

CITY COUNCIL AGENDA

OCTOBER 4, 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**
8:37 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Constant (excused)
1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Constant (excused)
- **Invocation (District 9)**
Branham High School Choir, Directed by Barbara West, performed a choral arrangement.
- **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 Ceremonial Item 1.5 added, and Item 7.1 deferred to 10/25/11.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring the Month of October 2011 as “Cybersecurity Awareness Month” in the City of San José. (Constant)
Mayor Reed recognized the Month of October 2011 as “Cybersecurity Awareness Month” in the City of San José.
- 1.2 Presentation of a commendation to the First Tee of San José and Fry’s Electronics in recognition and appreciation of their service and commitment to the children of the City of San José for hosting the PGA TOUR Community Day as part of the Frys.com Open week. (Campos)
Mayor Reed and Council Member Campos commended the First Tee of San José and Fry’s Electronics in recognition and appreciation of their service and commitment to the children of the City of San José for hosting the PGA TOUR Community Day.
- 1.3 Presentation of a proclamation declaring October 6, 2011 as “Disability Awareness Day” in the City of San José. (Constant)
Mayor Reed and Council Member Pyle recognized October 6, 2011 as “Disability Awareness Day” in the City of San José.
- 1.4 Presentation of a proclamation declaring October 4, 2011 as “Food Allergy Awareness Day” in the City of San José. (Herrera)
Mayor Reed and Council Member Herrera recognized October 4, 2011 as “Food Allergy Awareness Day” in the City of San José.
- 1.5 Presentation of a commendation to Cain Velasquez, Javier Mendez, and The American Kickboxing Academy for their excellence in the field of professional and recreational mixed martial arts training, health, and fitness education, and for their role in making San José the capital of mixed martial arts in the United States. (Kalra)
Mayor Reed and Council Member Kalra recognized Cain Velasquez, Javier Mendez, and The American Kickboxing Academy for their excellence in the field of professional and recreational mixed martial arts training, health, and fitness education, and for their role in making San José the capital of mixed martial arts in the United States.

2. CONSENT CALENDAR

- 2.1 Approval of Minutes.
None.
- 2.2 Final Adoption of Ordinances.
None.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of September 14, 2011. (Mayor)
- (b) Public Safety, Finance and Strategic Support Committee Report of September 15, 2011. (Constant)
- (c) Transportation and Environment Committee Report of September 12, 2011. (Liccardo)

Approved.

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 Settlement in *Murrel v. City of San Jose, et al.*

Recommendation: Approve settlement in the case of Dawn *Murrel v. City of San Jose, et al.*, and authorize the City Attorney to execute a Settlement Agreement and Release with Dawn Murrel in the amount of \$137,500. CEQA: Not a Project; File No. PP10-066h, Settlement Agreements. (City Attorney's Office)

Approved.

2.8 Actions Related to the 2011-2012 DUI Enforcement and Awareness Program.

Recommendation: Approve the following actions:

- (a) Adopt a resolution to accept the State of California, Office of Traffic Safety 2011-2012 DUI Enforcement and Awareness Program grant in the amount of \$375,000 and authorize the City Manager to execute the related grant agreement and any additional amendments and related documents without further Council action.

Resolution No. 76017 adopted.

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund for Fiscal Year 2011-2012:
 - (1) Establish a City-wide appropriation to the Police Department for the 2011-2012 DUI Enforcement and Awareness Program grant in the amount of \$375,000; and
 - (2) Increase the Revenue Estimate from the State of California by \$375,000.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Police/City Manager's Office)

Ordinance No. 28976 adopted.

Resolution No. 76018 adopted.

2. CONSENT CALENDAR

2.9 Master Agreement with West Yost & Associates, Inc., for Engineering Consultant Services.

Recommendation: Approve a master agreement with West Yost & Associates, Inc., for engineering consultant services for various sanitary and/or storm sewer projects from the date of execution to June 30, 2014, in an amount not to exceed \$500,000. CEQA: Not a Project, File No. PP10-066(d), Consultant services that will have no effect on the environment. (Public Works)

Approved.

2.10 Actions Related to Councilmember Constant's Travel to Suwon City, Korea.

Recommendation:

- (a) Approve travel by Councilmember Constant to Suwon City, Korea on October 4-9, 2011 for the 48th Annual Suwon Hwaseong Cultural Festival as the City's designated representative. Source of Funds: Government of Suwon City, Korea. (Constant)
- (b) Request for an excused absence for Councilmember Constant from the Closed Session and Regular Meetings of the City Council on October 4, 2011 due to Authorized City Business: Travel to Suwon City, Korea to act as the City's designee to promote economic and cultural ties between the cities of San José and Suwon and to represent San José at the 48th Suwon Hwaseong Cultural Festival. (Constant)

(Rules Committee referral 9/28/11)

Approved.

