



# CITY COUNCIL AGENDA

**AUGUST 23, 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**  
9:07 a.m. - Closed Session, Call to Order in Council Chambers  
**Absent Council Member: All Present.**  
  
1:35 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Member: All Present.**  
  
7:00 p.m. - Public Hearings, Council Chambers, City Hall  
**Absent Council Member: All Present.**
- **Invocation (District 7)**  
Reverend Dinh Do, St. Maria Goretti presented 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, with 11.3 deferred to September 27, 2011 in the Evening.
- **Closed Session Report**  
No Report.

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to Ishaan Singh for his life saving efforts. (Constant)  
(Rules Committee referral 08/10/11)  
**Heard in the Evening.**  
**Mayor Reed and Council Member Constant recognized and commended Ishaan Singh for his extraordinary life saving efforts.**
- 1.2 Presentation of a proclamation declaring August 26, 2011 as “Women’s Equality Day” in the City of San José. (Herrera)  
(Orders of the Day)  
**Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Pyle recognized August 26, 2011 as “Women’s Equality Day” in the City of San José.**

# 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. 28947 – Amending Section 2.08.2010 of Chapter 2.08 of Title 2 of the San José Municipal Code to reduce compensation of members of the Civil Service Commission and increase the compensation of the Presiding Officer of the Civil Service Commission.

**Ordinance No. 28947 was adopted.**

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

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

- (a) Rules and Open Government Committee Report of August 3, 2011. (Mayor)

**Approved.**

- 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. CONSENT CALENDAR

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### 2.7 Agreement for Airport Air Service Marketing Communications Consulting Services.

**Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute master consultant agreements with HoffmanLewis, Inc. and with Barnestorming Advertising to provide marketing and communications support services to Mineta San José International Airport for two-year terms beginning September 1, 2011, through August 31, 2013, in a total amount for each agreement not to exceed \$520,000, and the total expenditures for both agreements together not to exceed \$520,000.

**Resolution No. 75954 adopted.**

- (b) Direct staff to bring back a summary report of the activities and accomplishments related to these agreements to the Council in spring 2013, prior to Council's approval of exercising the first of up to two, one-year options to extend the terms of each agreement through August 31, 2015, in amounts not to exceed a total of \$260,000 per year for each agreement, for a total four-year contract amount for each agreement not to exceed \$1,040,000, and the total expenditures for both agreements together not to exceed \$1,040,000, subject to the annual appropriation of funds by the Council.

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

(Deferred from 6/21/11 – Item 2.8)

**Approved.**

### 2.8 Agreements with the United States Environmental Protection Agency for the Clean Creeks, Healthy Communities Project.

**Recommendation:**

- (a) Adopt a resolution repealing Resolution No. 75877 and authorizing the City Manager to negotiate and execute a grant agreement and an amendment to a grant agreement with the United States Environmental Protection Agency (EPA) to fund the *Clean Creeks, Healthy Communities Project (Project)* for the term of August 16, 2011 through June 30, 2015, with a grant to the City in the amount of \$680,000, at a cost to the City over the term of the Agreement of \$196,867.

**Resolution No. 75955 adopted.**

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.8 Agreements with the United States Environmental Protection Agency for the Clean Creeks, Healthy Communities Project (Cont'd.)

- (b) Adopt a resolution repealing Resolution No. 75878 and authorizing the City Manager to negotiate and execute (a) an agreement with the Downtown Streets Team, a non-profit 501(c)(3) corporation, for the term August 23, 2011 through August 22, 2012 with an option to extend the term through August 22, 2013, subject to the appropriation of additional funds by the City Council, to conduct trash and litter cleanup and provide homeless assistance services as part of the Project at a cost to the City not to exceed \$258,000 with an additional cost to the Downtown Streets Team of \$55,550; and (b) an amendment to the Memorandum of Agreement between the City of San Jose and the Santa Clara Valley Water District (District) for Trash Removal and Prevention for the District to include Project implementation activities and District payment to City of \$65,000 per year for two years (2011-12 and 2012-13) towards the Project.

