



CITY COUNCIL AGENDA

MAY 10, 2016

SYNOPSIS

CHAPPIE JONES
ASH KALRA
RAUL PERALEZ
MANH NGUYEN
MAGDALENA CARRASCO

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

SAM LICCARDO MAYOR

PIERLUIGI OLIVERIO
TAM NGUYEN
ROSE HERRERA VICE MAYOR
DONALD ROCHA
JOHNNY KHAMIS

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.

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 Successor Agency to the 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, the Mayor 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 <http://www.sanjoseca.gov/index.aspx?NID=3549>. 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, Tower 14th 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**
9:35 a.m. - Closed Session, Call to Order in Council Chambers
Absent Councilmembers: All Present.
1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent Councilmembers: All Present.
- **Invocation (District 5)**
Father Jon Pedigo of Our Lady of Guadalupe provided the Invocation.
- **Pledge of Allegiance**
Mayor Liccardo led the Pledge of Allegiance.
- **Orders of the Day** — *Heard after Ceremonial Items*
The Orders of the Day and the Amended Agenda were approved, with Items 4.4 and 4.5 to be heard jointly, and Item 3.3 “Measure B Settlement Discussions – *Quo Warranto*” added.
- **Closed Session Report** — *Heard after Ceremonial Items*
City Attorney Richard Doyle reported that no Court action will be filed in the arbitration award in a police disciplinary case involving Phillip White.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation to the Jewish Federation of Silicon Valley honoring May as Jewish American Heritage Month in the City of San José. (Herrera)
Mayor Sam Liccardo and Vice Mayor Rose Herrera presented a proclamation to the Jewish Federation of Silicon Valley honoring May as Jewish American Heritage Month in the City of San José.
- 1.2 Presentation of a proclamation declaring May as Asian American and Pacific Islander Heritage Month in the City of San José. (Kalra)
Mayor Sam Liccardo and Councilmembers Ash Kalra, Manh Nguyen and Tam Nguyen declared the month of May as Asian American and Pacific Islander Heritage Month in the City of San José.
- 1.3 Presentation of a proclamation for Ao Dai Day in San José, in recognition of the local Vietnamese-American community. (Kalra)
Mayor Sam Liccardo and Councilmembers Ash Kalra, Manh Nguyen and Tam Nguyen declared Ao Dai Day in San José, in recognition of the local Vietnamese-American community.

2. CONSENT CALENDAR

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

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29633 – An ordinance of the City of San José granting a Commercial Solid Waste and Recyclables Collection Franchise to Bay Area Dumpsters.
CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy Change that involves no changes to the physical environment.

Ordinance No. 29633 adopted.

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

Recommendation: Approval of Council Committee Minutes.

- (a) Rules and Open Government Committee Minutes of April 13, 2016. (Mayor)
(b) Public Safety, Finance & Strategic Support Committee Minutes of April 21, 2016. (Oliverio)

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Approved.

2. CONSENT CALENDAR

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 Amendment to Purchase Order 51371 with Siemens Industry, Inc. for Fire Life Safety Systems at the Airport.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Amend Purchase Order 51371 with Siemens Industry, Inc. (Hayward CA) for the Inspection, Maintenance and Repairs of the Fire Life Safety Systems (Systems) at the Norman Y. Mineta International Airport, to increase compensation by \$117,232, for a revised maximum compensation not to exceed \$381,101, for the current term ending June 30, 2016;
- (b) Amend the Purchase Order as required to purchase additional parts and services subject to the appropriation of funds; and
- (c) Execute four additional annual purchase orders, ending in June 2020, for parts, ongoing inspection, and maintenance and repair services, subject to the same terms and the annual appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for purchase orders/cooperative purchase of supplies that involve no changes to the physical environment. (Finance)

Resolution No. 77739 adopted.

2.8 Amendment to the Agreement with Langham Consulting Services for Customer Information and Business Tax Systems.

Recommendation: Approve an Amendment to the Master Service Agreement between the City of San José and Langham Consulting Services dated May 21, 2014, extending the term originally set to expire on May 20, 2016, to December 31, 2016, to provide continued support to the City related to the implementation of the Customer Information System and the Business Tax System. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Finance/Environmental Services)
Approved.

2. CONSENT CALENDAR

2.9 Agreement with the Health Trust as Fiscal Agent for Destination: Home for Services to End Veteran Homelessness.

Recommendation: Approve a Grant Agreement between the City of San José and The Health Trust as fiscal agent of Destination: Home in the amount of \$100,000 to provide two years of funding to support coordination efforts on the new community-wide Campaign to End Veteran Homelessness. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts for services that involve not physical change to the environment. (Housing)

Approved.