2.11 Reappointments to the San José Arena Authority Board.

Recommendation: As recommended by the Rules and Open Government Committee on September 28, 2011, approve the reappointments of Robert Coelho, Bob Leininger, Dan Orloff, and John Veargason to the San José Arena Authority Board. (Mayor)
[Rules Committee referral 9/28/11 – Item G(1)(a)]

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 **Report of the City Manager, Debra Figone (Verbal Report)**
None.

3.2 **Labor Negotiations Update**

Recommendation: Accept Labor Negotiations Update.

Accepted, with Staff directed to set a date for a study session for the purpose of providing the City Council with an analysis of the pension reform proposal received from the City's bargaining units.

3.3 **Appeals Hearing Board Interviews.**

Recommendation:

- (a) Interview applicants for appointment to the Appeals Hearing Board;
- (b) Appoint one member to the Appeals Hearing Board to an unexpired term ending December 31, 2013;
- (c) Appoint two members to the Appeals Hearing Board to full three year terms expiring December 31, 2014; and
- (d) If any vacancies remain, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90 days.

(City Clerk)

Rajwant Bains was appointed to the Appeals Hearing Board to an unexpired term ending December 31, 2013, and William Murphy and Edgar "David" Parker were appointed to full three year terms expiring December 31, 2014.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 **Agreement with the Housing Trust of Santa Clara County for the Neighborhood Stabilization Program.**

Recommendation: Adopt a resolution authorizing the City Manager or designee to:

- (a) Negotiate and execute a first amendment to the Consortium Funding Agreement with The Housing Trust of Santa Clara County under the Neighborhood Stabilization Program 2 (NSP2) to modify the Reporting and Payment Procedures section of the Agreement to authorize the capitalization of interest on NSP2 construction loans made for rental projects to be deemed as an approved use of Program Income; and
- (b) Negotiate and execute any future amendment to the Consortium Funding Agreement for City staffing changes or for reallocation of funds between the Consortium Funding Agreement's specific activity or strategy allocations.

CEQA: Exempt, File No. PP10-166, Agreements/Contracts. (Housing)

Resolution No. 76019 adopted.

Abstain: Kalra.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Funding for Destination: Home Case Managers and the Continuation of the Downtown Homeless Outreach Program.

Recommendation: Adopt a resolution:

- (a) Approving and authorizing the Director of Housing to negotiate and execute documents for a grant of up to \$300,000 to the Health Trust (the fiscal sponsor of Destination: Home) to cover the costs associated with three case managers who will provide intensive case management services to chronically homeless households; and
- (b) Approving and authorizing the Director of Housing to negotiate and execute documents for a grant of up to \$170,000 to EHC Lifebuilders for the implementation of the San José Downtown Homeless Outreach and Shelter program.

CEQA: Not a Project, File No. PP10-066, Agreements/Contracts. (Housing)

Resolution No. 76020 adopted.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 City of San José Community Choice Aggregation Initial Feasibility Study and Recommendations Results.

Recommendation: As recommended by the Transportation and Environment Committee on September 12, 2011, accept the report recommending that the City not proceed with further Community Choice Aggregation efforts at this time, but instead, to continue to monitor Community choice Aggregation efforts and return with possible recommendations for a work plan should the key uncertainties and benefits change. Continue to expand and continue collaboration with the California Public Utilities Commission, PG&E, and other stakeholders for the identification and implementation of activities that support the City's achievement of the Green Vision Goal of receiving 100% of its electricity from clean, renewable resources by 2022. Specific opportunities identified include development and/or expansions of Smart Grid, Direct Access and Feed-in-Tariff programs as a means of achieving increased energy renewable sources and economic development programs. CEQA: Not a Project, File No. PP10-069(a), Staff reports that involves no approval of any City actions. (Environmental Services) [Transportation and Environment Committee referral 9/12/11 – Item D(4)]
Deferred to 10/25/11 per Orders of the Day.

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 Post-Construction Urban Runoff Management Policy and Related Municipal Code Changes.

Recommendation: As recommended by the Transportation and Environment Committee on September 12, 2011, accept the report and:

- (a) Adopt a resolution approving revisions to City Council Policy 6-29: Post-Construction Urban Runoff Management, to bring the Policy into conformance with the requirements of the San Francisco Bay Regional Water Quality Control Board.

Resolution No. 76021 adopted.

- (b) Approve a Director initiated ordinance amending Sections 20.95.020, 20.95.110 and 20.95.120 of Chapter 20.25 of Title 20 of the San José Municipal Code to require certain projects, which are defined as uncovered parking areas, restaurants, auto service facilities and retail gasoline outlet projects that create or replace 5,000 square feet or more of impervious surface area to:
- (1) Use site design and source control measures and numerically-sized Low Impact Development stormwater treatment measures;
 - (2) Require property owners to keep an inspection and maintenance schedule on the project site for all stormwater treatment measures installed pursuant to Policy 6-29 and to make such schedule available to City representatives on demand; and
 - (3) Prohibit alteration, removal or failure to maintain stormwater treatment measures without approval of an Adjustment to a Development Permit.

