



CITY COUNCIL AGENDA

NOVEMBER 4, 2014

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
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 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 <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, 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**
9:39 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 10)**
President Scott Jensen, The Church of Jesus Christ of Latter-Day Saints offered a prayer for the Invocation.
- **Pledge of Allegiance**
Mayor Reed, accompanied by Third Graders of Lynhaven Elementary School led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and Amended Agenda were approved.

- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a proclamation declaring November 11, 2014 as Veterans Day in the City of San José. (Mayor/Herrera)
Mayor Reed and Council Member Herrera recognized November 11, 2014 as Veterans Day in San José. Mayor Reed presented the commendation to Ernie Glave, President, United Veterans Council.
- 1.2** Presentation of a Commendation to Charles Fowler for his achievement in receiving "Teacher of the Year" Award from Santa Clara County. (Nguyen)
Mayor Reed and Vice Mayor Nguyen recognized and commended Mr. Charles Fowler for his accomplishments.
- 1.3** Presentation of a proclamation in support of the Shop San José Campaign to Women Impacting Public Policy and representatives of San José's neighborhood business associations declaring November 29, 2014 as "Small Business Saturday" in the City of San José. (Reed/Herrera/Economic Development)
Mayor Reed, Council Member Herrera, Council Members Khamis and Oliverio recognized November 29, 2014 as "Small Business Saturday" in the City of San José.

2. CONSENT CALENDAR

- 2.1 Approval of Minutes.**
There were none.
- 2.2 Final Adoption of Ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29499 – An ordinance of the City of San José: (1) Prezoning certain real property of approximately 1.02 acres situated approximately 400 feet south of the southern terminus of Pullman Way from Santa Clara County to the IP Industrial Park Zoning District; and (2) Prezoning certain real property of approximately 8,6 acres situated approximately 320 feet south of the southern terminus of Pullman Way from Santa Clara County to the PQP Public/Quasi-Public Zoning District. C14-046
Ordinance No. 29499 adopted.
Abstain: Khamis.

2. CONSENT CALENDAR

2.2 Final Adoption of Ordinances. (Cont'd.)

- (b) ORD. NO. 29500 – An ordinance of the City of San José: (1) Prezoning certain real property of approximately 2.1 acres situated approximately 250 feet north east of Canoas Garden Avenue from Santa Clara County to the OS Open Space Zoning District; and (2) Prezoning certain real property of approximately 10.3 acres situated east of Canoas Garden Avenue, north and south of Millpond Drive from Santa Clara county to the PQP Public/Quasi-public Zoning District. C14-047
Ordinance No. 29500 adopted.
Abstain: Khamis.
- (c) ORD. NO. 29501 – Prezoning certain real property of approximately 2.0 acres situated northeast of St. Florian Way and Adeline Avenue from Santa Clara County to the PQP Public/Quasi-Public Zoning District. C14-048
Ordinance No. 29501 adopted.
Abstain: Khamis.
- (d) ORD. NO. 29502 – Prezoning certain real property of approximately 10.9 acres situated at the terminus of Carol Drive to the PQP Public/Quasi-Public Zoning District. C14-049
Ordinance No. 29502 adopted.
Abstain: Khamis.
- (e) ORD. NO. 29503 – Prezoning and rezoning certain real property situated on the south side of The Union Pacific Railroad Tracks, west of Hillsdale Avenue, northerly of Adeline Avenue and Altino Blvd. and Easterly Of Highway 87 at the terminus of Carol Drive to A(PD) Planned Development Zoning District. PDC13-009
Ordinance No. 29503 adopted.
Abstain: Khamis.
- (f) ORD. NO. 29504 – Rezoning certain real property of approximately 0.87 acre on the southwest side of Dove Hill Road, approximately 1,370 feet southerly of Yerba Buena Avenue (0 Dove Hill Road) from the A Agricultural Zoning District to the R-1-2 Single-Family Residence Zoning District. C14-031
Ordinance No. 29504 adopted.
- (g) ORD. NO. 29505 – Rezoning certain real property of approximately 4.64 acres situated on the east side of Stone Avenue approximately 650 feet northerly of Cimino Street (1850 Stone Avenue) from the IP Industrial Park Zoning District to the HI Heavy Industrial Zoning District. C14-037
Ordinance No. 29505 adopted.
- (h) ORD. NO. 29506 – Rezoning certain real property of approximately 0.20 acre situated on the southeast corner of South Winchester Boulevard and Williams Road from the CO Commercial Office Zoning District to the CP Commercial Pedestrian Zoning District. C14-043
Ordinance No. 29506 adopted.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Neighborhood Services and Education Committee Report of October 9, 2014. (Nguyen)
- (b) Rules and Open Government Committee Report of October 15, 2014. (Mayor)
- (c) Public Safety, Finance, and Strategic Support Committee Report of October 16, 2014. (Constant)

Approved.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Youth Commission Appointment.

