



CITY COUNCIL AGENDA

MAY 21, 2013

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
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. 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/cityclerk. 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
- 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 5)**

- **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 7.1 AND 7.2 TO BE HEARD IN THE EVENING**

* **ITEM 7.3, "Agreement with ADS Environmental Services, Inc. for Storm and Sanitary Sewer Flow Monitoring," RENUMBERED TO ITEM 2.18**

- Orders of the Day (Cont'd.)

* **ITEM 8.1, "PUBLIC SAFETY DATA APPLICATIONS," TO BE HEARD NO EARLIER THAN 3:00 P.M.**

** **ITEM 4.1 TO BE ADDED UNDER ORDERS OF THE DAY: REQUIRES A DETERMINATION BY A TWO-THIRDS (2/3) VOTE OF THE MEMBERS OF THE COUNCIL PRESENT AT THE MEETING, OR, IF LESS THAN TWO-THIRDS (2/3) OF THE MEMBERS OF THE COUNCIL ARE PRESENT AT THE MEETING, A UNANIMOUS VOTE OF THOSE MEMBERS PRESENT THAT THERE IS A NEED TO TAKE IMMEDIATE ACTION. Council's Rules of Conduct, Resolution, Rule 3(d).**

4.1 Motion for Reconsideration relating to Item 2.2a on 5-14-13 Council Agenda (Adoption of amendments to Sign Code) and final adoption of Ordinance No. 29246.

Recommendation:

- (a) Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.
- (b) Consider a request to reconsider the City Council's action to adopt Ordinance No. 29246 (Item 2.2a on the May 14th Council Agenda) – Amending Title 23 of the San José Municipal Code by amending Section 23.02.1045 and adding new Sections 23.02.155, 23.02.385, 23.02.424, 23.02.920 and 23.02.1045 to Chapter 23.02, and amending Section 23.04.020 of Chapter 23.04, all to add pedestrian wayfinding signs as signs that do not reduce signage otherwise allowable under Title 23, to allow for additional attached signs for large shopping center buildings and specify the maximize size of such signs, and to allow for entryway signs as a new type of attached sign on large shopping center buildings, and making other nonsubstantive, ministerial, technical, or typographical changes to said Chapters 23.02 and 23.04 of Title 23 of the San José Municipal Code. (Constant)
- (c) Adopt [Ordinance No. 29246](#) as revised to clarify that each primary Entryway Sign shall not exceed five (5) square feet for each linear foot of Public Entryway Width, to a maximum square footage of one hundred eighty (180) square feet.

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 May 31, 2013 a “World Tobacco Free Day” in the City of San José. (Chu)
 - 1.2 Presentation of a proclamation declaring the Month of May as “Stroke Awareness Month” in the City of San José. (Mayor)
 - 1.3 Presentation of a commendation to Judy Rickard for being recognized as a Cesar Chavez “Champion of Change” by the White House for her work on immigration reform on behalf of same-sex bi-national families in the United States. (Mayor)
TO BE HEARD IN THE EVENING
 - 1.4 Presentation of a commendation to De Tran for 20 years of service as a journalist and publisher of V Times and Viet Mercury News. (Nguyen)
TO BE HEARD IN THE EVENING
 - 1.5 Presentation of a commendation to La Oferta for 35 years of service to the community. (Nguyen)
TO BE HEARD IN THE EVENING
 - 1.6 Presentation of a commendation to the organizers of Affordable Housing Week for their efforts to raise awareness about programs that enhance the quality of life of residents in the City of San José and Santa Clara County, and for their assistance in the development of affordable housing, support services, and housing conservation for low-income and special needs populations. (Herrera)
- * (Rules Committee referral 5/15/13)

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.

