



# **CITY COUNCIL AGENDA**

**APRIL 3, 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 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](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**  
9:35 a.m. - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: All Present.**  
  
1:32 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: All Present.**
- **Invocation (District 4)**  
Piedmont Middle School Orchestra performed “Dance of the Harlequins” for the Invocation.
- **Pledge of Allegiance**  
Mayor Reed, the Piedmont Middle School Orchestra and 3<sup>rd</sup> Graders from Payne Elementary School led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day and the Amended Agenda were approved, with Items 3.3 dropped per staff’s recommendation.
- **Closed Session Report**  
No Report.

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to Kim Trang Nguyen for her many years of service, leadership, and contributions to the City of San José. (Chu)  
(Rules Committee referral 3/28/12)

**Mayor Reed and Council Member Chu commended Kim Trang Nguyen for her many years of service, leadership, and contributions to the City of San José.**

- 1.2 Presentation of a proclamation declaring the Month of April 2012 as “Month of the Young Child” in the City of San José. (Pyle)  
(Rules Committee referral 3/28/12)

**Mayor Reed and Council Members Pyle and Rocha recognized the Month of April 2012 as “Month of the Young Child” in the City of San José.**

# 2. CONSENT CALENDAR

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## 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes:

- (f) Closed Session Minutes of November 18, 2011.  
[Deferred from 3/27/12 – Item 2.1(f)]

**Approved.**

## 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29047 – Amending Section 20.70.100 of Chapter 20.70 (Downtown Zoning Regulations) of Title 20 (Zoning Code) of the City of San José to allow certain uses in the DG Area (Downtown Ground-Floor Space) when certain enumerated criteria are met.

**Ordinance No. 29047 adopted.**

- (b) ORD. NO. 29048 – Rezoning certain real property situated at the north side of River Oaks Parkway, approximately 200 feet east of Research Place, from the IP Industrial Park District to the IP(PD) Planned Development Zoning District.  
PDC11-018

**Ordinance No. 29048 adopted.**

- (c) ORD. NO. 29049 – Approving a Development Agreement with the Irvine Company relative to the development of the River Oaks Multifamily Residential Project on certain real property located in North San José and authorizing the city clerk to execute the Development Agreement and cause the same to be recorded with the Santa Clara County Recorder’s Office.

**Ordinance No. 29049 adopted.**

## 2. CONSENT CALENDAR

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(d) **ORD. NO. 29050** – Rezoning certain real property situated at the southeast corner of Almaden Expressway and Chynoweth Avenue, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.  
PDC10-006

**Ordinance No. 29050 adopted.**

**2.3 Approval of Council Committee Reports.**  
None.

**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 April 12, 2012 due to Authorized City Business: BART Silicon Valley Santa Clara Valley Transportation Agency’s Berryessa Extension Groundbreaking. (Chu)  
(Rules Committee referral 3/28/12)

**Excused.**

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

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

**2.7 Settlement in *Emily Contreras and Jose Lua, Sr. v. City of San José, et al.***

**Recommendation:** Approve settlement in the case of *Emily Contreras and Jose Lua, Sr. v. City of San José, et al.*, and authorize the City Attorney to execute a Settlement Agreement and Release with Emily Contreras and Jose Lua, Sr., and their attorney, in the amount of \$200,000. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney's Office)

**Approved.**

**2.8 Intention to Annex Territory into Maintenance District 15 with Formation of New Zone I.**

**Recommendation:** Adopt a resolution of intention to annex territory into Maintenance District 15 (Silver Creek Valley), form new Zone I, annex a portion of the new territory into existing Zone B, and directing the Director of Public Works to create and file an engineer’s report. CEQA: Mitigated Negative Declaration, File No. PDC09-010. Council District 8. (Public Works)

**Resolution No. 76181 adopted.**

## 2. CONSENT CALENDAR

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### 2.9 Intention to Annex Territory into Maintenance District 19.

