

# CITY COUNCIL AGENDA

**MAY 17, 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**  
**9:10 a.m.** - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: Nguyen. (Excused)**  
  
**1:35 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Nguyen. (Excused)**  
  
**7:03 p.m.** - Public Hearings, Council Chambers, City Hall  
**Absent Council Members: Nguyen. (Excused)**
  
- **Invocation (District 5)**  
**Father Eduardo Samaniego, Most Holy Trinity Church presented the Invocation.**
  
- **Pledge of Allegiance**  
**Mayor Reed, accompanied by the Third Graders from Rosemary Elementary School, led the Pledge of Allegiance.**
  
- **Orders of the Day**  
**The Orders of the Day and the Amended Agenda were approved, with Item 2.3 deferred to May 2, 2011, Item 3.3 deferred to June 07, 2011 and Item 11.3 deferred to June 14, 2011.**

- **Closed Session Report**  
City Attorney Doyle disclosed the following Closed Session actions of May 17, 2011:

**A. Authority to Initiate Litigation:**

**Authority to initiate litigation was given in one matter. The names of the action(s) and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action(s) are formally commenced.**

**Council Vote: Ayes: Campos, Chu, Constant, Herrera, Kalra, Liccardo, Oliverio, Pyle, Rocha; Reed.**

**Noes: None.**  
**Abstention: None.**  
**Absent: Nguyen. (Excused)**

## **1. CEREMONIAL ITEMS**

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- 1.1** Presentation of a commendation to the Piedmont Hills High School Football Team for the Division 1 CCS Football Championship. (Chu)  
(Deferred from 4/19/11 – Item 1.1)  
**Item 1.1 was dropped.**
- 1.2** Presentation of a commendation to Friends Helping Friends with Special Needs for their dedication to helping children with special needs and their families through integrated community involvement. (Chu)  
(Deferred from 4/19/11 – Item 1.2)  
**Heard in the Evening.**  
**Mayor Reed and Council Member Chu recognized and commended to Friends Helping Friends with Special Needs.**
- 1.3** Administer Oaths of Office to District 1 Youth Commissioner Sandeep Peddada, District 2 Youth Commissioner Emily To, District 4 Youth Commissioner Max Chen, District 5 Youth Commissioner Veronica Abad, District 6 Youth Commissioner Brendon Yu, District 7 Youth Commissioner Diana Le, and District 10 Youth Commissioner Layla Forooghi. (City Clerk)  
**Heard in the Evening.**  
**City Clerk Dennis D. Hawkins, CMC, administered the Oaths of Office to the Youth Commissioners. Mayor Reed and Council Members Kalra, Chu, Campos and Oliverio were present.**
- 1.4** Presentation of a proclamation declaring the week of May 15-21, 2011 as “Public Works Week” in the City of San José. (Public Works)  
**Mayor Reed and Director of Public Works David Sykes recognized the week of May 15 through May 21, 2011 as “Public Works Week”.**

# 1. CEREMONIAL ITEMS

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- 1.5 Presentation of a commendation to Junior Sharks 12 U Girls Team for capturing the USA Hockey's Tier II Girl's National Championship as the first national title for the Junior Sharks Program in the City of San José. (Chu)  
**Heard in the Evening.**  
**Mayor Reed and Council Member Chu recognized and commended Junior Sharks 12 U Girls Team for capturing the USA Hockey's Tier II Girl's National Championship.**
- 1.6 Presentation of a proclamation declaring the Month of May 2011 as "Jewish American Heritage Month" in the City of San José. (Herrera)  
**Mayor Reed and Council Member Herrera recognized the Month of May 2011 as "Jewish American Heritage Month".**
- 1.7 Presentation of a commendation to Jorge Zavala for his leadership as Director of TechBA, a Mexico-Silicon Valley Technology business accelerator located in San José that has supported hundreds of entrepreneurs and small businesses through its extensive services and his involvement as a Board Member of work2future. (Herrera/Economic Development)  
**Deferred to June 14, 2011 per District 8.**
- 1.8 Presentation of a commendation to Rebuilding Together Silicon Valley for their dedication to safe and healthy homes for low income residents and for renovating over 1,000 homes in San José over the past 20 years. (Herrera)  
(Rules Committee referral 05/11/11)  
**Mayor Reed and Council Member Herrera recognized and commended Rebuilding Together Silicon Valley.**

# 2. CONSENT CALENDAR

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## 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes.