2.10 Report on Bids and Award of Contract for the 8009 – Sanitary Sewer Repairs and Rehabilitation FY2015-2016 Project.

Recommendation: Report on bids and award of contract for the 8009 – Sanitary Sewer Repairs and Rehabilitation FY2015-2016 Project to the low bidder, Southwest Pipeline & Trenchless Corp., in the amount of \$1,347,022 and approve a 10% contingency in the amount of \$134,700. CEQA: Exempt, Section 15282(h) Other Statutory Exemptions and Public Resources Code Section 21080.21(a) (b), File No. PP13-076. (Public Works)

Approved.

2.11 Master Consultant Agreement with HDR Engineering, Inc. to Provide Engineering Services for the 7731 – Nitrification Clarifiers Rehabilitation Project at the San José-Santa Clara Regional Wastewater Facility.

Recommendation: Approve a Master Consultant Agreement with HDR Engineering, Inc. to provide engineering services for the 7731 – Nitrification Clarifiers Rehabilitation Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through December 31, 2023, in a total amount not to exceed \$5,000,000, subject to the appropriation of funds. CEQA: Statutory Exempt, File No. PP10-066(d), Section 15262, Feasibility and Planning Studies with respect to the scope of work that is limited to this action. Any future activities resulting in a change to the physical environment would require approval of CEQA review. (Environmental Services) (Deferred from 5/3/16 – Item 7.3)

Approved.

2.12 Actions Related to Councilmember Tam Nguyen’s Travel to Portland, Oregon.

Recommendation: Approve travel for Councilmember Tam Nguyen to Portland, Oregon from May 27, 2016 to May 28, 2016 to visit and tour Right To Dream Too (R2DToo), a nonprofit organization that provides refuge for the homeless. Source of Funds: Council District 7. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (T. Nguyen)

Approved.

2. CONSENT CALENDAR

2.13 Actions Related to the Purchase of Real Property Located Along the Western Side of South 31st Street Between Alum Rock Avenue and East San Antonio Street.

Recommendation:

- (a) Approve the Option to Purchase Agreement with the State of California, Department of Transportation, in the amount of \$850,000, for the purchase of approximately 1.655 acres of land located along the western side of South 31st Street between Alum Rock Avenue and East San Antonio Street, San José, CA, Assessor Parcel Numbers 481-14-130 for the future construction of a Neighborhood Park at South 31st Street; and

Approved.

- (b) Adopt a resolution authorizing the City Manager to execute the Option to Purchase Agreement and all other documents necessary to complete the transaction.

CEQA: Exempt, Section 15061(b)(3) No potential for causing a significant effect on the environment and Section 15262 Feasibility and Planning Studies, File No. PP16-024. Council District 5. (Economic Development / Parks, Recreation and Neighborhood Services)

Resolution No. 77740 adopted.

2.14 AB 1928 (Campos) – Water Efficiency: Landscape Irrigation Equipment.

Recommendation: As recommended by the Rules and Open Government Committee meeting on May 4, 2016, adopt a position of support for AB 1928 (Campos). CEQA: Not a Project, File No. PP10-069(d), Legislative Positions. (Environmental Services) [Rules Committee referral 5/4/16 – Item G(2)]

Position of support adopted.

2.15 SB 1213 (Wieckowski) – Renewable Energy: Biosolids: Matching Grants.

Recommendation: As recommended by the Rules and Open Government Committee meeting on May 4, 2016, adopt a position of support for SB 1213 (Wieckowski). CEQA: Not a Project, File No. PP10-069(d), Legislative Positions. (Environmental Services) [Rules Committee referral 5/4/16 – Item G(3)]

Position of support adopted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Norberto Dueñas (Verbal Report).

City Manager Norberto Dueñas expressed appreciation to City staff and partners who collaborated on the very successful 5th Annual Summit on Entrepreneurship and Innovation held last week, which brought together Silicon Valley business and City leaders, assistance organizations, and entrepreneurs to encourage business growth in Silicon Valley.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.
None provided.

3.3 Measure B Settlement Discussions – Quo Warranto.

Recommendation: Direct City staff to take the necessary steps to implement the Writ of Quo Warranto and Judgment in the San José Police Officers’ Association’s (POA) Quo Warranto action (Case No. 1-13-CV-245503). CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)

Due to the City of San José having been commanded by the Superior Court by Writ in Quo Warranto to comply with the Stipulated Facts and Proposed Findings, Judgement and Order in the Quo Warranto proceeding, the City Council declared that Resolution 76158 was not properly adopted for the reasons set forth in the Writ and, as such, Measure B was not properly placed before the electorate as set out in the Writ. Staff was directed to take all necessary steps to implement the Writ and Judgement in the Quo Warranto Action.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Business Development Commission Workload Assessment. *DEFERRED*

Recommendation: As recommended by the Rules and Open Government Committee on April 6, 2016, accept the staff report regarding the scope, workload assessment and budget for the potential establishment of a Business Development Commission (BDC). CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Economic Development)

[Rules and Open Government Committee referral 4/6/16 – Item G(2)]
(Deferred from 5/3/16 – Item 4.4)

Deferred to 5/17/16 per Rules Committee.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Planned Development Conforming Rezoning Located on the North Side of Berryessa Road on the Northern Portion of the Parcel Just West of Union Pacific Railroad Tracks.

