



CITY COUNCIL AGENDA

FEBRUARY 12, 2013

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 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**
9:06 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.
- **Invocation (District 1)**
Father Mike Carson, Queen of Apostles Catholic Church, presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed, accompanied by students from Success Academy, led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 3.6 heard before Item 3.3.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation to the Chinese Historical Cultural Project in recognition of their 25th anniversary and recognition of their efforts to preserve Chinese American and Chinese history and culture through community outreach activities in San José. (Chu)
Mayor Reed, Vice Mayor Nguyen and Council Member Chu recognized and commended the Chinese Historical Cultural Project for their preservation efforts and outreach.
- 1.2 Presentation of a proclamation declaring the month of February 2013 as “American Heart Month” in the City of San José. (Kalra)
Mayor Reed and Council Member Kalra recognized the month of February 2013 as “American Heart Month” in the City of San José.
- 1.3 Presentation of a commendation to Mr. Cung Le, in honor of his outstanding martial arts performance and his international representation of the United States and the City of San José as a UFC Champion in China. (Nguyen)
Mayor Reed and Vice Mayor Nguyen recognized and commended Mr. Cung Le for his exceptional achievements.

2. CONSENT CALENDAR

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

Recommendation:

- (a) ORD. NO. 29202 – Rezoning certain real property situated on the southwest corner of West San Carlos Street and Royal Avenue on a 5.66 gross-acre site (720 West San Carlos Street and 655 Auzerais Avenue) to the CIC Combined Industrial/Commercial Zoning District. C12-027
Ordinance No. 29202 adopted.
- (b) ORD. NO. 29203 – Amending Title 18 of the San José Municipal Code to add a new Chapter 18.40 to adopt by reference and implement the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) including authority to collect the local development mitigation fees adopted by the Santa Clara Valley Habitat Agency from project applicants and remit the fees to the Agency for funding the preservation of natural ecosystems in accordance with the Plan, and amending Sections 17.04.310 and 17.04.340 of Chapter 17.04 of Title 17 of the San José Municipal Code to incorporate HCP/NCCP compliance requirements for grading permit issuance.
Ordinance No. 29203 adopted.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of May 2, 2012. (Mayor)
- (b) Rules and Open Government Committee Report of May 9, 2012. (Mayor)
- (c) Rules and Open Government Committee Report of May 16, 2012. (Mayor)
- (d) Rules and Open Government Committee Report of May 23, 2012. (Mayor)
- (e) Rules and Open Government Committee Report of May 30, 2012. (Mayor)
- (f) Ad Hoc Committee on Economic Competitiveness Committee Report of January 7, 2013. (Mayor)
- (g) Public Safety, Finance and Strategic Support Committee Report of January 24, 2013. (Constant)

Approved, including minor corrections related to attendance on Items 2.3(b) and (c).

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Council Member Constant from the Regular Meeting of the Rules and Open Government Committee on January 30, 2013, due to Authorized City Business: Police and Fire Retirement Board Strategic Planning Meeting. (Constant)
- (b) Request for an excused absence for Council Member Herrera from the Regular Meeting of the City Council on February 5, 2013, due to illness. (Herrera)

Excused.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

Council Member Constant presented an update from the Police / Fire Retirement Board Meetings on February 7, 2013.

2.7 Actions Related to Wattis Construction Co. Purchase Order.

Recommendation: Authorize the City Manager to:

- (a) Amend Open Purchase Order 47381 with Wattis Construction Co. (San José, CA) to increase the compensation by an additional \$260,000, for a revised total amount not-to-exceed \$500,000 for the period ending on June 30, 2013, to repair and maintain asphalt walkways and parking lots at various City park locations as required.
- (b) Exercise the remaining two one-year options to extend the term through June 30, 2015, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)

Approved.

2. CONSENT CALENDAR

2.8 Council Member Herrera's Travel to Pasadena, CA and Sacramento, CA.

Recommendation: Approve travel by Council Member Herrera to Pasadena, CA and Sacramento, CA on April 4 – 5, 2013, June 14, 2013, and September 18 – 20, 2013, to attend the California League of Cities Meeting and Conferences as Vice Chair of Transportation, Communication & Public Works. Source of Funds: Mayor & Council Travel Fund. (Herrera)

(Rules Committee referral 01/30/13)

Approved.

