



CITY COUNCIL AGENDA

SEPTEMBER 20, 2011

SYNOPSIS

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:03 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.

1:31 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Nguyen. (Excused - 2:38 p.m.)
- **Invocation (District 8)**
Evergreen Singers singing “Peace on Earth” 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.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to Rolanda Pierre-Dixon for her 30 years of service in the Santa Clara County District Attorney’s Office working to end domestic violence and her role as a founding member of the City’s Family/Domestic Violence Advisory Board. (Constant/Pyle)
Mayor Reed and Council Members Constant, Pyle and Liccardo recognized and commended Rolanda Pierre-Dixon for her 30 years of service in the Santa Clara County District Attorney’s Office

1. CEREMONIAL ITEMS

- 1.2 Presentation of a proclamation declaring the week of September 18-24, 2011 as “Geek Week” in the City of San José. (Herrera)
Mayor Reed and Council Member Herrera recognized the week of September 18 through 24, 2011 as “Geek Week” in the City of San José.
- 1.3 Presentation of a proclamation declaring the month of September 2011 as “World Alzheimer’s Month” in the City of San José. (Herrera/Constant)
(Rules Committee referral 9/14/11)
Mayor Reed and Council Members Herrera and Constant recognized the month of September 2011 as “World Alzheimer’s Month” in the City of San José.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none.
- 2.2 **Final adoption of ordinances.**
There were none.
- 2.3 **Approval of Council Committee Reports.**
Recommendation: Approval of Council Committee Reports.
(a) Rules and Open Government Committee Report of September 7, 2011. (Mayor)
(c) The Rules and Open Government Committee Report of August 17, 2011. (Mayor)
(d) The Public Safety, Finance and Strategic Support Committee Report of August 18, 2011. (Constant)
(e) The Rules and Open Government Committee Report of August 10, 2011. (Mayor)
Approved.

(b) Neighborhood Services and Education Committee Report of September 8, 2011.
(Pyle)
Deferred to September 27, 2011 per City Clerk.
- 2.4 **Mayor and Council Excused Absence Requests.**
There were none.
- 2.5 **City Council Travel Reports.**
Council Member Constant reported on the 2011 Annual California Association of Local Agency Formation Commissions (CALAFCO) Conference in Napa, California that he attended recently.
- 2.6 **Report from the Council Liaison to the Retirement Boards.**
There were none.

2. CONSENT CALENDAR

2.7 Appropriation Ordinance and Funding Sources Resolution Amendments in Various Funds to Rebudget Funds to 2011-2012 to Complete Projects.

Recommendation:

(a) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #7 (Fund 385):

- (1) Increase the Beginning Fund Balance by \$291,000.
- (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$291,000.

Ordinance No. 28961 adopted.

Resolution No. 75989 adopted.

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #9 (Fund 388):

- (1) Increase the Beginning Fund Balance by \$237,000.
- (2) Increase the Paul Moore Park Playground Renovation appropriation to the Parks, Recreation, and Neighborhood Services Department by \$237,000.

Ordinance No. 28962 adopted.

Resolution No. 75990 adopted.

(c) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #6 (Fund 384):

- (1) Increase the Beginning Fund Balance by \$200,000.
- (2) Increase the Bascom Community Center – Multi-Service appropriation to the Parks, Recreation, and Neighborhood Services Department by \$200,000.

Ordinance No. 28963 adopted.

Resolution No. 75991 adopted.

(d) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Parks and Recreation Bond Projects Fund (Fund 471):

- (1) Increase the Beginning Fund Balance by \$160,000.
- (2) Increase the Bascom Community Center – Multi-Service appropriation to the Parks, Recreation, and Neighborhood Services Department by \$160,000.

Ordinance No. 28964 adopted.

Resolution No. 75992 adopted.

2. CONSENT CALENDAR

2.7 Appropriation Ordinance and Funding Sources Resolution Amendments in Various Funds to Rebudget Funds to 2011-2012 to Complete Projects. (Cont'd.)