**Resolution No. 75956 adopted.**

- (c) Adopt the following 2011-2012 Appropriation Ordinance and Funding Source Resolution amendments in the Integrated Waste Management Fund (423):
- (1) Increase the estimate for Earned Revenue by \$16,000.
  - (2) Increase the Unrestricted Ending Fund Balance by \$16,000.
  - (3) Decrease the appropriation to the Police Department for Personal Services for Large Encampment Cleanups by \$32,000.
  - (4) Establish an appropriation to the Environmental Services Department for Clean Creeks, Healthy Communities for \$32,000.

CEQA: Categorically Exempt, File No. PP11-044. Council Districts 3 and 5. SNI: Spartan Keyes, Tully/Senter, and Five Wounds/Brookwood Terrace (Environmental Services/City Manager's Office)

**Ordinance No. 28949 adopted.**

**Resolution No. 75957 adopted.**

### 2.9 Open Purchase Order No. 45524 with West Coast Arborists.

**Recommendation:** Authorize the Director of Finance to amend the existing Open Purchase Order 45524 with West Coast Arborists Inc. (Pleasanton, CA) to encumber an additional \$200,000 for a total amount not to exceed \$750,000 for continued Public Right-of-Way Tree Maintenance Services at various locations throughout the City, for the final option year term ending December 15, 2011. CEQA: Exempt, File No. PP07-213. (Finance)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.10 Issuance of Bonds, Loan of Bond Proceeds, and Related Documents for the Taylor Oaks Apartments.

**Recommendation:** Adopt a resolution:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds in two series designated as "City of San José Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011A-1 and Series 2011A-2, in the aggregate principal amount not to exceed \$7,000,000 and sale of the Bonds to Citigroup Global Markets by negotiated sale.
- (b) Approving a loan of bond proceeds to Taylor Oaks Apartments Investors, L.P., a California limited partnership, for financing a portion of the costs of acquiring and rehabilitating the Taylor Oaks Apartments located at 2726 – 2738 Kollmar Avenue in the City of San José.
- (c) Approving in substantially final form the following documents:
  - (1) Trust Indenture.
  - (2) Financing Agreement.
  - (3) Regulatory Agreement and Declaration of Restrictive Covenants.
  - (4) Intercreditor Agreement.
  - (5) Purchase Contract.
  - (6) Official Statement.
- (d) Authorizing the City Manager, Assistant Director of Finance, Director of Housing or their designees to execute and, as appropriate, negotiate, execute and deliver these bond documents and other related documents as necessary.

CEQA: Exempt, File No. PP11-022. (Finance/Housing)

**Item 2.10 was renumbered to Item 4.6. See Item 4.6 for Action.**

### 2.11 Spending Plan for the FY 2011 Edward Byrne Memorial Justice Assistance Grant.

**Recommendation:**

- (a) Approve the proposed 2011 JAG Spending Plan for the FY 2011 Edward Byrne Memorial Justice Assistance Grant (JAG).
- (b) Approve changes to the 2010 JAG Spending Plan.

**Approved.**

- (c) Adopt a resolution accepting the 2011 Justice Assistance Grant in the amount of \$354,370 and authorize the City Manager to negotiate and execute any documents required to effectuate the grant, including a Grant Agreement and the necessary Memorandum of Understanding with the County of Santa Clara.

**Resolution No. 75958 adopted.**

## 2. CONSENT CALENDAR

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### 2.11 Spending Plan for the FY 2011 Edward Byrne Memorial Justice Assistance Grant (Cont'd.)

- (d) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund:
- (1) Increase the estimate for Earned Revenue in the amount of \$262,442.
  - (2) Establish an appropriation to the Police Department for the 2011 Justice Assistance Grant in the amount of \$262,442.

CEQA: Not a Project, File No. PP10-066 (g.), Grant Agreements and MOUs. (Police/City Manager's Office)

**Ordinance No. 28950 adopted.**

**Resolution No. 75959 adopted.**

### 2.12 Internet Crimes Against Children Continuation Grant.

#### **Recommendation:**

- (a) Adopt a resolution accepting the FY 2011 Internet Crimes Against Children Continuation Grant in the amount of \$392,960 and authorize the City Manager to execute the Grant Agreement and all related documents.

