizing the Director of Housing to execute the DDA, the Groundlease, and any other documents regarding the leasehold disposition of the property;
- (c) 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 (“Project” or “Phase I”);

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Public Hearing and Actions Related to the Ford and Monterey Special Needs Apartments and Family Apartments (Cont'd.)

- (d) Approving a funding commitment to Eden Housing, Inc., or its designated affiliate (“Eden”) for up to \$3,000,000 for a Project construction/permanent loan funded from NSP2 (Fund 448);

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

Public Hearing held.

Resolution No. 75765 adopted.

Noes: Oliverio.

5. NEIGHBORHOOD SERVICES

5.1 Trail Safety Enhancements.

Recommendation: Accept staff report and recommend that the City Council:

- (a) Approve the work plan for new signage, striping and mileage markers to be installed along City trails for directional, information and safety guidance as described in the staff memorandum.

Approved.

- (b) Approve an ordinance amending Section 7.40.040 of Chapter 7.40 of Title 7 of the San José Municipal Code to require that dogs on City trails be maintained on a leash not to exceed six feet, and that any dogs on trails with a marked centerline be maintained to the right of the centerline.

CEQA: Not a Project, File No. PP10-068, General Policy Making. (Parks, Recreation and Neighborhood Services)

Ordinance No. 28903 passed for publication.

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Proposition 218 Noticing Process for Utility Rate Changes.

Recommendation: Approve sending Proposition 218 notices for proposed customer rate changes for Recycle Plus, Storm Sewer Service, and Municipal Water beginning 2011-2012, as described in the staff memorandum. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (ESD).

Approved, with Staff directed to review and report back with noticing policies for mobile home residents.

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 Approval of the Tier 2 Drought Implementation Plan.

Recommendation: Adopt a resolution approving the Tier 2 Drought Implementation Plan for allocating water among wholesale water customers of San Francisco Public Utilities Commission during water supply shortages of up to 20%. CEQA: Resolution 74998, File No. PP11-010. (Environmental Services)

Resolution No. 75766 adopted.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**
 - (1) **Michael McDuffie complained of excessive noise from maintenance equipment at a strip mall at Senter and Monterey Roads. Mayor Reed referred Mr. McDuffie to Assistant City Manager Ed Shikada.**
 - (2) **Martha O'Connell expressed that as long as Mobile Home residents are paying utility fees, they should be able to protest utility rate hikes.**

- **Adjournment**

The Council of the City of San José adjourned at 3:13 p.m. in memory of Betty Howard, a life long dedicated community activist, whose positive impact on the East San José community will always be remembered. (Campos)