- * **Recommendation:** Final Approval of Minutes.
- (a) [Regular Minutes of May 15, 2012.](#)
 - (b) [Regular Minutes of May 22, 2012.](#)
 - (c) [Special Closed Session Minutes of May 31, 2012.](#)
 - (d) [Regular Minutes of June 5, 2012.](#)
 - (e) [2012-2013 Budget Public Hearing Minutes of June 11, 2012.](#)
 - (f) [Regular Minutes of June 12, 2012.](#)
- (Item continued on the next page)*

2. CONSENT CALENDAR

2.1 Approval of Minutes. (Cont'd.)

* **Recommendation:**

- (g) [Regular Minutes of June 19, 2012.](#)
- (h) [Joint San José/Diridon Development Authority Minutes of June 19, 2012.](#)
- (i) [Joint City Council/San José Financing Authority Minutes of June 19, 2012.](#)
- (j) [Regular Minutes of August 7, 2012.](#)
- (k) [Joint City Council/San José Financing Authority Minutes of August 7, 2012.](#)
- (l) [Regular Minutes of August 14, 2012.](#)
- (m) [Regular Minutes of August 21, 2012.](#)
- (n) [Regular Minutes of August 28, 2012.](#)
- (o) [Joint City Council/San José Financing Authority Minutes of August 28, 2012.](#)

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) [ORD. NO. 29250](#) – Amending various Sections of Chapter 2.08 of Title 2 of the San José Municipal Code and repealing Section 25.04.610 of Chapter 25.04 of Title 25 related to the consolidation of Boards, Bureaus, and Commissions.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of April 3, 2013.](#) (Mayor)
- (b) [Rules and Open Government Committee Report of April 10, 2013.](#) (Mayor)
- (c) [Rules and Open Government Committee Report of April 17, 2013.](#) (Mayor)
- (d) [Rules and Open Government Committee Report of April 24, 2013.](#) (Mayor)

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 [Amendment to Meyers Nave Agreement for Legal Services Related to the Fiscal Reform Plan.](#)

[Supplemental Memo from the City Attorney](#)

Recommendation:

- (a) Adopt a resolution authorizing the City Attorney to negotiate and execute a third amendment to the agreement with Meyers, Nave, Riback, Silver & Wilson for legal services in connection with employment, labor, and pension reform, increasing the contract amount by \$900,000 for a total amount not to exceed \$2,100,000, subject to appropriation of funds as recommended below.

(Item continued on the next page)

2. CONSENT CALENDAR

2.7 Amendment to Meyers Nave Agreement for Legal Services Related to the Fiscal Reform Plan. (Cont'd.)

Recommendation:

- (b) Adopt the following Funding Sources Resolution and Appropriation Ordinance amendments in the General Fund:
- (1) Increase the city-wide appropriation to the City Attorney's Office for Fiscal Reform Plan Outside Legal Counsel by the amount of \$1,000,000; and
 - (2) Increase the estimate for Revenue from the State of California in the amount of \$1,000,000.

CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney's Office/City Manager's Office)

2.8 [Actions Related to the Census Tracts that Comprise the Targeted Employment Area for the Enterprise Zone.](#)

Recommendation: Adopt a [resolution](#) approving the boundaries of the Targeted Employment Area for the City of San José Enterprise Zone. CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding. (Economic Development)

2.9 [Report on Bids and Award of Contract to JMB Construction, Inc. for the Influent Magnetic Meter and Valve Replacement for Nitrification Clarifiers.](#)

Recommendation:

- (a) Award the construction contract for the Influent Magnetic Meter and Valve Replacement for Nitrification Clarifiers A-5 & A-6 Project to the low bidder, JMB Construction, Inc., South San Francisco, CA in the amount of \$270,300; and
 - (b) Approve a 10% contingency in the amount of \$27,030.
- CEQA: Exempt, File No. PP12-094. (Environmental Services)

2.10 Amendments to the Administrative Citation Schedule of Fines.

* **Recommendation:** Adopt a [resolution](#) repealing Resolution No. 76330, and:

- (a) [Amending the Administrative Citation Schedule of Fines to change fines for the Solid Waste, Pretreatment, Dental Amalgam, Stormwater Treatment Measures, and Fats, Oils, and Grease enforcement programs.](#) (Environmental Services)
- (b) [Amending the Administrative Citation Schedule of Fines to create escalating administrative citation fines for violations of Sections 20.40.520 and 20.40.560 of Chapter 20.40 related to outdoor uses within 150 feet of residentially zoned property and activity in Industrial Zoning Districts, Section 20.50.220 of Chapter 20.50 and Sections 20.75.300, 20.75.320, and 20.75.370 of Chapter 20.75 related to late night use and activity, outdoor uses within 150 feet of residentially zoned property and screening of uses from adjacent properties in Pedestrian-Oriented Zoning Districts, and Sections 20.80.810, 20.80.830, 20.80.840, 20.80.860, . . .](#)

