

# CITY COUNCIL AGENDA

**APRIL 12, 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](http://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, 2<sup>nd</sup> 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](mailto: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.** - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: All Present.**  
  
**1:29 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: All Present.**
- **Invocation (District 4)**  
**Sierramont Middle School Choir presented the Invocation.**
- **Pledge of Allegiance**  
**Mayor Reed led the Pledge of Allegiance, accompanied by Sierramont Middle School Choir and Boy Scout Troop 290.**
- **Orders of the Day**  
**The Orders of the Day and the Amended Agenda were approved.**
- **Closed Session Report**  
**No Report.**

## **1. CEREMONIAL ITEMS**

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- 1.1 Presentation of a proclamation declaring the month of April 2011 as “Arthritis Awareness Month” in the City of San José. (Kalra/Campos)  
**Mayor Reed and Council Members Kalra and Campos recognized the month of April 2011 as “Arthritis Awareness Month” in San José.**

# 1. CEREMONIAL ITEMS

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- 1.2 Presentation of a commendation to Lavante Corporation in recognition of their commitment and contributions to the City of San José and the Silicon Valley. (Kalra)  
**Mayor Reed and Council Member Kalra recognized and commended Lavante Corporation.**
- 1.3 Presentation of a proclamation declaring the week of April 10-18, 2011 as “National Dispatcher Week” in the City of San José. (Mayor)  
**Mayor Reed recognized the week of April 10 through April 18, 2011 as “National Dispatcher Week” in San José.**
- 1.4 Presentation of a proclamation declaring the month of April 2011 as “Month of the Young Child” in the City of San José. (Pyle)  
**Mayor Reed and Council Member Pyle recognized the month of April 2011 as the “Month of the Young Child” in San José.**
- 1.5 Presentation of a commendation to Hands Across America in recognition of their effort to raise awareness about the importance and accessibility of California Community Colleges locally and throughout the state. (Kalra)  
**Mayor Reed and Council Member Kalra recognized and commended Hands Across America.**

# 2. CONSENT CALENDAR

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- 2.1 **Approval of Minutes.**  
There were none.

- 2.2 **Final adoption of ordinances.**

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28903 – 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

**Ordinance No. 28903 adopted.**

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

**Recommendation:** Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of March 23, 2011. (Mayor)  
(c) Rules and Open Government Committee Report of March 16, 2011. (Mayor)  
(d) Rules and Open Government Committee Report of March 9, 2011. (Mayor)

**Deferred to 04/19/11 per City Clerk.**

## 2. CONSENT CALENDAR

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### 2.3 Approval of Council Committee Reports (Cont'd.)

- (b) Community and Economic Development Committee Report of March 28, 2011.  
(Herrera)

**Approved.**

### 2.4 Mayor and Council Excused Absence Requests.

#### **Recommendation:**

- (a) Request for an excused absence for Vice Mayor Nguyen from the Regular Meeting of the Rules and Open Government Committee on March 30, 2011 due to illness. (Nguyen)
- (b) Request for an excused absence for Council Member Pyle from the Closed Session and Regular Meeting of the City Council on April 5, 2011 due to the death of a close family member. (Pyle)

**Excused.**

### 2.5 City Council Travel Reports.

**Council Member Constant reported on his trip to attend the League of California Cities Conference in Ontario, California to speak about the League's platform for legislation action this current year and his attendance at the National League of Cities.**

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

**There were none.**

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

#### **Recommendation:** Approve an:

- (a) Agreement with the County of Santa Clara for Countywide Household Hazardous Waste Collection Program for 2011-2012 at a cost of \$200,000, subject to appropriation of funds.
- (b) Agreement with the County of Santa Clara for Countywide AB939 Implementation Fee for 2011-2012.

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

**Approved.**

### 2.8 Amendment to the Residential Parking Permit Ordinance.

**Recommendation:** Approve an ordinance amending Chapter 11.48 of Title 11 of the San José Municipal Code to address the following:

- (a) Establish a new residential permit parking (RPP) zone for the Century-Winchester neighborhood.
- (b) Expand the Arena - Saint Leo's, South University Neighborhood, College Park, and Cahill Park RPP zones.