(e) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):

- (1) Increase the Beginning Fund Balance by \$122,000.
- (2) Increase the Japanese Friendship Garden Koi Fish Filtration System appropriation to the Parks, Recreation, and Neighborhood Services Department by \$122,000.

Ordinance No. 28965 adopted.

Resolution No. 75993 adopted.

(f) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund (Fund 375):

- (1) Increase the Beginning Fund Balance by \$99,000.
- (2) Increase the Seven Trees Community Center – Multi-Service appropriation to the Parks, Recreation, and Neighborhood Services Department by \$99,000.

Ordinance No. 28966 adopted.

Resolution No. 75994 adopted.

(g) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Branch Libraries Bond Projects Fund (Fund 472):

- (1) Increase the Beginning Fund Balance by \$55,000.
- (2) Increase the Seven Trees Branch appropriation to the Library Department by \$55,000.

CEQA: Not a Project, File No. PP10-067(a), appropriation ordinance. (City Manager's Office)

Ordinance No. 28967 adopted.

Resolution No. 75995 adopted.

2.8 Agreement with the Santa Clara Valley Water District for Operation and Maintenance of Recreational Facilities at Almaden Lake Park.

Recommendation: Approve a Joint Use Agreement with the Santa Clara Valley Water District for operation and maintenance of recreational facilities at Almaden Lake Park for a term of 25 years. CEQA: Not a Project, File No. PP10-066(g), memorandum of understanding. Council District 10. (Parks, Recreation and Neighborhood Services)

Approved.

2. CONSENT CALENDAR

2.9 Anti-Graffiti/Anti-Litter Program Status Update.

Recommendation: As referred by the Neighborhood Services and Education Committee on September 8, 2011, accept the report on the status of the City's Anti-Graffiti and Litter Program (AGLP). (Parks, Recreation and Neighborhood Services)

Accepted, with Staff directed to return to the Neighborhood Services and Education Committee on December 8, 2011 with a mid year status report.

2.10 Report on Key Legislative Items.

Recommendation: As referred by the Neighborhood Services and Education Committee on September 8, 2011, accept the report concerning pending State legislation in the Neighborhood Services City Service Area. (City Manager's Office)

Accepted.

2.11 Youth Job Fair.

Recommendation:

- (a) Approve the Youth Job Fair as a City Council sponsored Special Event.
- (b) Approve and accept in-kind donations from businesses to support the event.

CEQA: Not a Project. (City Clerk)
(Rules Committee referral 9/14/11)

Approved.

2.12 Santa Clara County Cities Association Medicinal Marijuana Resolution.

Recommendation: Adopt a resolution, joining with the Santa Clara Cities Association and other local cities, calling for consistent federal and state regulation of medicinal marijuana, including re-classifying the drug within the schedule set forth in § 812 of the Federal Controlled Substances Act.

(Rules Committee referral 9/14/11)

Resolution No. 75996 adopted.

2.13 2011 League of California Cities Resolutions.

Recommendation: As recommended by the Rules and Open Government Committee on September 14, 2011, approve the recommended City positions for six resolutions to be considered at the Annual League of California Cities (LOCC) Conference to be held in San Francisco on September 21-23, 2011. (City Manager's Office)

Approved.

Noes: Kalra.

2. CONSENT CALENDAR

2.14 District 3 Saint James Park Movie Night.

Recommendation: As recommended by the Rules and Open Government Committee on September 14, 2011:

- (a) Approve the District 3 Saint James Park Movie Night 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

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

City Manager Debra Figone presented highlights on the 97th International City Managers' Association (ICMA) and commended Chief of Police Christopher Moore and the San José Police Department Team for their outstanding efforts this past weekend.

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

Heard at 9:00 a.m.

Accepted.