(Item continued on the next page)

2. CONSENT CALENDAR

2.10 Amendments to the Administrative Citation Schedule of Fines. (Cont'd.)

Recommendation:

- (b) . . . 20.80.870, and 20.80.890 related to Outdoor Vending, and Sections 20.80.1100, 20.80.1130, 20.80.1140 and 20.80.1150 related to Recycling Facilities of Chapter 20.80 of Title 20 of the San José Municipal Code. (Planning, Building and Code Enforcement)
[Deferred from 5/7/13 – Item 4.1(b)]

CEQA: Not a Project, File No. PP10-067(a), Increase or Adjustment to Fees, Rates and Fares.

2.11 Purchase Order for Euro Style Management, Inc. for Wastewater Clarifier Tank Rehabilitations.

Recommendation: Authorize the City Manager to:

- (a) Execute a Purchase Order with Euro Style Management, Inc. (North Highlands, CA) for the coating and rehabilitation of five clarifier tanks at the San José-Santa Clara Regional Wastewater Facility for the period May 21, 2013 through May 20, 2014, in an amount not to exceed \$663,375; and
- (b) Approve a 10% contingency for a not-to-exceed amount of \$66,337 to execute change orders for any unforeseen changes or requirements that may arise prior to the completion of services.

CEQA: Exempt, File No. PP13-039. (Finance)

2.12 Grant Application for Coleman Road Under-Crossing Development Project.

* **Recommendation:** Adopt a [resolution](#) that:

- (a) Authorizes the City Manager, or designee, to submit a grant application in the amount not to exceed \$200,000 to the Santa Clara Valley Water District (Water District) under the 2013 Comprehensive Stewardship Grant Program for the Coleman Road Under-Crossing project (“Project”) with a local contribution of \$710,000 for a total project cost of \$910,000;
- (b) Certifies that the City has or will have sufficient funds to operate and maintain the Project for no less than 25 years once completed;
- (c) Certifies that the City will comply with all applicable federal, State and local laws, ordinances, rules, regulations and guidelines for the Project;
- (d) Delegates the authority to the City Manager, or designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project; and
- (e) Authorizes the City Manager, or designee, to resubmit the grant application in subsequent years for the same amount and grant requirements described in this memorandum if the City is unsuccessful in receiving an award with the initial grant application and to negotiate and execute any documents to effectuate the grant.

CEQA: Mitigated Negative Declaration, File No. PP04-051. (Parks, Recreation and Neighborhood Services)

2. CONSENT CALENDAR

2.13 [Actions Related to the Underground Utility Program and Master Pan.](#)

Recommendation: Approve the proposed Fiscal Year 2012/13- 2017/18 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program and of the Fiscal Year 2011-2012 Rule 20B (In-Lieu Fee) Undergrounding Master Pan. CEQA: Exempt, File No. PP13-034. (Public Works)

2.14 [Agreement with Callendar Associates Landscape Architecture, Inc. for Consultant Services.](#)

Recommendation: Approve the [second amendment to the master agreement](#) with Callendar Associates Landscape Architecture, Inc. for consultant services for various City trail projects extending the term of the agreement to December 31, 2015. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works)

2.15 [AB 28 \(V. Manuel Perez\) Economic Development: Enterprise Zones.](#)

Recommendation: As recommended by the Rules and Open Government Committee on May 15, 2013, adopt a position of support for AB 28 (V. Manuel Perez) Economic Development: Enterprise Zones. (Economic Development)

* [Rules Committee referral 5/15/13 – Item G(2)]

2.16 [SB 434 \(Hill\) Personal Income and Corporation Taxes: Hiring Credits: Enterprise Zones, Lambras, Manufacturing Enhancement Areas, and Targeted Tax Areas.](#)

Recommendation: As recommended by the Rules and Open Government Committee on May 15, 2013, adopt an oppose position for SB 434 (Hill) Personal Income and Corporation Taxes: Hiring Credits: Enterprise Zones, Lambras, Manufacturing Enhancement Areas, and Targeted Tax Areas. (Economic Development)