Recommendation:

- (a) Appoint Theresa Do to the District 7 Seat on the Youth Commission to an unexpired term ending May 31, 2015; and

Approved.

- (b) Administer Oath of Office to District 7 Youth Commissioner Theresa Do. (City Clerk)
(Rules Committee referral 10/29/14)

Heard Immediately Following the Ceremonial Items.

City Clerk Toni J. Taber, CMC administered the Oath of Office to District 7 Youth Commissioner Theresa Do. Mayor Reed and Vice Mayor Nguyen were present.

2.8 Library and Early Education Commission Appointment to Special Eligibility Seat.

Recommendation: Approve the following appointment to the Special Eligibility Seats on the Library and Early Education Commission:

- (a) Kayla Thuy-Khanh Tran to a term ending June 30, 2016. (City Clerk)

Approved.

2. CONSENT CALENDAR

2.9 Actions Related to the Acceptance of Vice Mayor Nguyen's Surplus Campaign Funds.

Recommendation: Adopt the following Appropriation Ordinance and Funding Source Resolution Amendments in the General Fund to:

- (a) Increase the estimate for Other Revenue by \$7,347.
- (b) Increase the appropriation to Council District #07 (July – December) by \$7,347. CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Clerk/City Manager)

Ordinance No. 29508 adopted.

Resolution No. 77203 adopted.

2.10 Set a Public Hearing on the Cost of Sidewalk Repairs for December 16, 2014.

Recommendation: Adopt a resolution setting a Public Hearing on Tuesday, December 16, 2014, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs. CEQA: Not a Project, File No. PP10-066069 (a), staff reports. (Finance)

Resolution No. 77204 adopted.

2.11 Set a Public Hearing on the Cost of Corrective Actions for Tree Violations for December 16, 2014.

Recommendation: Adopt a resolution setting a Public Hearing on Tuesday, December 16, 2014, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of corrective actions for tree violations. CEQA: Not a Project, File No. PP10-069(a), staff reports. (Finance)

Resolution No. 77204 adopted.

2.12 Amendment to the Consultant Agreement for the Transportation Incident Management Center Facility Improvement Project.

Recommendation:

- (a) Approve a Third Amendment to the agreement for consultant services with IBI Group for the Transportation Incident Management Center Facility Improvement project to increase the total compensation from \$485,000 to \$535,000 and to extend the term of the agreement to June 30, 2015.
- (b) Reduce the project construction contingency amount from the Council approved 15% to 7½%.

CEQA: Exempt, File No. PP09-108. (Public Works/Transportation)

Approved.

2. CONSENT CALENDAR

2.13 Amendment to the City Pay Plan for Various Classifications.

Recommendation: Adopt a resolution to:

- (a) Amend the City of San José Pay Plan effective October 28, 2014, to create the following classification:
 - (1) Planner IV (4127)
- (b) Amend the City of San José Pay Plan effective October 28, 2014, to change the salary range and title for the following classification:
 - (1) Planner I/II/III (4121/4122/4125) (formerly Planner I/II)

CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)
(Deferred from 10/28/14 – Item 2.7)

Resolution No. 77206 adopted.

2.14 2014 National League of Cities Voting Delegate at the Annual Business Meeting.

Recommendation: As recommended by the Rules and Open Government Committee on October 29, 2014, approve the proposed designation of Council Member Pete Constant as the voting delegate at the November 22, 2014 Annual Business Meeting for the National League of Cities. (City Manager)

[Rules Committee referral 10/29/14 – Item G(2)]\

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Edward Shikada (Verbal Report). No Report.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

Heard at 9:30 a.m.

No Report.

3. STRATEGIC SUPPORT SERVICES

3.3 Actions Related to an Initiative Ordinance Amending Title 6 and Title 20 of the San José Municipal Code Regarding Medical Marijuana Collectives.

Recommendation: Consistent with the California Elections Code Section 9215 and San José City Charter, Article 16, Sections 1601(b) and 1603(a)(2):

- (a) Adopt the proposed initiative ordinance as submitted; or
- (b) Adopt a resolution calling an election to submit the initiative to the voters at a Special Municipal Election on a date to be decided, not less than 88 days or more than 103 days from the date of the resolution; or

No Action.

- (c) Adopt a resolution calling a Special Municipal Election to be consolidated with the General Election on Tuesday, June 7, 2016 to submit the initiative to the voters and direct the City Clerk to return to the City Council at a later date with all necessary actions related to consolidation of the Special Municipal Election with the General Election.