## 2. CONSENT CALENDAR

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### 2.8 Amendment to the Residential Parking Permit Ordinance (Cont'd.)

- (c) Authorize the Director of Transportation (Director) to issue more than three residential parking permits to each group residence located in the Horace Mann and South University permit parking areas.
- (d) Authorize the Director to charge an administrative fee to process cancellation of a parking citation issued for failure to display a valid RPP permit if the individual who received the citation can show proof that he or she had been issued a valid residential parking permit at the time the citation was issued.
- (e) Make administrative corrections to Chapter 11.48 as described in this memorandum.

CEQA: Exempt, File No. PP10-113. Council Districts 1, 3 and 6. SNI: Burbank/Del Monte, Thirteenth Street, University. (Transportation)

**Ordinance No. 28905 passed for publication, with Staff directed to look at data for procedures, including complaints and public feedback regarding the administrative fees for processing parking citations and report back to Council in June.**

### 2.9 Beautiful Day “Project Restoration” Project.

**Recommendation:**

- (a) Approve the Beautiful Day “Project Restoration” Project 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 04/06/11)

**Approved.**

## 3. STRATEGIC SUPPORT SERVICES

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

**City Manager Debra Figone announced that Family Camp will be open on schedule this summer.**

### 3.2 Labor Negotiations Update

**Recommendation:** Accept Labor Negotiations Update.

**Heard at 9:00 a.m.**

**Accepted.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 Actions Related to Medical Marijuana.

**Recommendation:**

- (a) Adopt a resolution to initiate amendments to Title 20 of the San José Municipal Code (the Zoning Code) to establish land use regulations pertaining to Medical Marijuana Collectives and to establish a Zoning Verification Certificate process, to forward these proposed Title 20 amendments to the Planning Commission for its report and recommendation, and to set a public hearing date on these proposed amendments to Title 20 before the City Council.

**Resolution No. 75774 adopted.**

- (1) **The memorandum from Mayor Reed, dated April 11, 2011, was approved:**

(a) **Limit the location of Medical Marijuana collectives to parcels zoned Commercial General, Downtown Primary Commercial and Combined Industrial Commercial.**

(b) **Comply with AB2650 distance requirements for schools and require the same distance requirements as are currently required for liquor stores and for all other sensitive uses.**

- (2) **Light Industrial included as part of the zoning district, with the discretion of the Director of Planning.**

- (3) **Conditional Use Permit (CUP) was not included.**

**Noes: Campos, Chu, Constant; Reed.**

- (b) Approve an ordinance of the City of San José amending Title 6, Business Licenses and Regulations, of the San José Municipal Code to add Parts 1, 2 and 3 of a new Chapter 6.88 to establish a registration process pertaining to Medical Marijuana Collectives.

**Not Approved.**

- (c) Approve an ordinance of the City of San José amending Title 6, Business Licenses and Regulations, of the San José Municipal Code to add Parts 4 through 9 of a new Chapter 6.88 to establish regulations pertaining to Medical Marijuana Collectives and to the individual cultivation and use of medical marijuana.
- (d) Direct staff to issue a Manager's Budget Addendum (MBA) to establish an appropriate FY 2011-2012 staffing plan, amendments to the Schedule of Fees and Charges to include an Annual Operating Fee, amendments to the Schedule of Fines, to be considered as part of the Mayor's June Budget Message.
- (e) Adopt a resolution to amend the Adopted 2010-2011 Schedule of Fees and Charges Resolution (Resolution 72737, as amended) to add a Medical Marijuana Collective Application Processing Fee at \$4,975 per Collective and to add a Medical Marijuana Investigation Hourly Fee at \$167 per hour.

(City Manager's Office/Planning, Building and Code Enforcement/Police)

**Heard Last.**

**Continued to 04/19/11.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 Actions Related to the Convention Center Facilities District Project Fund.