**Resolution No. 75960 adopted.**

- (b) Adopt the following Appropriation Ordinance and the Funding Sources Resolution amendments in the General Fund:
- (1) Establish a city-wide appropriation to the Police Department for the FY 2011 Internet Crimes Against Children Continuation Grant in the amount of \$392,960.
  - (2) Increase the Earned Revenue Estimate from the Federal Government by \$392,960.

CEQA: Not a Project, File No. PP10-066(g.), Grant Agreements and MOUs. (Police/City Manager's Office)

**Ordinance No. 28951 adopted.**

**Resolution No. 75961 adopted.**

### 2.13 Americans with Disabilities Act Accessibility Ramps CDBG Project.

**Recommendation:** Report on bids and award of contract for the 2011 ADA Accessibility Ramps Community Development Block Grant (CDGB) Project to the low bidder, SpenCon Contractors, Inc. in the amount of \$476,931 and approval of a five percent contingency in the amount of \$23,846.55. CEQA: Exempt, File No. PP08-186. Council Districts 3, 5, 6, and 7. (Transportation)

**Approved.**

**Abstained: Liccardo.**

## 2. CONSENT CALENDAR

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### 2.14 Grant Agreements with Our City Forest.

**Recommendation:** Approve the following grant agreements with Our City Forest:

- (a) An Annual Operating Grant Agreement for 2011-2012, not to exceed \$148,878.
- (b) A Matching Grant Agreement in an amount not to exceed \$120,000 for Our City Forest to apply towards its local match required for an AmeriCorps Grant.

CEQA: File No. PP10-151. (Transportation)

**Approved.**

### 2.15 SB 931 (Vargas) – Public Employee Organizations.

**Recommendation:** As recommended by the Rules and Open Government Committee on August 17, 2011, approve an oppose position for SB 931 (Vargas) – Public Employee Organizations. (City Manager’s Office)

**Oppose Position for SB931 approved.**

### 2.16 AB 646 (Atkins) – Local Public Employee Organizations: Impasse Procedures.

**Recommendation:** As recommended by the Rules and Open Government Committee on August 17, 2011, approve an oppose position for AB 646 (Atkins) – Local Public Employee Organizations: Impasse Procedures. (City Manager’s Office)

**Oppose Position for AB646 approved.**

## 3. STRATEGIC SUPPORT SERVICES

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

**City Manager Debra Figone reported the City of San José will be hosting a delegation from Kabul Afghanistan for the “Kabul City Initiative” in an effort to help provide technical and material support to the municipality of Kabul.**

### 3.2 Labor Negotiations Update

**Recommendation:** Accept Labor Negotiations Update.

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

**Update Received.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 Public Hearing on the Sewer Service and Use Charges and Storm Sewer Services Charges.

**Recommendation:** Hold a public hearing on the Sewer Service and Use Charges and Storm Sewer Services Charges report filed by the Director of Finance with the City Clerk's Office and adopt a resolution to approve the placement of recommended charges on the 2011-2012 Santa Clara County assessment roll, with such modifications as the City Council may make based on public hearing testimony. CEQA: Not a Project, File No. PP10-069(a) City Organizational & Administrative Activities. (Finance)  
(Continued from 8/2/11 – Item 3.4)

**The Public Hearing was held.**

**Resolution No. 75962 adopted.**

**Staff directed to circulate an information memorandum to Council related to the calculation of fees.**

#### 3.4 2011 Redistricting Advisory Commission Report.

**Recommendation:**

- (a) Conduct a Public Hearing on the 2011 Redistricting Advisory Commission recommendations.

**Heard First in the Evening.**

**The Public Hearing was held.**

- (b) Accept the Redistricting Commission's report and recommendations dated May 31, 2011.

**Accepted.**

**Noes: Constant.**

- (c) Approve an ordinance establishing and declaring the Boundaries of the City Council Districts Using 2010 Federal Census Data as recommended by the Commission in its report and the Recommended Redistricting Plan, identified as "Plan B, dated May 23, 2011".

**Ordinance No. 28952 passed for publication.**

**Noes: Constant.**

- (d) Direct City staff to take the necessary steps to implement changes to Council District boundaries as soon as possible.