* [Rules Committee referral 5/15/13 – Item G(3)]

2.17 [Shakespeare in the Park.](#)

Recommendation: As recommended by the Rules and Open Government Committee on May 15, 2013:

- (a) Approve Shakespeare in the Park 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. (Oliverio)

* [Rules Committee referral 5/15/13 – Item G(4)]

2. CONSENT CALENDAR

2.18 [Agreement with ADS Environmental Services, Inc. for Storm and Sanitary Sewer Flow Monitoring.](#)

Recommendation: Approve the [master agreement](#) with ADS Environmental Services, Inc. for consultant services for citywide storm and sanitary sewer flow monitoring from the date of execution to December 31, 2016, in a total amount not to exceed \$4,500,000. CEQA: Exempt, File No. PP10-066(d), Consultant services. (Public Works)

* **RENUMBERED FROM ITEM 7.3**

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 [Actions Related to Team San José Performance Measures.](#)

* **Recommendation:**

- (a) Approve the revised Team San José performance measures for 2012 – 2013.
CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Convention and Cultural Affairs Fund:
 - (1) Increase the estimate for Earned Revenue by \$3,671,173;
 - (2) Increase the appropriation to the Convention Facilities Department for: Convention Facilities Operations in the amount of \$3,375,244;
 - (3) Increase appropriation to the Convention Facilities Department for: Miscellaneous Improvements & Repairs in the amount of \$400,000;
 - (4) Increase the appropriation to the Office of Economic Development for: Convention Center City Free Use in the amount of \$13,000; and
 - (5) Decrease the Ending Fund Balance by \$117,071.CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance.
(Economic Development/City Manager's Office)

3. STRATEGIC SUPPORT SERVICES

3.4 [Actions Related to the Marijuana Business Tax.](#)

* **Recommendation:**

- (a) Consider increasing the Marijuana Business Tax rate from 7% of gross receipts to 10% of gross receipts, as allowed under Measure U; and
- (b) Direct staff to prepare an ordinance to implement the increased Marijuana Business Tax rate, effective July 1, 2013, for Council consideration at a public hearing on June 4, 2013.

CEQA: Not a Project, File No. PP10-067(a), Increase or adjustment to fees, rates and fares. (Finance)

3.5 [Agreement with Athens Administrators for Workers' Compensation Comprehensive Services.](#)

- * **Recommendation:** Approve an [agreement](#) with Athens Insurance Services, Inc. dba Athens Administrators to handle a portion of claims administration and all City bill review, utilization review and medical case management, and provide the use of a Medical Provider Network. The two year agreement for the period June 1, 2013 to June 30, 2015 shall not exceed \$4,600,000, subject to annual appropriation of funds by the City Council. CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (Human Resources)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Motion for Reconsideration relating to Item 2.2a on 5-14-13 Council Agenda \(Adoption of amendments to Sign Code\) and final adoption of Ordinance No. 29246.](#)

Recommendation:

- (a) Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.
- (b) Consider a request to reconsider the City Council's action to adopt Ordinance No. 29246 (Item 2.2a on the May 14th Council Agenda) – Amending Title 23 of the San José Municipal Code by amending Section 23.02.1045 and adding new Sections 23.02.155, 23.02.385, 23.02.424, 23.02.920 and 23.02.1045 to Chapter 23.02, and amending Section 23.04.020 of Chapter 23.04, all to add pedestrian wayfinding signs as signs that do not reduce signage otherwise allowable under Title 23, to allow for additional attached signs for large shopping center buildings and specify the maximize size of such signs, and to allow for entryway signs as a new type of attached sign on large shopping center buildings, and making other nonsubstantive, ministerial, technical, or typographical changes to said Chapters 23.02 and 23.04 of Title 23 of the San José Municipal Code. (Constant)

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Motion for Reconsideration relating to Item 2.2a on 5-14-13 Council Agenda (Adoption of amendments to Sign Code) and final adoption of Ordinance No. 29246. (Cont'd.)

