



CITY COUNCIL AGENDA

JANUARY 31, 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 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)
 - Adjourn to Closed Session in Council Chambers Conference Room, W133
 - [See Separate Agenda](#)
 - 1:30 p.m. - Regular Session, Council Chambers, City Hall
 - **Invocation (District 1)**
 - Rabbi Daniel Pressman, Congregation Beth David
 - **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 9.1 AND 9.2 TO BE CONSIDERED IN A JOINT CITY COUNCIL/ REDEVELOPMENT AGENCY BOARD SESSION.**
- 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 declaring January 27, 2012 as “International Holocaust Remembrance Day” in the City of San José. (Herrera)

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.

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)]

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

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)

2. CONSENT CALENDAR

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)

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)

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)]

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)]

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 1/10/12 – Item 3.4)

* **ORIGINALLY CONTINUED TO 02/07/12 AND SUBSEQUENTLY CONTINUED BY RULES AND OPEN GOVERNMENT COMMITTEE TO 2/14/12**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Construction Tax Ordinance.](#) [Memo from Mayor Reed and Councilmembers Herrera, Liccardo, Chu and Kalra](#) [Supplemental Memo from OED and PBCE](#) [Presentation](#)

* **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)

4.2 [North San José Development Incentive.](#) [Memo from Mayor Reed and Councilmembers Herrera, Liccardo, Chu and Kalra](#)

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.

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 North San José Development Incentive. (Cont'd.)

Recommendation:

- (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)

4.3 [Development Services Staffing Needs.](#)

[Memo from Mayor Reed, Vice Mayor Nguyen and Councilmembers Herrera and Rocha](#)

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.
- (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>

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Development Services Staffing Needs. (Cont'd.)

Recommendation:

(b) Approve the following position additions effective February 6, 2012: (Cont'd.)

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

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)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEMS 9.1 AND 9.2 IN A JOINT SESSION

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.
- (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)

9.2 [Amendments to the Agency's FY 2011-2012 Budget. Presentation](#)

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)

● 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.