CEQA: Not a Project, File No. PP10-069, City administrative and organizational activities.  
(City Clerk)

**Approved.**

**Noes: Constant.**

### **3. STRATEGIC SUPPORT SERVICES**

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#### **3.5 Statement of Policy and City Council Questions Related to the Selection of a New Director of Department of Public Works.**

**Recommendation:** Adopt a Statement of Policy and City Council Questions related to the selection of a new Director of Department of Public Works as described in the memorandum to Council, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

**Statement of Policy and City Council Questions adopted.**

#### **3.6 Waiver of Revolving Door Restrictions**

**Recommendation:** Approve Waivers of the Revolving Door Restriction under Municipal Code Section 12.10.070 for:

- (a) Salvador C. Alvarez, former Redevelopment Agency employee, finding that such a waiver is in the best interest of the City.
- (b) Michael Moehle, former Retirement Services Department employee, finding that such a waiver is in the best interest of the City.

(Rules Committee referral 8/17/11)

**Approved.**

**Staff directed to return with a streamlined blanket proposal.**

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

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#### **4.1 Annexation/Reorganization of Downer No. 11.**

**Recommendation:** Conduct a Public Hearing and consider adoption of a resolution ordering the reorganization of territory designated as Downer No. 11 which involves the annexation to the City of San José of approximately 21.51 gross acres of land generally located west at the northwest corner of Blossom Hill Road and Southcrest Way, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. Council District 10. CEQA: The environmental impacts of this project were addressed by an Initial Study and Mitigated Negative Declaration that were prepared by the Director of Planning, Building, and Code Enforcement for both the approved General Plan Amendment (File No. GP10-01-01) and the Planned Development Rezoning/Rezoning (File No. PDC10-007). The documents were circulated for public review between October 14, 2010 and November 3, 2010, and the City Council approved the IS/MND on December 7, 2010. (Planning, Building and Code Enforcement)

(Continued from 8/16/11 – Item 4.1)

**The Public Hearing was Held.**

**Resolution No. 75963 adopted.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.2 Netflix Participation Agreement.

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute a Participation Agreement with Netflix that will provide funding to Netflix in an amount equal to 50% of the net new sales tax revenue received by the City from the Netflix operation in year one, 40% of the net new sales tax revenue received in year two, and 30% of the net new sales tax revenue received in year three, to be capped at a total of \$5,000,000 over three consecutive years. CEQA: Not a Project, File No. PP10-069(a), Participation Agreement. Council District 3. (Economic Development)

**Resolution No. 75964 adopted.**

**Staff directed to provide a report at the end of the third year.**

### 4.3 Acquisition of a Portion of Land Owned by North First Street Office Partners LLC Located at 3100 North First Street for the Montague Expressway Widening Improvement Project.

**Recommendation:** Adopt a resolution:

- (a) Determining that the public interest and necessity require the acquisition of a portion of land owned by North First Street Office Partners LLC located at 3100 North First Street, San José, California (APN Number 097-09-035; -036) comprising 6,756 square feet or 0.16 acre, together with a 12-month temporary construction easement over an adjacent portion of the subject parcel comprising 12,297.80 square feet or 0.28 acres.
- (b) Authorizing the City Attorney to file suit in eminent domain to acquire such property interests, to apply for an order for possession before judgment, and to prosecute the action to final judgment; and
- (c) Authorizing the deposit of money in court for possession of the property from the funds lawfully available.

CEQA: Resolution No. 75696, dated January 11, 2011. Council District 4. (OED)

*Note: Approval of Items 4.3, 4.4 and 4.5 requires 8 or more affirmative votes (2/3).*

**Resolution No. 75965 adopted.**

### 4.4 Acquisition of a Portion of Land Owned by FortuneFirst, LLC Located at 3101 North First Street for the Montague Expressway Widening Improvement Project.

**Recommendation:** Adopt a resolution:

- (a) Determining that the public interest and necessity require the acquisition of a portion of land owned by FortuneFirst LLC located at 3101 North First Street, San José, California (APN Number 097-06-054) comprising 1,422.81 square feet.
- (b) Authorizing the City Attorney to file suit in eminent domain to acquire such property interests, to apply for an order for possession before judgment, and to prosecute the action to final judgment; and
- (c) Authorizing the deposit of money in court for possession of the property from the funds lawfully available.

