

CITY COUNCIL AGENDA

JANUARY 31, 2012

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: None.
1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 1)**
Rabbi Daniel Pressman, Congregation Beth David, 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 proclamation declaring January 27, 2012 as “International Holocaust Remembrance Day” in the City of San José. (Herrera)
Mayor Reed and Council Member Herrera proclaimed January 27, 2012 as “International Holocaust Remembrance Day” in the City of San José.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None.

- 2.2 **Final Adoption of Ordinances.**
None.

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

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of January 11, 2012. (Mayor)
- (b) Transportation and Environment Committee Report of December 5, 2011. (Liccardo)
[Deferred from 1/10/12 – Item 2.3(b) and 1/24/12 – Item 2.3(a)]
- (c) Rules and Open Government Committee Report of December 7, 2011. (Mayor)
[Deferred from 1/10/12 – Item 2.3(c) and 1/24/12 – Item 2.3(b)]
- (d) Rules and Open Government Committee Report of January 4, 2012. (Mayor)
[Deferred from 1/24/12 – Item 2.3(d)]

Approved.

- 2.4 **Mayor and Council Excused Absence Requests.**
None.

- 2.5 **City Council Travel Reports.**
None.

- 2.6 **Report from the Council Liaison to the Retirement Boards.**
None.

2. CONSENT CALENDAR

2.7 Proposed Revisions to Chapter 15.08 of the San José Municipal Code - Municipal Water System Ordinance.

Recommendation: Approve an ordinance amending Sections 15.08.060, 15.08.070, 15.08.670, 15.08.790, 15.08.1120, 15.08.1140, 15.08.1160, and 15.08.1230 of Chapter 15.08 of Title 15 of the San José Municipal Code to reflect the current organization of the City's Municipal Water System within the Department of Environmental Services, and authorizing the Director of Environmental Services to allow modifications to customer responsibilities for connection of private fire protection pumps to Municipal Water System in certain specified circumstances. CEQA: Categorically Exempt, File No. PP12-009. Council Districts 4 and 8. (Environmental Services)

Ordinance No. 29031 passed for publication.

2.8 Fifth Amendment to Agreement with ACS Transport Solutions, Inc. for a Parking Access Revenue Control and Automatic Vehicle Identification System and related Services at San José International Airport.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute an amendment to the agreement with ACS Transport Solutions, Inc. (Dallas, Texas) to extend the term of the agreement through December 15, 2012;
- (b) Execute additional amendments to extend the agreement as required in the event that additional time is needed to complete the project.

CEQA: Not a Project, File No. PP10-066(a), Purchase Order/Cooperative Purchase of Supplies, Equipment & Professional Services with no changes in the physical environment. (Finance)

Resolution No. 76135 adopted.

2.9 Revision to Environmental Procurement Policy.

Recommendation: Direct staff to implement guidelines:

- (a) To halt the purchase and use of expanded polystyrene foam (EPS) food service ware at City facilities; and
- (b) To require City-sponsored events that receive funding or in-kind service from the City to ban the purchase of EPS food service ware.

CEQA: (a) Not a Project, File No. PP10-066(a) Purchase Order/Cooperative Purchase of Supplies, Equipment & Professional Services with no changes in the physical environment; (b) Exempt, File No. PP12-013. (City Attorney's Office)
(Rules Committee referral 1/25/12)

Approved, with an amendment allowing a six-month period of transition with regard to requiring recyclable/biodegradable foodware for entities that contract with the City and require permission from the City to use City property or facilities. This item will be return to the Rules and Open Government Committee in March 2012 prior to final action by Council.

2. CONSENT CALENDAR

2.10 Project Diversity Screening Committee Reappointments.

Recommendation: As recommended by the Rules and Open Government Committee on January 25, 2012, reappoint Jeannie LoFranco and Alphonse Arretz to the Project Diversity Screening Committee for terms expiring December 31, 2013. (Mayor)
[Rules Committee referral 1/25/12 – Item G(1)(a)]
Approved.

2.11 District 4 Spring Cleaning and E-Waste Event.

Recommendation: As recommended by the Rules and Open Government Committee on January 25, 2012:

- (a) Approve the District 4 Spring Cleaning and E-Waste Event as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Exempt, File No. PP12-014. (City Clerk)
[Rules Committee Referral 01/25/12 – Item H(5)]
Approved.

3. STRATEGIC SUPPORT SERVICES

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

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.
No report provided.

3.3 Marijuana Business Tax.

Recommendation:

- (a) Consider increasing the Marijuana Business Tax rate from 7% of gross receipts to 10% of gross receipts, as allowed under Measure U; and
- (b) Direct staff to prepare an ordinance to implement the increased Marijuana Business tax rate for Council consideration at a public hearing originally scheduled for January 24, 2012, to take place no later than March 6, 2012.

CEQA: Not a Project, File No. PP10-067(a), Increase to rate without changes to, or expansion of services. (Finance)
(Continued from 1/10/12 – Item 3.4)
Continued to 2/14/12 per Rules and Open Government Committee.

4. COMMUNITY & ECONOMIC DEVELOPMENT

Note: Items 4.1 through 4.3 were heard concurrently.

4.1 Construction Tax Ordinance.

Recommendation: Approve an ordinance amending Chapter 4.46 of Title 4 of the San José Municipal Code and Chapter 4.47 of Title 4 to add sections to partially suspend the collection of the building and structure construction tax and to suspend the commercial-residential-mobile home park building tax for office, research and development uses, data center uses and installation of solar photovoltaic systems. CEQA: Not a Project, File No.PP10-067 (Statutory Exemption, Sec. No. 15273), Rates, Tolls, Fares, and Charges. (Economic Development/Planning, Building and Code Enforcement)

Ordinance No.29032 passed for publication.