CEQA: Not a Project, File No. PP10-069(c), Potential actions under Elections Code §9214, in response to voter-sponsored initiative. (City Manager/City Attorney/City Clerk)

Resolution No. 77207 adopted, as amended:

- (1) **The ballot language: “Shall an ordinance be adopted amending the San José Municipal Code to include Medical Marijuana Collectives as an allowed land use in agricultural, commercial pedestrian, commercial neighborhood, industrial park, light industrial, heavy industrial zoning districts, and certain planned development zoning districts, and to establish a registration process and zoning code verification certificate process?”**
- (2) **Staff was directed to report to Council on a weekly basis per the status of the enforcement activities on the 26 plus collectives that are operating illegally.**

3.4 2013-14 Annual Performance Audit of Team San José’s Management of the City’s Convention and Cultural Facilities.

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on October 16, 2014, accept the 2013 – 14 Annual Performance Audit of Team San José’s Management of the City’s Convention and Cultural Facilities.

CEQA: Not, a Project, File PP10-069(c), staff reports. (City Auditor)

[Public Safety, Finance, and Strategic Support Committee referral 10/16/14 – Item D(4)]
Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Extension of North San José Development Incentive.

Recommendation: As recommended by the Community and Economic Development Committee on September 22, 2014, adopt a resolution amending the North San José Area Development Policy to:

- (a) Extend the North San José Traffic Impact Fee Incentive deadline for Tier 2 projects (build to suit projects of over one million square feet) to obtain building permits for one year to December 31, 2017; and to receive a certificate of occupancy for one year to December 31, 2017;
- (b) Limit the amount of development capacity in the incentive to a total of four million square feet across both Tiers; and
- (c) Designate the point at which the allocation of the incentive occurs is at the time of payment of the Traffic Impact Fee, or upon execution of an Industrial Project Completion Agreement upon approval of a valid development permit.

CEQA: North San José Environmental Impact Report, Resolution No. 72768 and Addenda thereto. (Economic Development /Planning, Building and Code Enforcement/Transportation)

[Community and Economic Development Committee referral 9/22/14 – Item D(2)(b)]
(Deferred from 10/21/14 – Item 4.2)

Deferred to November 18, 2014 per Administration.

4.2 Potential Sale of Real Property in the Diridon Area to Athletics Investment Group LLC.

Recommendation: Approve an Option and Purchase and Sale Agreement and Escrow Instructions for the potential sale of certain real property located at 105 South Montgomery, 150 South Montgomery, 510 West San Fernando, 102 South Montgomery, 115 South Autumn, and 645 Park Avenue (collectively, “Property”) to the Athletics Investment Group, LLC, which Option Agreement provides for an initial option term of four years with initial option consideration of \$100,000, three one-year extensions of the option term for an additional consideration of \$25,000 per year, and a purchase price of \$7,000,000 for the Property if the option is exercised. CEQA: Diridon Station Area Plan EIR, Resolution No. 77096, and the Baseball Stadium in the Diridon/Arena Area EIR, Resolution No. 75432. (City Attorney)

Approved.

**Staff was directed to post the appraisal for the property on the City Clerk website.
Noes: Oliverio.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Actions Related to the Police Administration and Communication Buildings Chiller Replacements Project.

Recommendation: Adopt a resolution authorizing the Director of Public Works to:

- (a) Award a design-build construction contract for the 7458-Police Administration and Communication Buildings Chiller Replacements Project to the lowest responsive and responsible bidder in an amount not to exceed \$1,770,000 and to approve a fifteen percent contingency.
- (b) Decide any timely bid protest(s), to make the City's final determination as to the lowest responsive bidder that is responsible, or to reject all bids and re-bid the project.
- (c) Execute change orders in excess of \$100,000 within the contingency amount.

CEQA: Exempt, File No. PP14-068. (Public Works)

Resolution No. 77208 adopted.

4.4 Administrative Hearing and Consideration of an Appeal of the Planning Director's Adoption of an Addendum to the Chaboya Ranch Mitigated Negative Declaration and Richmond Ranch Final Environmental Impact Report.

Recommendation:

- (a) Conduct an Administrative Hearing on and consider an Appeal of the Planning Director's use of the Addendum to the Richmond Ranch Environmental Impact Report (EIR), File No. PDC91-081, and the Chaboya Ranch Mitigated Negative Declaration (MND), File No. PDC11-021, as the environmental clearance for the Director's approval of Planned Development Permit Amendments PDA94-021-01 (Richmond Ranch) and PDA13-008-01 (Chaboya Ranch), which revise the grading plan for the Chaboya Ranch project on a project site located east of San Felipe Road and west of Livery Lane, approximately 650 feet southerly of Running Springs Road.