- (a) Regular Minutes of March 1, 2011.
- (b) Habitat Conservation Plan Study Session Minutes of March 3, 2011.
- (c) Regular Minutes of March 8, 2011.
- (d) Regular Minutes of March 15, 2011.
- (e) Joint Council/San Jose Financing Authority Minutes of March 15, 2011.
- (f) Regular Minutes of March 22, 2011.
- (g) Regular Minutes of March 29, 2011.
- (h) Joint City/Diridon Development Authority Minutes of March 8, 2011.

**Approved.**

## 2. CONSENT CALENDAR

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### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28908 – Amending Title 6 of the San José Municipal Code to add a new Chapter 6.88 to establish regulations pertaining to medical marijuana collectives and to the individual cultivation, and use of medical marijuana.

**Deferred to June 14, 2011 per Administration.**

### 2.3 Approval of Council Committee Reports.

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

- (a) Rules and Open Government Committee Report of April 27, 2011. (Mayor)  
(b) Rules and Open Government Committee Report of April 20, 2011. (Mayor)  
(c) Rules and Open Government Committee Report of April 13, 2011. (Mayor)  
(d) Rules and Open Government Committee Report of March 23, 2011. (Mayor)  
(e) Rules and Open Government Committee Report of March 16, 2011. (Mayor)  
(f) Rules and Open Government Committee Report of March 9, 2011. (Mayor)

**Deferred to May 24, 2011 per Orders of the Day.**

### 2.4 Mayor and Council Excused Absence Requests.

**There were none.**

### 2.5 City Council Travel Reports.

**There were none.**

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

**There were none.**

### 2.7 Amendment to the Master Agreement with HF&H Consultants for Environmental Consultant Services on the Commercial Solid Waste Redesign and Franchise Procurement.

**Recommendation:** Approve the Fourth Amendment to the Master Agreement between the City of San José and HF&H Consultants, LLC for environmental consultant services on the commercial solid waste redesign and franchise procurement, increasing the amount of the agreement by \$75,000 from \$850,000 to an amount not to exceed \$925,000. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.8 Agreement with Pelican Communications for Pay-Telephone Services at the Airport.

**Recommendation:** Approve a second amendment to the agreement with Pelican Communications, Inc., to mutually agree to an additional five-year term retroactively commencing on May 13, 2010, in the annual, ongoing amount of \$12,480, with additional one time charges of \$250 for each new pay-telephone installed to provide for installation and maintenance of pay-telephones at the Airport at no cost to the City, and installation, removal and maintenance of pay-telephones on other City-owned properties. CEQA: Exempt, File No. PP05-053. (Economic Development)  
(Deferred from 5/3/11 – Item 2.8)

**Approved.**

### 2.9 SB 184 (Leno) – Land Use: Zoning Regulations.

**Recommendation:** As recommended by the Rules and Open Government Committee on May 11, 2011, approve a support position for SB 184 (Leno) – Land Use: Zoning Regulations. (Housing)  
[Rules Committee referral 5/11/11 – Item D(1)(b)]

**Approved.**

**Noes: Constant, Oliverio.**

### 2.10 District 8 Senior Health Fair and Walk.

**Recommendation:** As recommended by the Rules and Open Government Committee on May 11, 2011:

- (a) Approve the District 8 Senior Health Fair and Walk as a City Council Sponsored Special Event.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (City Clerk)

**Approved.**

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the City Manager, Debra Figone (Verbal Report) City Manager Debra Figone presented highlights of Governor Brown's revision to the California FY 2011-2012 Proposed Budget released on May 16, 2011.

### 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 Council Salary Setting Commission Recommendations.

**Recommendation:** As recommended by the Council Salary Setting Commission, approve an ordinance setting the salaries and benefits of the Mayor and City Council for the period June 26, 2011 through June 30, 2013 – Fiscal Years (FY) 2011- 2012 and FY 2012 – 2013 as follows:

- (a) For the Mayor, reduce the salary recommended by the Commission for the 2009-2011 period from \$127,000 annually to \$114,000 annually, to be effective June 26, 2011.
- (b) For each Council Member, reduce the salary recommended by the Commission for 2009-2011 from \$90,000 annually to \$81,000 annually, to be effective June 26, 2011.
- (c) Retain the levels of health, dental, life insurance and other benefits through in accordance with the benefits provided to management employees in Unit 99.
- (d) For the current Mayor and Council Members (meaning those in office as of July 1, 2011), maintain the City’s participation and contributions to CalPERS defined benefit or PTC 457 defined contribution plans through their terms of office.
- (e) Direct the City Clerk and City Attorney to perform necessary research and return with recommendations for the implementation of a change in retirement plan benefits for future Council Members, including options available through CalPERS or other providers.
- (f) Reduce the 2009-2011 Commission recommendation of a monthly \$600 vehicle allowance to a monthly \$350 vehicle allowance for the Mayor and each member of the City Council, to be effective June 26, 2011.
- (g) Continue to require Council Members to pay \$250 for each unexcused absence at scheduled Council meetings, pursuant to City Charter Section 407.