Recommendation:

(c) Adopt [Ordinance No. 29246](#) as revised to clarify that each primary Entryway Sign shall not exceed five (5) square feet for each linear foot of Public Entryway Width, to a maximum square footage of one hundred eighty (180) square feet.

** **REQUIRES A DETERMINATION BY A TWO-THIRDS (2/3) VOTE OF THE MEMBERS OF THE COUNCIL PRESENT AT THE MEETING, OR, IF LESS THAN TWO-THIRDS (2/3) OF THE MEMBERS OF THE COUNCIL ARE PRESENT AT THE MEETING, A UNANIMOUS VOTE OF THOSE MEMBERS PRESENT THAT THERE IS A NEED TO TAKE IMMEDIATE ACTION.**
Council's Rules of Conduct, Resolution, Rule 3(d).

5. NEIGHBORHOOD SERVICES

5.1 [Grant Application to the Federal Highway Administration Grant for Bay Trail Reaches Project.](#)

* **Recommendation:** Adopt a [resolution](#) to authorize the City Manager or designee to submit a grant application and related documents to the Federal Highway Administration for grant funds of \$11,085,416 as part of the Transportation Investment Generating Economic Recovery grant program with a local match of \$2,771,353 for the Bay Trail Reaches 7A, 9 and 9B project. CEQA: Mitigated Negative Declaration, File No. PP01-150, and Addendum thereto, File No. PP02-116. (Parks, Recreation and Neighborhood Services)

5.2 [Parkland Agreement with the Flea Market, Inc., Bumb & Associates, BGT Development, LLC, and KB Home South Bay, Inc.](#)

Recommendation: Approve a [Parkland Agreement](#) for Final Tract Map No. 10160 with The Flea Market, Inc., Bumb & Associates, BGT Development, LLC, and KB Home South Bay Inc. to dedicate approximately 3.59 acres of parkland to the City and to construct trail improvements to satisfy the Parkland Dedication Obligation for Final Tract Map No. 10160. CEQA: San José Flea Market EIR, File No. PDC03-108, Resolution 73956, for the park site. Mitigated Negative Declaration, File No. PP09-218, for the trail project. Council District 4. (Parks, Recreation and Neighborhood Services)

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Actions Related to the Bicycle and Pedestrian Projects Grant.](#)

Recommendation: Adopt a [resolution](#):

- (a) Authorizing the City Manager or designee to submit a request to the Metropolitan Transportation Commission (MTC) for the allocation of Fiscal Year 2013-2014 Transportation Development Act, Article 3 (TDA3) State grant funding in the amount of \$1,225,799 for Citywide Bicycle and Pedestrian projects;
- (b) Making the certifications and assurances required under the grant program as explained in this memorandum; and
- (c) Authorizing the City Manager or designee to accept any grant funding awarded from MTC and to negotiate and execute any grant documents to effectuate the grant.

CEQA: Exempt, File No. PP13-037. (Transportation)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Actions Related to the Recycle Plus Large Item Collection and Yard Trimmings Cart Rates.](#)

Recommendation: Adopt a [resolution](#) to supersede Resolution No. 76273, and to amend the Recycle Plus rates, effective July 1, 2013, as follows:

- (a) Increase the rate for on-demand single-family large item collection services by \$0.44 to \$26.30;
- (b) Increase the rates for on-demand multi-family large item collection services by \$0.96 to \$58.36 for the first three items and by \$0.32 to \$19.45 for each additional item during the same collection;
- (c) Increase the single-family rate for optional subscription yard trimmings cart services from \$4.35 to \$4.69 per month; and
- (d) Increase the multi-family rate for optional subscription yard trimmings cart services from \$10.92 to \$11.79 per month.

CEQA: Not a Project, File No. PP10-067(a), Increase or Adjustment to Fees, Rates and Fares. (Environmental Services)

* **TO BE HEARD IN THE EVENING**

7.2 [Amendments to the Commercial Solid Waste Customer Service Rates.](#) [Supplemental Memo from Environmental Services](#)

* **Recommendation:**

- (a) Hold a public hearing to confirm that the proposed Maximum Commercial Solid Waste Services Rates are consistent with the terms of the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreements between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services;

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 Amendments to the Commercial Solid Waste Customer Service Rates. (Cont'd.)