Recommendation: Consideration of an ordinance for a Planned Development Conforming Rezoning to redistribute the locations of the residential and public park land uses and eliminate the school land use on the northern portion of the previously approved Land Use Map (File No. PDC09-006), located on an approximately 9.0 gross acre site, on the North side of Berryessa Road on the northern portion of the parcel just west of Union Pacific Railroad tracks (Flea Market, Owner). Director of Planning, Building and Code Enforcement recommends approval of the Conforming Rezoning as proposed with the condition requiring the property owner to rezone the south side of Berryessa Road to include a minimum of 315,022 square feet and up to a maximum of 2.2 million square feet of commercial/retail/industrial space if no significant improvements have been constructed on the south side of Berryessa Road under the existing entitlements by November 1, 2016 consistent with the San José 2040 General Plan. CEQA: Determination of Consistency with the Flea Market General Plan Amendment and Planned Development Rezoning Project Final EIR and Addenda thereto (Resolution No. 73956). (Planning, Building and Code Enforcement)

PDC16-001 – Council District 4

(Deferred from 4/19/16 – Item 11.2)

Ordinance No. 29729 passed for publication, including direction as outlined in Councilmember Manh Nguyen’s memorandum dated May 9, 2016, approving the Conforming Rezoning as outlined by staff for a 1.9-acre area located on the North side of Berryessa Road, with additional direction for the Administration to: (1) Continue efforts to engage the community in the planning of the parks and public spaces beyond the initial \$5 million park improvements contribution by the developer; (2) Formulate a strategy to mitigate speeding & pedestrian safety issues on the segment of Sierra Road between Berryessa Road and Lundy Avenue for which the developer has agreed to contribute \$10,000, and return to the Transportation & Environment Committee in September with an update; and (3) Work closely with the VTA and the County of Santa Clara to explore the creation of an Enhanced Infrastructure Financing District (EIFD) that encompasses the Berryessa Flea Market site and Berryessa BART station area; and report back to Council in the Fall with recommendations on potential formation of an EIFD in the Berryessa Area.

Additionally, to add a condition to approve, subject to previous Council approval from June 2015, that \$7.1M in 101/Oakland/Mabury Traffic Impact Fees are due, prior to the issuance of the 738 residential building permits for the entire Flea Market development. The \$7.1M is to be escalated in accordance with the policy to date payment is made.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Development Services Process Improvement Study Update. *DEFERRED*

Recommendation: As recommended by the Community and Economic Development Committee on April 25, 2016, accept the staff report on the Development Services Process Improvement Workplan and Development Services Staffing. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Planning, Building and Code Enforcement)
[Community and Economic Development Committee referral 4/25/16 – Item (d)(2)]
Deferred to 5/17/16 per Rules Committee.

4.4 Modifications to the Apartment Rent Ordinance.

*Note: Continued from 4/19/16 – Item 4.1(d), (e), (f) and (h)
Heard jointly with Item 4.5.*

Recommendation:

- (a) Direct staff to return with an Ellis Act ordinance to address the process to be followed for owners of ARO apartments subject to the ARO (ARO apartments) seeking to remove their building from the rental business.
- (b) Direct staff to review the City's demolition provisions in the zoning code and to coordinate with PBCE as needed regarding updating those provisions in order to address the demolition of ARO apartments.
- (c) Direct staff to review the City's condominium conversion provisions in Chapter 20.170 to and coordinate with PBCE as needed regarding updating those provisions in order to address the conversion of ARO apartments.

**Approved, with direction as outlined in Councilmember Raul Peralez' memorandum dated May 10, 2016, for staff to return with an ordinance or ordinances addressing Ellis Act evictions from ARO apartments, demolition of ARO units, and conversion of ARO apartments to condominiums, with the following direction: (1) Ordinance must cover the following: (a) Displacement of tenants for demolition of rental properties under ARO; (b) Displacement of tenants for major rehabilitation of rental properties under ARO; (c) Displacement of tenants by conversion of rental properties under ARO to c condominiums; (2) The requirements should apply to all rental housing of 4 units or more, as highlighted under recommendation number 8 on Councilmember Jones' memorandum; (3) Staff should analyze relocation benefits provided in other cities and compare with recommendations suggested for implementation in San José. The benefits should include the following: (a) Three months of monthly median rent for a unit of comparable size/number of bedrooms; (b) Mandate to return deposit made on rental unit; (c) Mandate a right to return for displaced tenants; (d) Low income households (at 80% of AMI or lower), people with disabilities, seniors and families with minor children will receive additional relocation benefits of at least \$3,000 per household, as recommended by Councilmember Jones.
(7-4. Noes: Herrera, Khamis, M. Nguyen, Oliverio.)**

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Modifications to the Apartment Rent Ordinance (Cont'd.)