(City Clerk)

**Deferred to June 7, 2011 per Orders of the Day.**

#### 3.4 Actions Related to Medical Marijuana Zoning.

**Recommendation:** Conduct a public hearing and consider an ordinance of the City of San José amending Title 1 of the San José Municipal Code by amending Section 1.13.050 of Chapter 1.13 to exempt a lawful Medical Marijuana Collective from the definition of a public nuisance and amending Title 20 of the San José Municipal Code by amending Section 20.10.040 of Chapter 20.10, amending Section 20.40.100 of Chapter 20.40, amending Section 20.50.100 of Chapter 20.50, amending Section 20.70.100 of Chapter 20.70, adding a new Part 9.5 to Chapter 20.80, adding a new Part 13 to Chapter 20.100, and amending Section 20.100.200 of Chapter 20.100, all to establish land use regulations pertaining to Medical Marijuana Collectives and to establish a related zoning verification certificate process. (Planning, Building and Code Enforcement/City Attorney’s Office)

**Deferred to 06/14/11 per Administration.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.5 Actions related to Retiree Health Care Benefit Funding and Payment of Retiree Health Care Benefits.

**Recommendation:** Consideration of an ordinance amending Title 3 of the San José Municipal Code to add a new Chapter 3.52, and to amend Sections 3.28.380, 3.28.1980, 3.28.1995, 3.28.2030 and 3.28.2045 and add a new Section 3.28.385 of Chapter 3.28 for the purposes of establishing a new trust pursuant to Section 115 of the Internal Revenue Code related to retiree health care benefit funding and payment of retiree health care benefits. (City Attorney's Office)

(Rules Committee referral 05/04/11)

**Ordinance No. 28914 passed for publication.**

#### 3.6 Continued Suspension of Supplemental Retiree Benefit Reserve Payments.

**Recommendation:**

- (a) Approve an ordinance amending Section 3.36.580 of Part 4 of Chapter 3.36 of Title 3 of the San José Municipal Code to provide that there shall be no supplemental retiree benefit reserve distribution from the Police and Fire Department Retirement Plan during fiscal year 2011-12, upon a finding that is needed to adopt the ordinance within a time period which does not allow for a sixty day review period by Board of Administration of the Police and Fire Department Retirement Plan under San José Municipal Code Section 3.36.485.A.; and refer the ordinance to the Board for study and consideration pursuant to San José Municipal Code Section 3.36.485.B.

**Ordinance No. 28915 passed for publication.**

**Noes: Campos, Chu, Kalra.**

- (b) Direct staff to forward for review by the Board of Administration of the Federated City Employees Retirement Plan a draft resolution amending and restating Resolution No. 75635 to provide that there shall be no supplemental retiree benefit reserve distribution from the Federated City Employees Retirement Plan during fiscal year 2011-12.

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

**Approved.**

**Noes: Campos, Chu, Kalra.**

**Staff directed to return to Council with a status report in six months.**

**City Manager requested to recirculate an information memorandum to Council about the distribution of funding for the SRBR payments.**

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.1 Review of North San Jose Residential Activity and Consideration of Potential Changes to Reservation and Allocation Process.**

**Recommendation:** Accept the status report of housing unit reservation and allocation in North San José and direct staff to continue to track residential developer progress and reallocate unused units for shovel ready projects that best implement the North San José Area Development Policy criteria. CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. Council Districts 3 and 4. (Planning, Building and Code Enforcement/Housing)  
(Deferred from 5/3/11 – Item 4.2 and 5/10/11 – Item 4.2)

**The memorandum from Mayor Reed and Council Member Chu, dated May 13, 2011, was approved as amended, accepting the Staff recommendations, with additional amendments:**

- (1) Accept the status report on housing unit reservation and allocation in North San José as outlined in the May 2, 2010 Staff Report.**
- (2) Policy Alternative Option 1, as outlined in the Staff Report was approved, which provides for maintaining the current reservation system using criteria established in the North San José Area Development Policy (NSJADP).**
- (3) Allocate 552 of the remaining 1,168 unallocated affordable units temporarily toward the development of market rate housing projects in North San José that comply with the NSJADP.**
- (4) Allocated 275 of the 552 units mentioned in Item 3 above toward a proposed Phase 1 private development of For Sale units on the Fox Properties site on Brokaw and Old Oakland Roads, with a condition that building permits for at least 100,000 square feet of retail use shall be obtained prior to or concurrent with obtaining the planning permits for the other 375 units on the site for which a PD Zoning was approved in December 2010.**