Recommendation:

- (b) Approve the [Second Amendment](#) to the Commercial Solid Waste and Recyclable Material Collection Franchises Agreement with Allied Waste Services of North America, LLC, dba Republic Services, to change the maximum service rate adjustment methodology; and
- (c) Adopt [a resolution](#) setting Maximum Commercial Solid Waste Services Rates in the City pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreements between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total processing costs for organic processing services.

CEQA: Not a Project, File No. PP10-067(a), Increase or Adjustment to Fees, Rates and Fares. (Environmental Services)

* **TO BE HEARD IN THE EVENING**

7.3 [Agreement with ADS Environmental Services, Inc. for Storm and Sanitary Sewer Flow Monitoring.](#)

Recommendation: Approve the [master agreement](#) with ADS Environmental Services, Inc. for consultant services for citywide storm and sanitary sewer flow monitoring from the date of execution to December 31, 2016, in a total amount not to exceed \$4,500,000.

CEQA: Exempt, File No. PP10-066, Consultant services. (Public Works)

* **RENUMBERED TO ITEM 2.18**

8. PUBLIC SAFETY SERVICES

8.1 [Public Safety Data Applications.](#)

Recommendation: Continued discussion of the *Public Safety Data Applications Study Session* to provide Council an opportunity to evaluate and comment. (Police/Fire)

* (Continued from 5/16/13 – Study Session)

TO BE HEARD NO EARLIER THAN 3:00 P.M.

9. REDEVELOPMENT – SUCCESSOR 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.
- **Council will recess until 7:00 p.m.**

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) 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 will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

11.1 Public Hearings on Consent Calendar.

11.2 [Rezoning the Real Property Located on the North Side of Los Esteros Road.](#)

- * **Recommendation:** Consideration of an [ordinance](#) rezoning the real property located on the north side of Los Esteros Road, approximately 2,500 feet east of Grand Avenue (675 Los Esteros Road, APN: 015-30-071) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to increase the maximum height of the landfill from 50 feet to 80 feet, increase the landfill capacity from 62,000 cubic yards to 700,000 cubic yards, modify the phasing plan of daily tonnage of waste accepted, and establish a phasing plan for the development of a 200,000 square foot materials recovery facility on a 52.5 gross acre site (Zanker Road Resource Management, Ltd, Owner). CEQA: Addendum to the Zanker Materials Recycling Facility EIR and subsequent Mitigated Negative Declaration. Planning Commission recommends approval (7-0-0).

[PDC12-029](#) – District 4

- * **RECOMMEND DEFERRAL TO 6/11/13 PER ADMINISTRATION**

11.3 Consideration of a Conditional Use Permit and Determination of Public Convenience or Necessity Request to Allow the Sale of Alcoholic Beverages.

Recommendation: Consideration of a Conditional Use Permit and Determination of Public Convenience or Necessity request to allow the sale of alcoholic beverages for off-site consumption (Type 21 General) in a proposed convenience store within an existing tenant space on a 0.526 gross acre site in the CP Commercial Pedestrian Zoning District, located on the west side of White Road, approximately 210 feet northerly of Story Road (1075 South White Road) (De La Torre Props, LLC, Owner). CEQA: Exempt.

[CP12-047/ABC12-014](#) – District 5

DROP

11. PUBLIC HEARINGS

11.4 Consideration of a Conditional Use Permit and Determination of Public Convenience or Necessity Request to Allow the Sale of Alcoholic Beverages.

- * **Recommendation:** Consideration of a Conditional Use Permit and Determination of Public Convenience or Necessity request to allow the off-sale of alcoholic beverages. The project includes exterior alterations to the existing 20,685 square foot vacant building within a neighborhood retail center on a 14.5 gross acres site located on the east side of South King Road, approximately 550 feet southerly of Story Road (1180 South King Road) (PDSJ, LLC, Owner; Smart and Final Food Market, Developer). CEQA: Mitigated Negative Declaration, File No. CP04-086. Planning Commission recommends approval (7-0-0).
CP13-014/ABC13-002 – District 5

- **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>
10181	SE/C Winchester and Stevens Creek Blvd	6	First Realty Investment	1 Lot / 248 Units	MFA/Condo

- **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.

- **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, 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, 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.