3.3 Agreement with Magellan Health Services for the Employee Assistance Program, Critical Incident Stress Management and Substance Abuse Treatment.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the City and Magellan Health Services of California, Inc. Employer Services for the period of January 1, 2012, through December 31, 2016, for Employee Assistance Program, Critical Incident Stress Management and Substance Abuse Treatment for a total cost that will not exceed \$3,251,140 for the period of January 1, 2012 to December 31, 2016. CEQA: Not a Project, File PP10-066(e), services that involve no physical changes to the environment. (Human Resources)

Deferred to 09/27/11 per Administration.

3. STRATEGIC SUPPORT SERVICES

3.4 Declaration of Fiscal and Service Level Emergency.

Recommendation:

- (a) Discussion and consideration of declaration of a Fiscal and Service Level Emergency. CEQA: Not a Project, File No. PP10-068(b), General Procedure and Policy Making, Municipal Code Title 3.

Deferred until after October 31, 2011.

- (b) Status Report on the 2012-2013 General Fund budget, fiscal condition, projected increases in pension costs, and impacts on service delivery.

Status Report Received. No Council Action.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Ordinance to Codify City's Development Agreement Regulations.

Recommendation: Approve an ordinance to amend Title 18 (Local Planning) of the San Jose Municipal Code to add a new Chapter 18.02 to codify existing regulations of the City pertaining to the consideration of development agreements. CEQA: Not A Project, File No. PP10-068(c), Municipal Code changes involving no changes to the physical environment. Citywide. (City Attorney's Office)

Deferred to October 18, 2011.

4.2 Public Hearing and Approval of the FY 2010-2011 Consolidated Annual Performance Evaluation Report.

Recommendation:

- (a) Hold a public hearing regarding the approval of the FY 2010-2011 Consolidated Annual Performance Evaluation Report.
- (b) Approve the FY 2010-2011 Consolidated Annual Performance Evaluation Report, as amended.

CEQA: Not a Project, File No. PP10-069, Annual Report. (Housing)

The public hearing was held.

Report approved.

4.3 Habitat Conservation Plan.

Recommendation:

- (a) Discuss refinements to the draft Habitat Conservation Plan and alignment to the June 2011 Budget Message.
- (b) Refer questions and concerns to staff for response.
- (c) Continue the discussion to September 27, 2011 for action.

CEQA: Not a Project, File No. PP10-069. (Planning, Building and Code Enforcement)

Continued to September 27, 2011, with Staff directed to return with project examples.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Public Hearing and Special Election on the Community Facilities District No. 14, Raleigh-Charlotte.

Recommendation: Hold a public hearing; conduct a special election; and take the following actions related to the formation of Community Facilities District No. 14 (Raleigh-Charlotte):

The public hearing was held.

- (a) Adopt a resolution for each of the following items to:
 - (1) Establish Community Facilities District No. 14 and authorize the levy of a special tax.
Resolution No. 75997 adopted.
 - (2) Declare the results of the special election; and if approved, direct the recording of the notice of the special tax lien for Community Facilities District No. 14.
Resolution No. 75998 adopted.

If approved by voters:

- (b) Adopt an ordinance imposing the levy of special taxes for Community Facilities District No. 14 (Raleigh-Charlotte).
Ordinance No. 28968 adopted.
- (c) Establish a new fund for Community Facilities District No. 14 (Raleigh-Charlotte).
Approved.
- (d) Adopt the following Appropriation Ordinance and Funding Source Resolution amendments in the Community Facilities District No. 14 (Raleigh-Charlotte) Fund:
 - (1) Establish an estimate for Earned Revenue in the amount of \$476,365.
 - (2) Establish a Personal Services appropriation for the Department of Parks, Recreation and Neighborhood Services in the amount of \$15,476.
 - (3) Establish a Non-Personal/Equipment appropriation for the Department of Parks, Recreation and Neighborhood Services in the amount of \$192,234.
 - (4) Establish a Personal Services appropriation for the Department of Transportation in the amount of \$9,191.
 - (5) Establish a Non-Personal/Equipment appropriation for the Department of Transportation in the amount of \$67,581.
 - (6) Establish an overhead appropriation to the Department of Finance in the amount of \$6,770.
 - (7) Establish an Ending Fund Balance in the amount of \$185,113.