**Recommendation:** Adopt a resolution of intention to annex territory into Zone A of Maintenance District 19 (River Oaks), and directing the Director of Public Works to create and file an engineer's report. CEQA: North San José Development Policy Update EIR, Resolution No. 72768. Council District 4. (Public Works)

**Resolution No. 76182 adopted.**

### 2.10 Agreement with Compass Group for the Operation of the Senior Nutrition Program at Designated Community Centers.

**Recommendation:** Adopt a resolution authorizing the City Manager to execute an agreement and extensions with Compass Group USA, Inc., Bateman Division, in the amount of \$940,452, for the operation of the Senior Nutrition Program at designated City of San José community centers. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)

**RENUMBERED FROM ITEM 5.1**

**Resolution No. 76183 adopted, with approval of the staff's recommendation and with acceptance of the joint memorandum from Council Members Rocha and Pyle and from Council Members Herrera and Constant, both dated March 29, 2012, with staff to report back to the Neighborhood Services and Education Committee in the Fall with an update on program performance.**

### 2.11 Refund of Construction Taxes for Polycom, Inc.

**Recommendation:** Approve a refund of construction taxes in the amount of \$349,427.68 paid under the incorrect rate by Novo Construction, Inc. for a project located at 6001 America Center Drive and direction to the Director of Finance to make payment in accordance with the instructions in the refund claim. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. Council District 4. (Planning, Building and Code Enforcement)

(Rules Committee referral 3/28/12)

**Approved.**

### 2.12 Beautiful Day "Project Restoration."

**Recommendation:** As recommended by the Rules and Open Government Committee on March 28, 2012:

- (a) Approve the Beautiful Day "Project Restoration" as a City Council sponsored Special Event; and
- (b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.

CEQA: Exempt. (City Clerk)

[Rules Committee referral 3/28/12 – Item G(3)]

**Approved.**

## 2. CONSENT CALENDAR

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### 2.13 Great American Litter Pick-up.

**Recommendation:** As recommended by the Rules and Open Government Committee on March 28, 2012:

- (a) Approve the Great American Litter Pick-up as a City Council sponsored Special Event; and
- (b) Approve and accepting donations from various individuals, businesses, or community groups to support the event.

CEQA: Exempt. (City Clerk)

[Rules Committee referral 3/28/12 – Item G(4)]

**Approved.**

## 3. STRATEGIC SUPPORT SERVICES

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

**None provided.**

### 3.2 Labor Negotiations Update.

Accept Labor Negotiations Update.

**None provided.**

### 3.3 SB 1220 (DeSaulnier and Steinberg) – Housing Opportunity Trust Fund Act of 2012.

**Recommendation:** As recommended by the Rules and Open Government Committee on March 7, 2012, approve a support position for SB 1220 (DeSaulnier and Steinberg) – Housing Opportunity Trust Fund Act of 2012. (City Manager’s Office)

[Rules Committee referral 3/7/12 – Item G(5)]

(Referred from 3/20/12 – Item 2.7)

**Dropped per Orders of the Day.**

### 3.4 Resolution Amending the Council’s Rules of Conduct of Meetings.

**Recommendation:** As recommended by the Rules and Open Government Committee on March 28, 2012, adopt a resolution amending the Rules for the Conduct of City Council and City Council Committee Meetings and superseding Resolution No. 75246. CEQA:

Not a Project. (City Attorney’s Office/City Clerk)

[Rules Committee referral 3/28/12 – Item G(2)]

**Resolution No. 76184 adopted.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 Public Hearing on the Draft Consolidated Plan - Annual Action Plan FY 2012-2013.

**Recommendation:** Hold a public hearing on the draft 2012-2013 Consolidated Annual Action Plan, as required by the U.S. Department of Housing and Urban Development, in order to receive federal housing and community development funding, and announce that as of March 29, 2012, the draft Consolidated Annual Action Plan has been available to the public for review and comment. CEQA: Not a Project, File No.PP10-069(a), Annual Report. Specific development projects that are funded as a result of the Consolidated Annual Action Plan are subject to project-specific CEQA clearance. (Housing)

**Hearing held.**

**Disqualified: Kalra.**

### 4.2 Amendments to Section 20.100.500 of Chapter 20.100 (Administration and Permits) of Title 20 of the San José Municipal Code (the Zoning Code).