CEQA: Categorically Exempt, Section 15308, Actions by Regulatory Agencies for Protection of the Environment. (Planning, Building and Code Enforcement)
[Transportation and Environment Committee referral 9/12/11 – Item D(5)]

Ordinance No. 28977 passed for publication.

8. PUBLIC SAFETY SERVICES

8.1 Ordinance Amending Title 16, Gaming Control.

Recommendation: Approve an ordinance amending Chapters 16.06, 16.30, 16.32 and 16.33 of Title 16 of the San José Municipal Code to: provide for review and approval of administrative regulations by the Chief of Police; require the Chief of Police to issue a City Key Employee License for All Key Employee Positions that are licensable by the California Gambling Control Commission; rename the Cardroom Table Fee the Cardroom Regulation Fee; provide a Cardroom License applicant with written explanation of the reasons for delay and an estimated date for completion for a licensing investigation that takes longer than 180 days to complete with 2 month updates until the application is granted, withdrawn or denied; require the Administrator to issue a

(Item Continued on the next page)

8. PUBLIC SAFETY SERVICES

8.1 Ordinance Amending Title 16, Gaming Control (Cont'd.)

Temporary Key employee License to each applicant who is issued an Interim State Key Employee License; provide notice and an opportunity for an Administrative Review Hearing prior to revocation of a Temporary Key Employee License; make certain City Key Employee Licenses retroactive to the date that the California Gambling Control Commission issues a State key Employee License; and making conforming and technical amendments. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy (City Attorney's Office)

Dropped per Administration. Referred to the Public Safety, Finance and Strategic Support Committee.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Item 8.1 "Adoption of resolutions approving the revised FY 2011-12 Capital and Operating Budgets and corresponding Revenue and Appropriations Resolutions" on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.

- **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 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>
10057	W/S Cadwallader 500' S/O Prunetree Lane	8	TRI Pointe Homes, LLC	38 Lots / 38 Units	SFDR

- **Open Forum**

- (1) **David Wall commented on comments attributed to Mayor Reed in his interview with Vanity Fair Magazine regarding sick leave buy-out.**
- (2) **Mark Barton, representing Occupy San José, urged the City's support in their "99%" protest in front of City Hall, so they may continue their protest in a peaceful manner.**
- (3) **Judy Seps asked that Council preserve the San José Family Camp program.**
- (4) **Judy Bender complained about the City's insurance adjuster's handling of her claim from an accident that occurred on City property.**
- (5) **Sara-Jo Larsen expressed opposition to a portion of the Southside Senior Center being converted into an exercise workout room due to its encroaching on handicapped seniors' space.**

- Continue RDA Board Meeting

- Adjournment

The Council of the City of San José adjourned at 3:19 p.m. in memory of San José Purchasing Manager Gordon Johnson, who passed away unexpectedly on September 4, 2011. Gordon's contributions include the successful completion of numerous complex procurements such as the Commercial Solid Waste and Digester Cleaning Services RFPs for the Environmental Services Department, and Parking Access and Revenue Control System RFP, and the hold-room furniture bid for the new Airport. Gordon was also a longtime leader on the Citywide EP3 team. His flexibility, innovation, teamwork, and great sense of humor will be deeply missed. (Finance)

8. JOINT/REDEVELOPMENT AGENCY

The Joint Redevelopment Agency Board convened at 2:28 p.m. to consider Item 8.1 in a Joint Session.

8.1 Adoption of resolutions approving the revised FY 2011-12 Capital and Operating budgets and corresponding Revenue and Appropriation Resolutions.

Recommendation: Adoption of resolutions by the Redevelopment Agency Board amending the following:

- (a) The FY 2011-12 Revenue Resolution to add \$1.1 million net revenue from tax increment and supplemental assessments and \$11.6 million from land sale and other transactions;
- (b) The FY 2011-12 Operating Budget to add \$1,000,000 to the Personnel Services project line;
- (c) The FY 2011-12 Capital Budget to add \$20,000 to the Assessment District/Interchange Improvements project line in the Edenvale Redevelopment Area, and \$40,000 to The Alameda Parking Lease project line in the Neighborhood Business Investment Program (The Alameda Redevelopment Area); and,
- (d) The FY 2011-12 Appropriations Resolution, including an amendment to the Use of Funds for the Financing and Other Costs – 20% Tax Increment Housing Set Aside project line adding \$231,171.

CEQA: Not a Project. [MERGED]

(Deferred from 9/27/11 – Item 8.1)

Redevelopment Agency Resolution No. 6031 adopted.

The Joint meeting of the Council of the City of San José and Redevelopment Agency Board was adjourned at 2:44 p.m.