2.9 African American History Month Flag Raising.

Recommendation: As recommended by the Rules and Open Government Committee on January 9, 2013:

(a) Approve Council Member Ash Kalra's African American History Month Flag Raising as a City Council sponsored Special Event.

(b) Approve and accept donations from various individuals, businesses, or Community groups to support the event.

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 01/09/13 – Item G(3)]

Approved.

2.10 District 2 and District 5 Arthritis Awareness Event.

Recommendation: As recommended by the Rules and Open Government Committee on January 30, 2013:

(a) Approve the District 2 and District 5 Arthritis Awareness Event as a City Council Sponsored Event.

(b) Approve expending funds and accepting donations from various individuals, businesses and community groups to support this event.

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 01/30/13 – Item G(6)]

Approved.

2. CONSENT CALENDAR

2.11 Project Diversity Screening Committee Appointments and Reappointments.

Recommendation: As recommended by the Rules and Open Government Committee on January 30, 2013, approve the following appointments and reappointments to the Project Diversity Screening Committee:

- (a) Appoint Elisa Orona, Delores Springs, Mansimrat Singh, Denise McCallaCreary, Karl Hennig, and Nga Huynh to two-year terms expiring December 31, 2014.
- (b) Appoint Johnny Lee to the balance of an unexpired term ending December 31, 2013.
- (c) Reappoint Nathaniel Montgomery to a two-year term expiring December 31, 2014.
- (d) Direct the City Clerk to continue recruitment efforts and bring additional applicants forward for the Mayor's consideration within forty-five (45) days.

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 01/30/13 – Item F(1)(a)]

Approved.

2.12 Actions Related to Council Member Liccardo's Travel to Washington, D.C.

Recommendation:

- (a) Approve travel by Council Member Liccardo to Washington, D.C. on March 19 - 21, 2013, to participate in the Silicon Valley Leadership Group's Washington, D.C. Advocacy Trip as a Metropolitan Transportation Commission designated representative. Source of Funds: Metropolitan Transportation Commission. (Liccardo)
- (b) Request for an excused absence for Council Member Liccardo from the Closed Session, Regular Session, and Evening Session of the City Council Meeting on March 19, 2013, due to Authorized City Business: Silicon Valley Leadership Group Washington, D.C. Advocacy Trip as a Metropolitan Transportation Commission designated representative. (Liccardo)

(Rules Committee referral 02/06/13)

Approved.

2.13 District 5 Neighborhood Association Appreciation Dinner.

Recommendation: As recommended by the Rules and Open Government Committee on February 6, 2013:

- (a) Approve the District 5 Neighborhood Association Appreciation Dinner as a City Council sponsored Special Event.
- (b) Approve and accept donations from various individuals, businesses, or Community groups to support the event.

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 02/06/13 – Item G(2)]

Approved.

2. CONSENT CALENDAR

2.14 District 1 Annual Greek Flag Raising Event.

Recommendation: As recommended by the Rules and Open Government Committee on February 6, 2013:

- (a) Approve the District 1 Annual Greek Flag Raising Event as a City Council sponsored Special Event.
- (b) Approve expending funds and accepting donations from various individuals, businesses and community groups to support this event.

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 02/06/13 – Item G(3)]

Approved.

2.15 Appointments to the Santa Clara Valley Habitat Agency.

Recommendation: As recommended by the Rules and Open Government Committee on February 6, 2013, adopt a resolution appointing representatives to the Santa Clara Valley Habitat Agency Governing Board and Implementation Board as follows:

- (a) Appoint Council Member Herrera and Council Member Khamis to serve of the Governing Board and Council Member Chu and Council Member Oliverio to serve as their alternates.
- (b) Appoint Council Member Khamis to serve on the Implementation Board and Council Member Herrera to serve as his alternate.
- (c) Appoint Joseph Horwedel, Director of Planning, Building and Code Enforcement, to serve on the Implementation Board, and Andrew Crabtree, Division Manager, to serve as his alternate.

(Mayor)

[Rules Committee referral 02/06/13 – Item G(4)]

Resolution No. 76548 adopted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone. (Verbal Report) No Report.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

Heard at 9:00 a.m.

Accepted.