4.2 North San José Development Incentive.

Recommendation:

- (a) Adopt a resolution amending the North San José Area Development Policy to promote near-term industrial development through a temporary incentive program allowing for reduction in the traffic impact fee for qualifying industrial development completed within a timeframe to be specified in a development agreement.

Resolution No. 76136 adopted with Staff to explore (1) elimination of the 100,000sf project size requirement to accommodate smaller companies requiring less square footage, and (2) offering developers incentives by putting fees up front to show their savings if they have a cash-out program for parking.

- (b) Approve an ordinance amending Section 14.29.040 of Chapter 14.29 of Title 14 of the San José Municipal Code (North San José Traffic Impact Fee Requirements) to provide that the traffic impact fee shall be paid prior to issuance of a building permit or in accordance with the schedule specified in a development agreement.

CEQA: Resolution No. 72768 and Addenda thereto. Council Districts 3 and 4. (Economic Development/Planning, Building and Code Enforcement)

Ordinance No. 29033 passed for publication, with Staff to explore the possibility of allocating the 8.8 million dollars for traffic impact fees use rather than towards affordable market rate housing development.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Development Services Staffing Needs.

Recommendation:

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
- (1) Increase the revenue estimate for Licenses and Permits by \$2,112,070;
 - (2) Decrease the Fee Supported Reserve – Planning appropriation by \$138,505;
 - (3) Increase the Personal Services appropriation to the Planning, Building and Code Enforcement Department in the amount of \$1,909,815;
 - (4) Increase the Personal Services appropriation to the Fire Department in the amount of \$141,321; and
 - (5) Increase the 2012-2013 Future Deficit Reserve appropriation by \$199,439.

Ordinance No. 29034 adopted.

Resolution No. 76137 adopted.

- (b) Approve the following position additions effective February 6, 2012:
 Planning, Building and Code Enforcement Department

Building Fee Program:

<u>Job Code</u>	<u>Job Classification</u>	<u>FTE</u>
3915	Building Inspector/Combo Cert FT	11.00
3919	Building Inspector Supervisor	1.00
3814	Associate Engineer	2.00
4122	Planner I/II	1.00
3844	Senior Architect	1.00
<i>Subtotal Building Fee Program</i>		<i>16.00</i>

Planning Fee Program:

<u>Job Code</u>	<u>Job Classification</u>	<u>FTE</u>
4122	Planner I/II	1.00
<i>Subtotal Planning Fee Program</i>		<i>1.00</i>

Public Works Department

Public Works Fee Program:

<u>Job Code</u>	<u>Job Classification</u>	<u>FTE</u>
3813	Engineer I/II	1.00
<i>Subtotal Public Works Fee Program</i>		<i>1.00</i>

Fire Department

Fire Fee Program:

<u>Job Code</u>	<u>Job Classification</u>	<u>FTE</u>
3814	Associate Engineer	2.00
2322	Hazardous Materials Inspector I/II	1.00
<i>Subtotal Fire Fee Program</i>		<i>3.00</i>

TOTAL 21.00

(Item Continued on the next page)

4.3 Development Services Staffing Needs (Cont'd.)

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Planning, Building and Code Enforcement/Public Works/Fire/City Manager's Office)

Approved.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Amended Enforceable Obligation Payment Schedule and Declaration Regarding Debt Forgiveness.

Recommendation: It is recommended that:

- (a) The City Council and Redevelopment Agency Board adopt resolutions approving the Amended Enforceable Obligation Payment Schedule, which details the obligations of the Redevelopment Agency and the City, as it relates to the Low and Moderate Income Housing Fund, in order to comply with the provisions of Section 34169 of the Health and Safety Code.

Resolution No. 76138 adopted.

Redevelopment Agency Board Resolution No. 6034 adopted, with modifications to the remaining obligation for the Section 108 Loan, Section H, as noted by Staff.

- (b) The Redevelopment Agency Board adopt a resolution proclaiming that the Redevelopment Agency has not taken any action to forgive the repayment of any loan, advance, or indebtedness owed by the City of San José to the Redevelopment Agency of the City or owed by the Agency to the City between January 1, 2010 and December 31, 2011.

CEQA: Exempt, File No. PP12-008. (City Manager's Office/Redevelopment Agency) (Rules Committee referral 1/25/12)

Redevelopment Agency Board Resolution No. 6035 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 Amendments to the Agency's FY 2011-2012 Budget.

Recommendation: It is recommended that the Redevelopment Agency Board adopt a resolution amending the FY 2011-12 Revenue Resolution to reflect a reduction of \$15,756,984; the FY 2011-12 Capital Budget to reflect a reduction of \$5,450,000; the FY 2011-12 Source and Use of Funds Summary to reflect a reduction of \$982,679 in Financing/Other Costs and a reduction of \$392,683 in Obligated Payments; and the FY 2011-12 Appropriations Resolution to reflect a reduction of \$6,825,362, as detailed on Attachments A and B of the staff memorandum. CEQA: Not a Project, File No. PP10-067(b), appropriation actions. (Redevelopment Agency)
(Rules Committee referral 1/25/12)

Redevelopment Agency Board Resolution No. 6036 adopted.

- **Open Forum**

- (1) **David Wall suggested a public investigation of the Applegate Johnson settlement and further asked that the City Manager publicly thank the City Attorney for 'bailout' in regard to the EIC 'boondoggle'.**
- (2) **SK Kohli, a visitor from India, offered his appreciation to the Council for the work they do and suggested it as a model to other countries.**

- **Adjournment**

The Council of the City of San José adjourned at 3:52 p.m.