CEQA: Resolution No. 72772, Hitachi Mixed Use Project Fund EIR. Council District 2. (Public Works/City Manager's Office)

Heard before Item 4.3.

Ordinance No. 28969 adopted.

Resolution No. 75999 adopted.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**
 - (1) **David Wall suggested various ways for revenue enhancement, including changing the image change of San José to the Valley of Hearts Delight and growing food locally.**
 - (2) **Mark Granda requested that the Council keep Lake Cunningham Skate Park minimally staffed or to provide a volunteer program to help keep the park clean.**

- **Adjournment**

The Council of the City of San José was adjourned at 5:55 p.m.

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
FINANCING AUTHORITY AGENDA**

1:30 P.M.

TUESDAY, SEPTEMBER 20, 2011

CHAMBERS

- 1. Call to Order and Roll Call**
- 2. Actions Related to the Request for Proposals for a Power Purchase Agreement for Solar Energy Installations on City Facilities and Lands.**

Recommendation:

- (a) It is recommended that the City Council take the following actions:
 - (1) Accept the report on the Request for Proposals for a Power Purchase Agreement for Solar Energy Installations on City Facilities and Lands; and
 - (2) Adopt a resolution approving a form Power Purchase Agreement and authorizing the City Manager or the Director of Finance to execute Power Purchase Agreements in such form and all related documents with SolarCity Corporation by December 31, 2012, for the following City facilities and subject to the limitations outlined in the staff memorandum to the Council.
 - (a) Almaden Community Center and Library
 - (b) Alum Rock Library
 - (c) Bascom Community Center/Library
 - (d) Berryessa Community Center
 - (e) Berryessa Library
 - (f) Cambrian Library
 - (g) Camden Community Center
 - (h) East San Jose Carnegie Library
 - (i) Edenvale Community Center
 - (j) Edenvale Library
 - (k) Evergreen Library
 - (l) Evergreen Community Center
 - (m) Hillview Library
 - (n) Joyce Ellington Library
 - (o) Kelley Park (Senter Road Lot)
 - (p) Mayfair Community Center
 - (q) Municipal Water Office
 - (r) Pal Sports Centre

(Item continued on the next page)

JOINT COUNCIL/SAN JOSÉ FINANCING AUTHORITY

2. Actions Related to the Request for Proposals for a Power Purchase Agreement for Solar Energy Installations on City Facilities and Lands. (Cont'd.)

- (a) (2) (s) Pearl Library
- (t) Prusch Park
- (u) Roosevelt Community Center
- (v) Santa Teresa Library
- (w) Seven Trees Community Center/ Library
- (x) South Service Yard
- (y) Tully Library
- (z) Vineland Library
- (aa) Willow Glen Community Center
- (bb) Willow Glen Library
- (b) Adopt a resolution authorizing the Director of Finance or designee to negotiate and execute, by June 30, 2013, additional Power Purchase Agreements with SolarCity Corporation at alternative or additional City facilities in the form approved by Council and subject to the limitations (cash flow positive, private activity analysis, financing and landlord consent, parkland and CEQA clearance) outlined in this staff memorandum to Council.
- (c) It is recommended that the City of San José Financing Authority Board take the following actions:
 - (1) Adopt a resolution to authorize the Executive Director or the Executive Director's authorized designee to consent to the license or sublicense of Evergreen Library, Edenvale Library and Vineland Library and other City facilities that are pledged assets of outstanding City of San José Financing Authority lease revenue bonds or commercial paper program to SolarCity Corporation for the installation of solar photovoltaic systems and to execute a letter acknowledging SolarCity Corporation's ownership and financing interests in the solar photovoltaic systems, subject to the requirements of the applicable governing documents.

CEQA: Exempt, Files No. PP11-064, PP11-065, PP11-066, PP11-067, PP11-068, PP11-069, PP11-070, PP11-071, PP11-072, PP11-073, PP11-074, PP11-075, and PP11-079.
(Environmental Services/Finance)

Deferred to 09/27/11 per Administration.