**Recommendation:**

- (a) Establish a Convention Center Facilities District Project Fund in the 2010-2011 Appropriation Ordinance.

**Approved.**

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Convention Center Facilities District Project Fund:

- (1) Establish an estimate for Earned Revenue of \$120,000,000.
- (2) Establish an appropriation to the Public Works Department for the Convention Center Expansion and Renovation Project in the amount of \$20,000,000.
- (3) Establish an appropriation to the Office of Economic Development for the Convention Center Expansion and Renovation – Public Art Project in the amount of \$80,000.
- (4) Establish a reserve for the Convention Center Expansion and Renovation Project in the amount of \$99,920,000.

CEQA: Resolution No. 72767 and Addenda thereto, File No. PP08-002. Council District 3. (Public Works/City Manager's Office)

**Ordinance No. 28906 adopted.**

**Resolution No. 75771 adopted.**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Actions Related to the Happy Hollow Park & Zoo Renovation Project.

**Recommendation:**

- (a) Approve an increase the Happy Hollow Park and Zoo Consolidated Contingency by \$743,000, from \$4,095,450 to a total consolidated contingency amount of \$4,838,450.
- (b) Approve a Contract Change Order (CCO) No. 21 with Anderson Pacific Engineering Construction, Inc. for the Happy Hollow Pedestrian Bridge Rebid Project, increasing the compensation by \$329,199 for a total contract amount of \$4,024,880 and extending the term of the agreement by 140 calendar days for a new contract completion date of April 1, 2011.

**Approved.**

- (c) Adopt a resolution delegating Authority to the City Manager to negotiate and execute a continuation agreement with HNTB Corporation extending the term of the agreement for design consultant services for the Happy Hollow Pedestrian Bridge Rebid Project, through December 31, 2011, and increasing the amount of compensation by \$120,000 for a total not to exceed \$919,000.

**Resolution No. 75772 adopted.**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Actions Related to the Happy Hollow Park & Zoo Renovation Project (Cont'd.)

- (d) Adopt a resolution delegating authority to the Director of Public Works to negotiate and execute individual contract change orders up to \$250,000 each for the Happy Hollow Pedestrian Bridge Rebid construction contract with Anderson Pacific Engineering Construction, Inc.

CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April, 2007 and Amended Mitigated Negative Declaration, File No. PP09-023, dated February 6, 2009. (Public Works/Parks, Recreation and Neighborhood Services)

**Resolution No. 75773 adopted.**

## 6. TRANSPORTATION & AVIATION SERVICES

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## 7. ENVIRONMENTAL & UTILITY SERVICES

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## 8. PUBLIC SAFETY SERVICES

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## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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- 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 pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10022	East Corner of Berryessa and Jackson Avenue	4	Pulte Home Corporation	41/137	SFA	Approve

- Open Forum

There were none.

- Adjournment

**The Council of the City of San José was adjourned at 6:31 p.m. in memory of Douglas Adams McNea, a soft-spoken yet tenacious citizen advocate whose work on behalf of San José's taxpayers and property owners will be gratefully remembered. (Constant)**

## **8. JOINT REDEVELOPMENT AGENCY ITEM**

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**The Redevelopment Agency Board convened at 2:16 p.m. to consider Item 8.1 in a Joint Session.**

### **8.1 City Council and Agency Board approval of a Settlement Agreement and Release with the Almaden Recreation Club.**

**Recommendation:** City Council and Agency Board approval of a Settlement Agreement and Release with the Almaden Recreation Club (ARC), considered by the Agency Board and City Council during the Closed Session held on March 8, 2011, in which ARC will remove Agency-owned properties at 5647 Gallup Drive and 1171 Mesa Drive from the ARC Homeowners Association's boundaries and the lien of the Covenants, Conditions & Restrictions in exchange for a payment of \$50,000 by the Redevelopment Agency. [SNI-HOFFMAN/VIA MONTE]

**Approved.**

**The Council of the City of San José and Redevelopment Agency Board was adjourned at 2:17 p.m.**