**Recommendation:** Conduct a public hearing and consider an ordinance amending Section 20.100.500 of Chapter 20.100 (Administration and Permits) of Title 20 of the San José Municipal Code (the Zoning Code) to extend the period for the Director of Planning to reactivate certain expired Development Permits and to extend certain Development Permits for a discrete period of time and make other related clarifying changes. CEQA: Exempt. (Planning, Building and Code Enforcement)

**Continued to 4/17/12 per Administration.**

### 4.3 Actions Related to 1<sup>st</sup> and Rosemary Family Apartments and First and Rosemary Senior Apartments.

**Recommendation:**

- (a) Adopt a resolution:
- (1) Amending and superseding Resolution No. 76008 adopted on September 27, 2011;
  - (2) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (1st and Rosemary Family Apartments), Series 2012C” in an aggregate principal amount not to exceed \$35,500,000 (the “Series 2012C Note”);
  - (3) Approving a loan of Series 2012C Note proceeds to 1st and Rosemary Family Housing, L.P., a California limited partnership created by ROEM 1st and Rosemary Family, LLC, to finance the construction of the 1st and Rosemary Apartments located at 60 East Rosemary Street in San José;
  - (4) Approving in substantially final form the Borrower Loan Agreement, Funding Loan Agreement, Assignment of Deed of Trust, and Regulatory Agreement and Declaration of Restrictive Covenants (collectively, the “Series 2012C Documents”) and;

*(Item Continued on the next page)*



## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.3 Actions Related to 1<sup>st</sup> and Rosemary Family Apartments and First and Rosemary Senior Apartments (Cont'd.)

- (a) (5) Authorizing and directing the City Manager, Acting Director of Finance and Director of Housing, or their designees, to execute and, deliver the Series 2012C Documents and other related Series 2012C Note documents as necessary.

**Resolution No. 76185 adopted.**

**Noes: Oliverio.**

- (b) Take the following actions with respect to the 1<sup>st</sup> and Rosemary Senior Apartments Project (“Senior Project”):

- (1) Adopt a resolution:

- (a) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (1st and Rosemary Senior Apartments), Series 2012D” in an aggregate principal amount not to exceed \$15,500,000 (the “Series 2012D Note”);
- (b) Approving a loan of Series 2012D Note proceeds to 1st and Rosemary Senior Housing, L.P., a California limited partnership created by ROEM 1st and Rosemary Senior, LLC, to finance the construction of the 1st and Rosemary Senior Apartments located at 1290 N. First Street, at the corner of Rosemary Street in San José;
- (c) Approving in substantially final form the Borrower Loan Agreement, Funding Loan Agreement, Assignment of Deed of Trust, and Regulatory Agreement and Declaration of Restrictive Covenants (the “Series 2012D Documents”);
- (d) Authorizing and directing the City Manager, Acting Director of Finance and Director of Housing, or their designees, to execute and, deliver the Series 2012D Documents and other related Series 2012D Note documents as necessary; and

**Resolution No. 76186 adopted.**

**Noes: Oliverio.**

- (2) Adopt a resolution in connection with the City’s existing loan for the Senior Project approving the conversion of a funded acquisition loan in the amount of \$3,700,000 to a construction/permanent loan of up to \$3,700,000 for the Senior Project.

CEQA: EIR Resolution No. 72768 and Addendum thereto, File No. PDC07-101.

Council District 3. SNI: Rincon De Los Esteros. (Housing/Finance)

(Deferred from 3/27/12 – Item 4.3)

**Resolution No. 76187 adopted.**

**Noes: Oliverio.**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Agreement with Compass Group for the Operation of the Senior Nutrition Program at Designated Community Centers.

