



CITY COUNCIL AGENDA

FEBRUARY 7, 2012

AMENDED AGENDA

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 discussion 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**
9:00 a.m. - Closed Session, Call to Order in Council Chambers
Open Session – Labor Negotiations Update (See Item 3.2), Consent Calendar, and Open Forum
Adjourn to Closed Session in Council Chambers Conference Room, W133
[See Separate Agenda](#)
- * 1:30 p.m. - **NO AFTERNOON SESSION, ALL ITEMS SCHEDULED TO BE HEARD AT 9:00 A.M.**

- **Invocation (District 2)**
- **Pledge of Allegiance**
- **Orders of the Day**

* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation celebrating Lunar New Year in the City of San José.
(Chu/Nguyen)
(Deferred from 01/24/12 – Item 1.1)

* **RECOMMEND DEFERRAL**

- 1.2 Presentation of a proclamation declaring the month of February 2012 as “American Heart Month” in the City of San José. (Kalra)

* **RECOMMEND DEFERRAL TO 2/14/12**

- 1.3 Presentation of a commendation to the Berryessa Business Association for their efforts to strengthen the small businesses of the Berryessa Community. (Chu)

* **RECOMMEND DEFERRAL**

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- * (a) ORD. NO. 29021 – Amending various sections of Chapter 2.04 of Title 2 of the San José Municipal Code, amending Section 13.23.210 of Chapter 13.23 of Title 13, and amending Section 14.04.141 of Chapter 14.04 of Title 14, to reflect the reorganization of city services within city departments; and repealing and modifying various sections of Part 2 and Chapter 11.36 of Title 11 relating to parking and traffic control within the old City Hall property due to the transfer of the property.

* **RECOMMEND DEFERRAL TO 2/14/12**

- * (b) ORD. NO. 29030 – Rezoning certain real property situated on the east side of Quimby Road, approximately 440 feet east of Murillo Road (3770 Quimby Road), from Unincorporated County to A(PD) Planned Development Zoning District to allow up to seven single-family detached residences on a 2.8 gross acre site. PDC10-002

* **RECOMMEND DEFERRAL TO 2/14/12**

2. CONSENT CALENDAR

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)
* [Deferred from 1/31/12 – Item 2.3(a)]
- * (b) [Rules and Open Government Committee Report of January 18, 2012.](#) (Mayor)
- * **RECOMMEND DEFERRAL TO 2/14/12**

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) [Request for an excused absence for Councilmember Chu from the Regular Meeting of the Neighborhood Services and Education Committee on February 9, 2012 due to Authorized City Business: League of California Cities Board of Directors Meeting in Palo Alto, CA.](#) (Chu)
* (Rules Committee referral 2/1/12)
- * **RECOMMEND DEFERRAL TO 2/14/12**

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 [District 1 Annual Greek Flag Raising Event.](#)

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

- (a) Approve the District 1 Annual Flag Raising 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: Not a Project. (City Clerk)
(Rules Committee Referral 01/25/12)
- * **RECOMMEND DEFERRAL TO 2/14/12**

2.8 [Application to the Strategic Growth Council for its Sustainable Communities Planning Grant and Incentives Program Grants.](#)

Recommendation:

- (a) Support the application to the Strategic Growth Council for its Sustainable Communities Planning Grant and Incentives Program Grants; and
- (b) Adopt a [resolution](#) required by the Strategic Growth Council as part of their grant application process that:
 - (1) Approves the filing of an application for the development of an Urban Village Master Plan and proposed zoning code revisions and property rezonings (“Proposal”) in order to become a more sustainable community;

(Item continued on the next page)

2. CONSENT CALENDAR

2.8 Application to the Strategic Growth Council for its Sustainable Communities Planning Grant and Incentives Program Grants. (Cont'd.)