- (d) Direct staff to return with a plan to increase staffing to sufficiently administer, monitor, and enforce requirements of ARO.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions and Not a Project, File No. PP10-068(d), Preliminary direction to staff when eventual actions requires Council approval. (Housing)

Approved, with direction to staff to return with a plan to increase staffing to sufficiently administer, monitor and reinforce requirements of ARO.

(10-1. Noes: Oliverio.)

4.5 Interim Apartment Rent Ordinance Related to Temporary Allowable Rent Increases and Cost Pass-Through Provisions.

Heard jointly with Item 4.4.

Recommendation: Amend Chapter 17.23 of Title 17 of the San José Municipal Code providing an interim reduction in annual rent increases to 5%, establish a deadline for cost pass-through petition filing under the current Apartment Rent Ordinance, and providing an interim fair return petition process, effective until January 1, 2017 or sixty days after the effective date of an Ordinance amending Chapter 17.23 consistent with Council direction, either by:

- (a) Adopting an urgency ordinance adding Part 8 to Chapter 17.23 of Title 17 of the San José Municipal Code; or

No action taken.

- (b) Approving an ordinance adding Part 8 to Chapter 17.23 of Title 17 of the San José Municipal Code.

CEQA: Exempt, Section 15061(b)(3) No potential for causing a significant effect on the environment, File No. PP16-051. (Housing)

Ordinance No. 29730 passed for publication.

(9-2. Noes: M. Nguyen, Oliverio.)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.6 Vietnamese American Community Center.

Recommendation: As recommended by the Rules and Open Government Committee meeting on May 4, 2016, direct the City Manager to:

- (a) Negotiate and execute new lease terms with the Office of Economic Development with the intent to share the space at the Shirakawa Community Center until June 30, 2018 as currently contemplated, and that may include future relocation(s) of the Work2Future program to other Re-Use sites in the City of San José;
- (b) Approve the use of a portion of the Shirakawa Community Center for an interim Vietnamese American community center by October 2016, while exploring an option for gradual transition to full occupancy by June 30, 2018 or sooner;
- (c) Identify additional funding required for the initial operations for the Vietnamese American Community Center, with the City of San José as the lead operator and report back to the City Council as part of the 2016-2017 Budget process through a Manager's Budget Addendum;
- (d) Begin a Request for Qualifications (RFQ) process similar to the current PRNS Re-Use RFQ process that solicits interest from community based organizations that are interested in collaboratively providing services at the Center;
- (e) Conduct outreach to gather input on possible services and programs that the community would like to see at the Vietnamese American community center in parallel with the RFQ process;
- (f) Approve and accept donations from various individuals, business or community groups to support the effort; and
- (g) Develop a fundraising plan for improvements at the Lucretia Avenue location or for construction of a new center as part of the \$300,000 identified in the Mayor's March Budget Message.

CEQA: Not a Project, File No. PP10-066 (f) Agreements and contacts for lease of existing space for the same use and Not a Project, File No. PP10-068, General Procedure & Policy Making when eventual action required Council approval. (Mayor / M. Nguyen/ T. Nguyen)

[Rules Committee referral 5/4/16 – Item G(4)]

Approved, in concurrence with the memorandum Councilmember Manh Nguyen coauthored with Mayor Sam Liccardo and Councilmember Tam Nguyen, dated April 28, 2016, and the memorandum from Councilmember Ash Kalra, dated May 10, 2016.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 Actions Related to the 2016 Arterial Resurfacing Project.

Recommendation:

(a) Report on bids and award of a construction contract for the 8083 – 2016 Arterial Resurfacing Project, to the low bidder, MCK Services, Inc. in the amount of \$13,703,110.

(b) Approve a 10% contingency in the amount of \$1,370,311.

CEQA: Exempt, Section 15301 (c) Existing Facilities, File No. PP14-069.

(Transportation/Public Works)

Approved.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

- **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>
10354	580 S. First Street	3	Core First LLC	1/105	MFA

- **Open Forum**

Blair Beekman offered comments on national security issues and urged more stringent government accountability.

- **Adjournment**

The Council of the City of San José adjourned at 6:59 p.m.