### **4.2 Funding Commitment for the Taylor Oaks Apartments being Developed by For the Future Housing, Inc.**

**Recommendation:** Adopt a resolution:

- (a) Approving a funding commitment to For the Future Housing, Inc. or its designated affiliate for up to \$5,250,000 for an acquisition, rehabilitation and permanent loan funded from the Neighborhood Stabilization Program 2 (“NSP2”).
- (b) Authorizing the Director of Housing to negotiate and execute an amended consortium agreement with The Housing Trust of Santa Clara County under NSP2 in an amount up to \$5,250,000 for acquisition, rehabilitation, and permanent financing of the 59-unit Taylor Oaks Apartments located at 2726-2738 Kollmar Avenue, in Council District 5.

CEQA: Exempt, File No. PP11-022. Council District 5. (Housing)

**Resolution No. 75800 adopted.**

**Abstained: Kalra.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.3 Approval of Neighborhood Housing Services Of Silicon Valley's Plan to Address its HomeVenture Fund and Home Investment Partnership Obligations.

**Recommendation:**

- (a) Adopt a resolution:
  - (1) Authorizing the Director of Housing to release Neighborhood Housing Services of Silicon Valley's (NHSSV) \$1,300,000 HomeVenture Fund restricted capital grant, allowing the use of the funds for past operating expenses. In exchange NHSSV will commit to utilize \$1,300,000 in other grant proceeds within City of San José municipal boundaries.
  - (2) Accepting NHSSV's proposal to repay the City \$1,917 per month over five years for its \$115,000 obligation in HOME Investment Partnership ("HOME") funds.
  - (3) Authorizing the Director of Housing to negotiate and execute all documents related to the fulfillment of the conditions of these recommendations as adopted by the Council.

**Resolution No. 75801 adopted.**

- (b) Adopt the following Appropriation Ordinance amendments in the Housing Trust Fund:
  - (1) Establish a Transfer to the Home Investment Partnership Program Fund by \$115,000.
  - (2) Decrease the Ending Fund Balance by \$115,000.

**Ordinance No. 28916 adopted.**

- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Home Investment Partnership Program Fund:
  - (1) Increase the revenue estimate for Transfers by \$115,000.
  - (2) Increase the appropriation to the Housing Department for the Loans and Grants project by \$115,000.

CEQA: Not a Project, File No. PP10-067(b), Non-Project Specific Funding Mechanism, Appropriation Ordinance. (Housing/City Manager's Office)

**Ordinance No. 28917 adopted.**

**Resolution No. 75802 adopted.**

## 5. NEIGHBORHOOD SERVICES

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## **6. TRANSPORTATION & AVIATION SERVICES**

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### **6.1 Report on Bids and Award of Contract for the 2011 Slurry Seal Project.**

**Recommendation:** Report on bids and award of contract for the 2011 Slurry Seal Project to the low bidder, Graham Contractors, Inc. in the amount of \$1,783,896 and approval of a five percent (5%) contingency in the amount of \$89,195. CEQA: Exempt, File No. PP11-035. (Transportation)

**Approved.**

### **6.2 Report on Bids and Award of a Construction Contract for the 2011 Remove and Replace Asphalt Concrete Pavement Project.**

**Recommendation:** Report on bids and award of a construction contract for the 2011 Remove and Replace Asphalt Concrete Pavement Project to the low bidder, Top Grade Construction, Inc., in the amount of \$1,608,570, and approval of a five percent (5%) contingency in the amount of \$80,429. CEQA: Exempt, File No. PP11-035. (Transportation)

**Approved.**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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### **7.1 New Markets Tax Credit Financing for the Construction of the Environmental Innovation Center.**

**Recommendation:** Adopt a resolution authorizing the City Manager:

- (a) To establish an independent Qualified Active Low-Income Community Business with nonprofit status under the Internal Revenue Code section 501c3 for the purpose of participating in the federal New Markets Tax Credit program to secure additional financing to fund the construction of the San José Environmental Innovation Center.
- (b) To appoint the five members of the Qualified Active Low-Income Community Business Board of Directors, and replace board members if any of the appointees are unable to serve through the closing of the New Markets Tax Credit transaction.
- (c) To negotiate and prepare the agreements necessary to complete the New Markets Tax Credit financing transaction for the City Council's consideration in June 2011.
- (d) Evaluate the feasibility of Commercial Paper notes as an interim source of financing pending the close of New Markets Tax Credit financing, or alternative source of financing for a reduced project scope.