CEQA: Resolution No. 75696, dated January 11, 2011. Council District 4. (OED)

**Resolution No. 75966 adopted.**

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

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### **4.5 Acquisition of a Portion of Land Owned by Conejo Valley Located at 3137/3141/3151 Zanker Road for the Montague Expressway Widening Improvement Project.**

**Recommendation:** Adopt a resolution:

- (a) Determining that the public interest and necessity require the acquisition of a portion of land owned by Conejo Valley Development Corporation California, a California corporation located at 3137/3141/3151 Zanker Road, San José, CA (APN Number 097-09-023) comprising 3, 227.16 square feet or 0.07 acre.
- (b) Authorizing the City Attorney to file suit in eminent domain to acquire such property interests, to apply for an order for possession before judgment, and to prosecute the action to final judgment; and
- (c) Authorizing the deposit of money in court for possession of the property from the funds lawfully available.

CEQA: Resolution No. 75696, dated January 11, 2011. Council District 4. (OED)

**Resolution No. 75967 adopted.**

### **4.6 Issuance of Bonds, Loan of Bond Proceeds, and Related Documents for the Taylor Oaks Apartments.**

**Recommendation:** Adopt a resolution:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds in two series designated as "City of San José Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011A-1 and Series 2011A-2, in the aggregate principal amount not to exceed \$7,000,000 and sale of the Bonds to Citigroup Global Markets by negotiated sale;
- (b) Approving a loan of bond proceeds to Taylor Oaks Apartments Investors, L.P., a California limited partnership, for financing a portion of the costs of acquiring and rehabilitating the Taylor Oaks Apartments located at 2726 – 2738 Kollmar Avenue in the City of San José;
- (c) Approving in substantially final form the following documents:
  - (1) Trust Indenture.
  - (2) Financing Agreement.
  - (3) Regulatory Agreement and Declaration of Restrictive Covenants.
  - (4) Intercreditor Agreement.
  - (5) Purchase Contract.
  - (6) Official Statement.
- (d) Authorizing the City Manager, Assistant Director of Finance, Director of Housing or their designees to execute and, as appropriate, negotiate, execute and deliver these bond documents and other related documents as necessary.

CEQA: Exempt, File No. PP11-022. (Finance/Housing)

**Item 4.6 renumbered from Item 2.10.**

**Resolution No. 75968 adopted.**

## **5. NEIGHBORHOOD SERVICES**

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## **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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### **9.1 Enforceable Obligation Schedule.**

**Recommendation:** Adopt resolutions by the City Council and Redevelopment Agency Board adopting the Enforceable Obligation Payment Schedule detailing the obligations of the Redevelopment Agency and the City of San Jose related to the Low and Moderate Income Housing Fund, in order to comply with the provisions of Section 34169 of the Health and Safety Code. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (City Manager's Office/Redevelopment Agency)

**Resolution No. 75969 adopted.**

**Redevelopment Agency Resolution No. 6029 adopted.**

- **Open Forum**

- (1) **Barbara Santos-George expressed concern about high rental fees for the senior boutiques at the community centers.**
- (2) **Richard McCoy, United Veterans Council of Santa Clara County, presented an invitation to the Annual Veterans Day Parade being held on September 11, 2011 at 11:00 a.m. at Cesar Chavez Plaza.**
- (3) **Mark Trout voiced apprehensions about forced vaccinations.**

- **Adjournment**

**The Council of the City of San José adjourned the afternoon session at 2:59 p.m. and reconvened to Closed Session at 3:00 p.m.**

## 10. GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearings at this time.

## 11. PUBLIC HEARINGS

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### 11.1 Public Hearings on Consent Calendar.

No Public Hearing on Consent Calendar at this time.