**Recommendation:** Adopt a resolution authorizing the City Manager to execute an agreement and extensions with Compass Group USA, Inc., Bateman Division, in the amount of \$940,452, for the operation of the Senior Nutrition Program at designated City of San José community centers. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)

*Note: Renumbered to Item 2.10*

### 5.2 Ordinance Amending Chapter 9.44 of the San Jose Municipal Code to Regulate Outdoor Smoking.

**Recommendation:** Approve an ordinance amending Chapter 9.44 of Title 9 of the San José Municipal Code to regulate outdoor smoking. CEQA: Exempt; File No. PP12-010. (City Attorney's Office)

**Deferred to 4/10/12 per Rules and Open Government Committee**

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 Report on Request for Proposal for Airport Parking Operations and Management and In-lot Parking Shuttle Services.

**Recommendation:** Accept the report on the Request for Proposal for Airport Parking Operation and Management Services at the Norman Y. Mineta San José International Airport and adopt a resolution authorizing City Manager to:

- (a) Execute an agreement with Ampco System Parking, Inc., doing business as Ampco AirPark (Los Angeles, CA) for Airport Parking Operations and Management and in-lot Parking Shuttle Services at the Norman Y. Mineta San José International Airport for an initial three year term, in an amount not-to-exceed \$13,801,420, subject to annual appropriations of funds.
- (b) Execute amendments to the agreement to increase the not-to-exceed compensation amount during the initial three year term due to changing business conditions, subject to the appropriation of funds.
- (c) Execute five one-year options to renew the agreement, subject to the appropriation of funds.

CEQA: Not a Public Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)

**Resolution No. 76188 adopted.**

## **6. TRANSPORTATION & AVIATION SERVICES**

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### **6.2 Approval of Minimum Standards for Development of Lands on the West Side of the Airport and Acceptance of Terms and Conditions for a New Fixed Base Operator.**

**Recommendation:**

- (a) Adopt a resolution establishing Minimum Standards for general aviation facilities on the west side of the Norman Y. Mineta San José International Airport;
- (b) Accept the key terms and conditions to be used in the Request For Proposals process for a new fixed base operator leasehold to be developed on the west side of the Airport.
- (c) Adopt a RFP-first approach for West Side general aviation that would have a second, new full-service FBO operational in late 2014 (estimated).

CEQA: Resolution Nos. 67380 and 71451, File No. PP12-001. (Airport)  
(Deferred from 3/13/12 – Item 6.1 and Continued from 3/20/12 – Item 6.1)

**Resolution No. 76189 adopted, with acceptance of the memorandum from Mayor Reed, Council Members Herrera, Pyle and Liccardo, dated March 16, 2012 and the memorandum from Council Member Liccardo dated March 29, 2012, with further direction that the City Council give authority to the City Manager to amend the minimum standards, to respond to airport conditions and in consultation as necessary with existing airport tenants and prospective tenants who respond to the West Side development RFP in the future. A recommendation was approved for the project to be brought before the ad hoc committee by May, an RFP drafted for stakeholder input/feedback in June, with a final RFP to be released to the market in August. 2012.**

Noes: Campos, Chu, Kalra, Oliverio, Rocha.

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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## **8. PUBLIC SAFETY SERVICES**

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### **8.1 Audit of Police Department Secondary Employment.**

**Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on March 15, 2012, accept the Audit of Police Department Secondary Employment. (City Auditor)

[Public Safety, Finance and Strategic Support referral 3/15/12 – Item D(5)]  
Deferred to 4/10/12 per Rules and Open Government Committee

## **9. REDEVELOPMENT – SUCCESSOR AGENCY**

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- **Open Forum**  
**David Wall questioned how the City may proportionate the cost of the South Bay water recycling program back to all individual property owners.**
- **Adjournment**  
**The Council of the City of San José adjourned at 4:43 p.m.**