CEQA: Negative Declaration for the renovation of the EIC was adopted on December 1, 2009. File No. PP09-138. (Environmental Services)

**Resolution No. 75803 adopted.**

**Staff directed to report back to the Community and Economic Development Committee three times yearly.**

**Noes: Oliverio.**

## **8. PUBLIC SAFETY SERVICES**

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## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

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### **9.1 Public Hearing on the Proposed Operating/Capital Budgets for the Fiscal Year 2011-2012, including Proposed Departmental Fees and Charges for the City of San José and the Redevelopment Agency.**

**Recommendation:** Public Hearing on the City's Proposed Operating and Capital Budgets for the Fiscal Year 2011 -2012, the Proposed Five-Year Capital Improvement Program for 2012-2016, the Proposed Fees and Charges Report for the Fiscal Year 2011-2012 as well as the 2011-2012 San Jose Redevelopment Agency Operating and Capital Budgets. (City Manager's Office/Redevelopment Agency)

**Heard in the Evening.**

**The public hearing was held.**

**Fifty seven speakers presented complaints, comments and suggestions. There was no Council action.**

- **Open Forum**

- (1) **David Wall expressed concerns about the City's Public Safety Budget recommendations that include the reduction of 350 Police Officer positions and 135 Firefighter positions.**
- (2) **Michael McDuffie who lives near the Seven Trees Shopping Center, complained about the noise from street sweeping which occurs between 2:00 a.m. and 6:00 a.m. in the morning.**

**Mayor Reed asked Deputy Director of Planning, Building and Code Enforcement Mike Hannon to follow up with Mr. McDuffie.**

- **Adjournment**

**The Council of the City of San José adjourned the afternoon session at 5:16 p.m.**

## 10. GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearing at this time.

## 11. PUBLIC HEARINGS

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### 11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar at this time.

### 11.2 Rezoning real property located at the southwest corner of Foxworthy Avenue and Almaden Expressway.

**Recommendation:** Consideration of an ordinance rezoning the real property located at the southwest corner of Foxworthy Avenue and Almaden Expressway (1175 Hillsdale Avenue) from A(PD) Planned Development Zoning District to CN(PD) Planned Development Zoning District to modify the base zoning district and to add drive-through uses to the previously approved Planned Development Zoning allowing a range of commercial uses for up to 24,250 square feet of development on an approximately 2.17-acre portion of an approximately 10.44-acre site (Calvary Chapel San José, Owner). CEQA: Mitigated Negative Declaration and Addenda thereto. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). PDC11-004 – District 9

**Ordinance No. 28918 passed for publication.**

### 11.3 Administrative Hearing and Consideration of an Appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity.

**Recommendation:** Conduct an Administrative Hearing and consider an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol at a general retail/pharmacy store in an existing approximately 20,317 square-foot tenant space in a shopping center on an approximately 13.2 gross-acre site in the CG-Commercial General Zoning District located 100 feet westerly of the northwest corner of Morrill Avenue and Amberwood Lane (2105 Morrill Avenue) (Chiu Gabriel H Trustee & Et Al, Owner; Walgreens, Applicant). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (5-0-2; Commissioners Kamkar and Platten Absent).

CP10-016/ABC10-003 – District 4

**Deferred to June 14, 2011 per Orders of the Day.**

## 11. PUBLIC HEARINGS

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### 11.4 Administrative Hearing and Consideration of an Appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity.

**Recommendation:** Conduct an Administrative Hearing and consider an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol at an existing full-service grocery store in an approximately 39,661 square-foot tenant space in a shopping center on a 14.10 gross-acre site in the CG-Commercial General Zoning District at the northeast corner of South White Road and Story Road (1070 S White road) (Mi Pueblo San José, Inc., Applicant / White Road Partners, LLC, Owner). SNI: East Valley/680 Communities. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends the Council uphold the appeal and overturn the Planning Commission's decision to deny the permit and not grant the Determination of Public Convenience or Necessity.  
CP11-017/ABC11-003 – District 5

**Deferred to June 21, 2011 for Staff to provide more outreach with the community.**

- **Open Forum**  
There were none.

- **Adjournment**  
The Council of the City of San José was adjourned at 8:34 p.m. in memory of Alejandra Maree Gonzales, whose vivacious approach to life and artistic expression inspired those around her, will be warmly remembered. (Campos)