### 11.2 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

(Continued from 5/17/11 – Item 11.3 and 6/14/11 – Item 11.2)

**The memorandum from Mayor Reed and Council Member Chu, dated August 18, 2011, was approved. The appeal of the Planning Commission decision to deny the permit was approved and the offsale of alcohol as an allowable use based upon a determination of public convenience and necessity was approved.**

**Resolution No. 75970 adopted to uphold the appeal.**

**Noes: Herrera, Liccardo, Oliverio, Rocha.**

### 11.3 Rezoning Real Property Located at the Northwest Corner of Jackson Street and North 19<sup>th</sup> Street.

**Recommendation:** Consideration of an ordinance rezoning the real property located at the northwest corner of Jackson Street and North 19<sup>th</sup> Street (897 Jackson Street) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow the addition of a 2-story, accessory structure (consisting of a home office over a 2 car garage) to be constructed without a driveway adjacent to the North 19<sup>th</sup> Street property line on a .29 gross acre site currently zoned for single-family, duplex and bed and breakfast uses (Eric Thacker Trustee, et al., Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommends denial (4-0-2; Commissioner Cahan and Platten absent).

PDC10-027 – District 3

**Deferred to September 27, 2011 evening per Orders of the Day.**

## 11. PUBLIC HEARINGS

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### 11.4 Rezoning Real Property Located at the Northeast Corner of North Capitol Avenue and Sierra Road.

**Recommendation:** Consideration of an ordinance rezoning the real property located at the northeast corner of North Capitol Avenue and Sierra Road (1328 North Capitol Avenue) from the R-1-8 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow for the development of up to 96 multi-family residential units on a 4.30 gross acre site (Orlando William Jr Trustee & Et Al, Owner). CEQA: Mitigated Negative Declaration. The Planning Commission voted 4-3-0 (Commissioners Jensen, Cahan, and Kamkar opposed) to recommend that the Council approve the Planned Development Zoning as requested by the applicant. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (4-3-0).

PDC10-025 – District 4

- (1) **The memorandum from Council Member Chu, dated August 18, 2011, was approved. The Planning Commission recommendation was approved, with the inclusion of development standards as presented by developers at the June 22, 2011 meeting.**
- (2) **As part of the proposed project, the developer was directed to:**
  - (a) **Increase the height of the fence on the northwestern boundary to 8 feet.**
  - (b) **Work with adjacent homeowners to provide input on the landscaping plan to address and ensure privacy concerns are met.**
- (3) **The supplemental memorandum from the Planning Commission, dated August 16, 2011, was approved, clarifying the motion made by the Planning Commission in regard to the project at the June 22, 2011 meeting.**

**Ordinance No. 28953 passed for publication, as amended.**

### 11.5 Establish Land Use Regulations for Bail Bond Establishments.

**Recommendation:** Consideration of ordinance of the City of San José amending Title 20 of the San José Municipal Code to amend Section 20.40.100 of Chapter 20.40 (Commercial Zoning District), to add a new Part 1.5 to Chapter 20.80 (Specific Use Regulations), and to add a new Section 20.200.114 to Chapter 20.200 (Definitions), all to establish land use regulations pertaining to bail bonds establishments. CEQA: Reuse of San José 2020 General Plan Environmental Impact Report, Resolution No. 65459, File No. PP11-063.

Citywide

**The memorandum from Council Members Chu, Liccardo, Herrera and Pyle, dated August 16, 2011, was approved, as amended:**

- (1) **Require a 200 foot (instead of 300 foot) distance between any new bail businesses and property zoned for residential uses, public parks, K-12 public and private schools.**
- (2) **Remove the ground floor restrictions.**

**Ordinance No. 28954 passed for publication, as amended.**

**Noes: Campos, Constant, Nguyen, Rocha.**

- **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> |
|--------------|--|-------------------------|---|---------------------|-------------|--------------------------|
| 10089        | NW Corner of Olin Avenue and Hatton Street (Santana Row) | 6                       | Frit San Jose Town & Country Village, LLC | 1 Lot/<br>108 Units | MFA         | Approve                  |

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> |
|--------------|---|-------------------------|---|----------------------|-------------|
| 10086        | W Side of North 1 <sup>st</sup> Street approximately 450 feet southerly of Rio Robles | 4                       | Wyse Technology Investments, Inc.         | 3 Lots/<br>271 Units | MFA         |
| 10089        | NW Corner of Olin Avenue and Hatton Street (Santana Row)                              | 6                       | Frit San Jose Town & Country Village, LLC | 1 Lot/<br>108 Units  | MFA         |

- **Open Forum**  
**There were none.**

- **Adjournment**  
**The Council of the City of San José was adjourned at 10:29 p.m.**