Resolution No. 77209 adopted denying the appeal.

- (b) Adopt a resolution upholding the Planning Director's use of the Addendum, adopting the Mitigation Monitoring and Reporting Program (MMRP) and finding that:
 - (1) The City Council has read and considered the Addendum to the Richmond Ranch EIR and Chaboya Ranch MND prepared in connection with Planned Development Permit Amendments PDA94-021-01 and PDA13-008-01, as well as the EIR and MND.
 - (2) The Addendum, together with the EIR and MND, has been prepared and completed in compliance with the California Environmental Quality Act (CEQA) of 1970, together with state and local implementation guidelines;
 - (3) The Addendum, together with the EIR and MND, reflects the independent judgment and analysis of the City of San José.

(Item Continued on the Next Page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Administrative Hearing and Consideration of an Appeal of the Planning Director's Adoption of an Addendum to the Chaboya Ranch Mitigated Negative Declaration and Richmond Ranch Final Environmental Impact Report. (Cont'd.)

- (b) (4) Preparation of a subsequent or supplemental EIR is not required because no new environmental impacts have been identified and no new mitigation measures are required.
- (5) The Director of Planning shall transmit copies of the EIR, MND and Addendum to any other decision-making body of the City of San José for the project.

Resolution No. 77210 adopted.

The Staff supplemental memorandum dated October 30, 2014, including the new grading plan (Revised) Concept 2-6b was approved.

Staff was directed to:

- (1) **Work with the Applicant to address the Applicant's comments as stated at the dais on November 4, 2014.**
- (2) **Work with the Applicant on a subsequent Planned Development Permit Amendment solely for the consideration of conveyance of the open space on Chaboya Ranch to a proper open space authority.**
- (3) **Emphasize that until there is an arrangement as to who has the responsibility for maintenance, it will be the developer's responsibility to maintain the open space.**
- (c) Conduct an Administrative Hearing and consider an Appeal of the Planning Director's decision to approve the Planned Development Permit Amendments for the Chaboya Ranch grading modifications (File Nos. PDA94-021-01 and PDA13-008-01), and consider adoption of a resolution approving these Planned Development Permit Amendments.

Resolution No. 77211 adopted denying the appeal.

CEQA: Addendum to the Richmond Ranch Environmental Impact Report and the Chaboya Ranch Mitigated Negative Declaration, resolution to be adopted. (Planning, Building and Code Enforcement)

PDA94-021-01/PDA13-008-01 – District 8

5. NEIGHBORHOOD SERVICES

5.1 Actions Related to the Three Creeks Trail (Western Alignment) Master Plan.

Recommendation:

- (a) Adopt a resolution finding the Initial Study and Mitigated Negative Declaration for the Three Creeks Trail (Western Alignment) Master Plan from Lonus Street to the future Guadalupe River Trail is complete and was prepared in compliance with the California Environmental Quality Act, adopting the Mitigated Negative Declaration and related mitigation monitoring and reporting program.

Resolution No. 77212 adopted.

- (b) Approve the Three Creeks Trail (Western Alignment) Master Plan from Lonus Street to the future Guadalupe River Trail.

CEQA: Mitigated Negative Declaration, File No. PP14-012, to be considered for adoption. Council District 6. (Public Works/Parks, Recreation and Neighborhood Services)

Approved.

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Amendment to the Firefighter Breathing Air Replenishing System Ordinance.

Recommendation: Approve an ordinance amending Part 6 of Chapter 17.12 of Title 17 of the San José Municipal Code to add a new section 17.12.640 establishing Firefighter Breathing Air Replenishing System requirements in any of the following structures: buildings containing floors which are used for human occupancy and located more than 75 feet above the lowest level of the fire department vehicular or personnel access, whichever access is more restrictive as determined by the fire Chief; buildings with two or more stories underground; tunnels over 500 feet in length; and, buildings where the fire apparatus access point is located more than 150 feet from the nearest entrance to the building. CEQA: Exempt, File PP13-082. (Fire)

(Deferred from 9/30/14 – Item 8.1)

Ordinance No. 29509 passed for publication, as amended:

Staff was directed to add a provision that the requirement will not apply to development projects that have currently applied for building permits or have applied for planning permits and receive their approved building permits by one year from the date of the ordinance being approved.

9. REDEVELOPMENT – SUCCESSOR AGENCY

- **Open Forum**
There was no public testimony from the floor.
- **Adjournment**
The Council of the City of San José was adjourned at 3:33 p.m.