Recommendation:

- (b) (2) Certifies that the City of San José will have sufficient funds to develop the Proposal or will secure the resources to do so;
- (3) Certifies that the Proposal will comply with any applicable laws and regulations including being consistent with the State's Planning Priorities identified in Government Code section 65041.1;
- (4) Certifies that threshold requirements outlined in the grant guidelines, including consideration of Ocean Protection Council Sea Level Rise Guidance will be met;
- (5) Agrees to reduce, on as permanent a basis as feasible, greenhouse gas emissions consistent with California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 3850) of the Health and Safety Code); and any applicable regional plan;
- (6) Agrees to meet the grant's collaboration requirements of the focus area applicable to the Proposal; and
- (7) Authorizes the City Manager, or designee, to conduct on behalf of City all negotiations, and to execute and submit on behalf of City all documents including, but not limited to, applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned Master Plan and Zoning revision project and to accept and implement the grant award if awarded.

CEQA: Re-use of the Envision San José 2040 EIR, Council Resolution No. 76041. Council Districts 3 and 5. SNI: University Neighborhoods, Thirteenth Street, Five Wounds/Brookwood Terrace. (Planning, Building and Code Enforcement)

* **TO BE HEARD AT 9:00 A.M., IMMEDIATELY FOLLOWING ITEM 3.2**

2.9 [Actions Related to the Proposed Maintenance District 24 \(The Alameda\).](#)

Recommendation: Adopt a [resolution](#) amending Resolution No. 76101 adopted by the City Council on December 13, 2011 to:

- (a) Invalidate the ballot tabulation and election noticed for February 28, 2012;
- (b) Change the public hearing and ballot tabulation scheduled to be held on February 28, 2012 at 1:30 pm regarding the formation of Maintenance District 24 (The Alameda) to March 27, 2012 at 1:30 pm; and
- (c) Direct that notice of the March 27, 2012 hearing and substitute ballots is mailed to all property owners in the proposed district.

* (Rules Committee referral 2/1/12)

* **TO BE HEARD AT 9:00 A.M., IMMEDIATELY FOLLOWING ITEM 3.2**

2. CONSENT CALENDAR

2.10 Mobile Home Advisory Commission Appointment.

Recommendation: As recommended by the Rules and Open Government Committee on February 1, 2012, reappoint Mike Graves to the Mobile Home Advisory Commission. (Nguyen)

* [Rules Committee referral 2/1/12 – Item G(1)(a)]

* **RECOMMEND DEFERRAL TO 2/14/12**

2.11 2012 Council Appointments and Reappointments.

Recommendation: As recommended by the Rules and Open Government Committee on February 1, 2012:

(a) Appoint Councilmember Pyle to the Santa Clara Valley Transportation Authority Board of Directors;

(b) Appoint Councilmember Oliverio to the Santa Clara Valley Transportation Authority Policy Advisory Board – El Camino Real Rapid Transit; and

(c) Appoint Acting Director Kerrie Romanow as the Alternate to the Santa Clara Valley Water District – Water Commission.

* [Rules Committee referral 2/1/12 – Item H(4)]

(d) Reappoint Councilmember Campos and Councilmember Liccardo to the Santa Clara Valley Transportation Authority’s Downtown/East Valley Policy Advisory Board.

(Mayor)

* [Rules Committee referral 2/1/12 – Item H(6)]

* **RECOMMEND DEFERRAL TO 2/14/12**

3. STRATEGIC SUPPORT SERVICES

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

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

TO BE HEARD AT 9:00 A.M.

3.3 Marijuana Business Tax.

Attachment – Memo from Mayor Reed

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 01/10/12 – Item 3.4 and 01/31/12 – Item 3.3)

CONTINUED TO 2/14/12 PER RULES AND OPEN GOVERNMENT COMMITTEE

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Streamlining Real Estate Process to Sell Surplus Properties.](#)

Recommendation: As recommended by the Community and Economic Development Committee on January 23, 2012: Accept this report on streamlining real estate actions to sell surplus property and direct Staff to work with the City Attorney's Office to amend relevant ordinances. (Office of Economic Development)

[Community and Economic Development Committee referral 01/23/12 – Item D(3)]

* **DEFERRED TO 2/28/12 PER RULES AND OPEN GOVERNMENT COMMITTEE**

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**
Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.
- **Adjournment**

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
 - b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
 - c) Speakers should discuss topics related to City business on the agenda.
 - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
 - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
 - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
 - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.