3. STRATEGIC SUPPORT SERVICES

3.3 Approval of the 2012-2013 Mid-Year Budget Actions.

Recommendation:

- (a) Approve the 2012-2013 Mid-Year Budget Review Report.

Approved.

Noes: Campos, Kalra.

- (b) Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) of the 2012-2013 Mid-Year Budget Review Report.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager's Office)

Ordinance No. 29208 adopted.

Resolution No. 76550 adopted.

The memorandum from Council Members Constant and Liccardo, dated February 8, 2013, was approved:

- (1) **Authorizing the City Manager to reimburse Team San José for expenses that have been identified that relate to the Convention Center Expansion and/or other applicable City-related expenses in an amount not to exceed the appropriation below.**
- (2) **Adoption of the following appropriation ordinance amendments in the Convention and Cultural Facilities Fund:**
- (a) **Increase the Convention Facilities Operations appropriation in the amount of \$350,000.**
- (b) **Decrease the Unrestricted Ending Fund Balance in the amount of \$350,000.**
- (3) **City Manager directed to circulate an information memorandum to the Council detailing the Team San José final reimbursement items.**

Noes: Campos, Kalra.

3.4 2013 Community Budget Survey.

Recommendation: Accept the report on the results of the 2013 Community Budget Survey. (Mayor)

Accepted.

3. STRATEGIC SUPPORT SERVICES

3.5 Report on Request for Proposal of Contract with Chevron Energy Solutions for City Facilities and Lands.

Recommendation:

- (a) Approve a Program Development Agreement with Chevron Energy Solutions for the purpose of conducting preliminary and investment grade audits on City facilities in the maximum amount of \$150,000.
- (b) Accept the report and approve the program direction for project financing and implementation of projects identified through the implementation of the Program Development Agreement.

CEQA: Not a Project, File No. PP10-066(a), Purchase of Supplies, Equipment & Professional Services with no changes in the physical environment. (Public Works)

The memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Liccardo and Rocha, dated February 8, 2013, was approved, accepting the Staff recommendations as described in Item 3.5(a)(b) above.

3.6 2011-12 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 January 24, 2013, accept the 2011-12 Annual Performance Audit of Team San José's Management of the City's Convention and Cultural Facilities. (City Auditor)

[Public Safety, Finance and Strategic Support Committee referral 1/24/13 – Item D(5)]
(Deferred from 2/5/13 – Item 3.4)

The memorandum from Council Members Constant and Liccardo, dated February 8, 2013, was approved, accepting the Team San José Performance Audit, with the City Manager directed to:

- (1) **Negotiate and execute an amendment to the Management Agreement to eliminate the individual 90% requirement as part of the Performance/ Incentive Measures, relying on a total weighted performance score.**
- (2) **Continue discussions with Team San José and Convention, Sports and Leisure, LLC (CSL) to develop new theater performance measures, for the new Management Agreement currently being negotiated, which more accurately reflects the desired benefits to Downtown San José.**

The City Manager was further directed to:

- (1) **Take a broader look at the financial performance measures (Fund 536) and appropriate incentives.**
- (2) **Explore and analyze the survey work that is currently being done by Team San José.**

Noes: Oliverio.

3. STRATEGIC SUPPORT SERVICES

3.7 Proposition 8 Amicus Brief.

Recommendation: Adopt a resolution authorizing the City Attorney to join efforts as amicus curiae to support the City of San Francisco in their upcoming submission to the United States Supreme Court challenging the constitutionality of Proposition 8 (California Marriage Protection Act). (Kalra/Campos/Chu/Rocha)
(Referred from 2/5/13 – Orders of the Day)

Heard Last.

**Resolution No. 76552 adopted.
(9-1-1. Noes: Reed. Absent: Khamis.)**

3.8 Elections Commission Interviews.

Recommendation:

- (a) Interview applicants for appointment to the Elections Commission.
- (b) Appoint two members to the Elections Commission.
- (c) If no appointment is made, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.

(City Clerk)

(Rules Committee referral 02/06/13)

Heard no earlier than 3:00 p.m.

Four applicants were interviewed.

Michael Smith, Incumbent, was reappointed and Chris Peacock was appointed, each to fill four year terms expiring March 1, 2017.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Rezoning Real Property Located on the Southeast Corner of West San Carlos Street and South Bascom Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the southeast corner of West San Carlos Street and South Bascom Avenue (1990 West San Carlos Street) from the CP Commercial Pedestrian Zoning District to the CG Commercial General Zoning District on a 0.65 gross acre site (Hobbs Soon What Trustee & Et Al, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR.
(Planning, Building and Code Enforcement)

C13-001 – District 6

Ordinance No. 29209 passed for publication.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 North San José Traffic Impact Fee Incentive Program.

Recommendation: As recommended by the Rules and Open Government Committee on February 6, 2013:

- (a) Adopt a resolution approving an amendment to the North San José Area Development Policy to amend the North San José Traffic Impact Fee Incentive Program to expand the square footage allocation by an additional 250,000 sf.

Resolution No. 76551 adopted.

Noes: Chu.

- (b) Direct the City Manager to analyze the potential impact on transportation improvements and bring recommendations to the City Council in the budget process for modifications to the Transportation Improvement Program or funding to offset the potential impacts.

CEQA: Resolution No. 72768, Addendum to the North San José Policy Update EIR.

(Mayor)

[Rules Committee referral 02/06/13 – Item G(5)]

Approved.

Noes: Chu.

- (1) **The memorandum from Mayor Reed, dated February 8, 2013, was approved, approving Item 4.2(a)(b) as described above. Noes: Chu.**
- (2) **Director of Transportation directed to meet with Council Member Chu to prioritize North San José projects in an attempt to secure OneBayArea Grant Program funding (OBAG) and funding through NTC to ensure the concerns related to the areas, i.e. Montague Expressway, Highway 101, Mabury and other projects are receiving strong priorities in our region.**

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Actions Related to the Successor Agency Oversight Board.

Recommendation: Adopt resolutions of the City Council and Successor Agency Board:

- (a) Approving the Recognized Obligation Payment Schedule for July to December, 2013 (ROPS 13-14A).
- (b) Approving the Administrative Budget for July-December, 2013 and directing staff to present the approved Administrative Budget for July-December, 2013 to the Oversight Board for approval.

CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Successor Agency)
Deferred to February 26, 2013 per Administration.

9.2 Agreement with Gillick Family Partnership.

Recommendation: Approve a Termination Agreement with the Gillick Family Partnership to terminate that certain Parking Lease Agreement dated March 27, 2009, of the surface parking lot located at the corner of Race Street and The Alameda for a final payment by the Successor Agency of \$6,486. CEQA: Not Project, File No. PP10-066, Agreements and Contracts. (Successor Agency)

Approved.

- **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 pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10126	S/S of William Street, approx 350’ w/o S. 24 th Street	3	Taylor Morrison of CA, LLC	10 Lots / 62 Units	MFA	Approval

- **Open Forum**

David Wall commented about various issues, including the vagrant encampment behind Columbus Park.

- **Adjournment**

The Council of the City of San José was adjourned at 7:43 p.m. in memory of brothers Danny Santiago and Michael Wagner, who passed away in May and December of 2012, after years of dedicated service to the Alviso community through the Santa Visits Alviso Foundation. (Chu)

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
FINANCING AUTHORITY AGENDA**

2:07 P.M.

TUESDAY, FEBRUARY 12, 2013

CHAMBERS

- 1. Call to Order and Roll Call**
Absent Council Members: All Present.

- 2. Actions Related to the City of San Jose Financing Authority's Commercial Paper Program.**

Recommendation:

- (a) It is recommended that the City Council adopt a resolution to:
 - (1) Authorize the negotiation, execution, and delivery of two Letter of Credit and Reimbursement Agreements for the City of San José Financing Authority Lease Revenue Commercial Paper Notes Program;
 - (2) Authorize the amendment and delivery of related financing documents, and authorize other related actions.

Resolution No. 76549 adopted.

- (b) It is recommended that the City of San José Financing Authority Board adopt a resolution to:
 - (1) Authorize the negotiation, execution, and delivery of two Letter of Credit and Reimbursement Agreements for the City of San José Financing Authority Lease Revenue Commercial Paper Notes Program;
 - (2) Authorize the amendment and delivery of related financing documents, and authorize other related actions.

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

San José Financing Authority Resolution No. 120 adopted.

- 3. Open Forum**
There were none.

- 4. Adjourn the San José Financing Authority.**
Mayor Reed adjourned the meeting at 2:17 p.m.