



CITY COUNCIL AGENDA

MARCH 5, 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 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**
 - 9:30 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 3)**
 - Northern California Iota Phi Theta Fraternity, San José State University

- **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 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 California Park & Recreation Society Certificate of Recognition to the City of San José for initiating partnerships with other local cities, counties, and universities to plan and host the 2013 California & Pacific Southwest Recreation & Park Training Conference, March 5-8, 2013. (Parks, Recreation and Neighborhood Services)
- 1.2 Presentation of a proclamation declaring the Month of March 2013 as “National Women’s History Month” in the City of San José. (Herrera)
- 1.3 Presentation of a proclamation declaring the Month of March 2013 as “Multiple Myeloma Awareness Month” in the City of San José. (Oliverio)

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.**

- * **Recommendation:** Final adoption of ordinances.
 - (a) ORD. NO. 29217 – Amending Title 20 of the San José Municipal Code (The Zoning Ordinance) to amend: Section 20.70.330 of Chapter 20.70 (Downtown Zoning Regulations); numerous sections of Chapter 20.90 (Parking and Loading); Sections 20.100.1300 and 20.100.1320 of Chapter 20.100 (Administration and Permits); and to add new sections to Chapter 20.200 (Definitions) to add definitions for “Area Development Policy,” “Car-Share,” “Charge or Charging Station,” and “Urban Village,” all to modify parking requirements for certain enumerated uses to further implement the economic development, land use, and transportation policies set forth within the Envision San José 2040 General Plan, and to make other technical, formatting or other nonsubstantive changes within those chapters of said Title 20.
 - (b) ORD. NO. 29218 – Amending Title 20 of the San José Municipal Code (The Zoning Ordinance) to amend: Section 20.10.060 of Chapter 20. 10 (General Provisions and Zoning Districts) to add the CIC-Combined Industrial Commercial and the TEC-Transit Employment Center Zoning Districts; Section 20.20.100 of Chapter 20.20 (Open Space & Agricultural Zoning Districts) to allow Certified Farmers’ Markets in the A-Agriculture and OS-Open Space Zoning Districts; Sections 20.40.100, 20.40.200, 20.40.230 and 20.40.400 of Chapter 20.40 . . .

(Item continued on the next page)

2. CONSENT CALENDAR

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

Recommendation: Final adoption of ordinances.

- (b) . . . (Commercial Zoning Districts) to allow wholesale auto dealers with no on-site storage as a permitted use in commercial zoning districts, to reduce minimum required setbacks for commercial zoning districts, and to clarify incidental auto-repair uses; Section 20.50.010 of Chapter 20.50 to create the TEC-Transit Employment Center Zoning District category, Sections 20.50.100 and 20.50.200 of Chapter 20.50 to add more flexibility for the development of specific commercial and industrial uses in the industrial zoning districts including, but not limited to creating the TEC-Transit Employment Center Zoning District enumerated uses and development standards, adding off-site sale of alcoholic beverages as a conditional use incidental to a winery/brewery or distillery and clarifying incidental auto-repair uses; Sections 20.80.710 and 20.80.720 of Part 9 of Chapter 20.80 (Home Occupations) to allow cottage food operations as home occupations within residential zoning districts and Section 20.80.1400 of Chapter 20.80 to amend provisions for outdoor private property special events; Section 20.120.110 of Chapter 20.120 (Zoning Changes and Amendments) to add the TEC Zoning District as a conforming district; Chapter 20.150 (Nonconforming Uses) by deleting Section 20.150.330 (Amortization – Incidental Dancing and Music); and Chapter 20.200 (Definitions) to add new sections to add definitions of “Banquet Facility,” and “Cottage Food Operation,” and to amend Section 20.200.700 of Chapter 20.200 to amend the definition of “Lot Line”; all to further implement the economic development, land use, and transportation policies set forth within the Envision San José 2040 General Plan and to make other technical, formatting or other nonsubstantive changes within those sections of Title 20.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Airport Competitiveness Committee Report of January 22, 2013.](#) (Mayor)
(b) [Rules and Open Government Committee Report of June 6, 2012.](#) (Mayor)
* [Deferred from 2/26/13 – Item 2.3(a)]
(c) [Rules and Open Government Committee Report of June 13, 2012.](#) (Mayor)
* [Deferred from 2/26/13 – Item 2.3(b)]
(d) [Rules and Open Government Committee Report of September 5, 2012.](#) (Mayor)
* [Deferred from 2/26/13 – Item 2.3(c)]
(e) [Rules and Open Government Committee Report of September 12, 2012.](#) (Mayor)
* [Deferred from 2/26/13 – Item 2.3(d)]
(f) [Rules and Open Government Committee Report of September 19, 2012.](#) (Mayor)
* [Deferred from 2/26/13 – Item 2.3(e)]
(g) [Rules and Open Government Committee Report of September 26, 2012.](#) (Mayor)
* [Deferred from 2/26/13 – Item 2.3(f)]

(Item continued on the next page)

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports. (Cont'd.)

Recommendation: Approval of Council Committee Reports.

- (h) [Community and Economic Development Committee Report of January 28, 2013.](#)
(Herrera)
 - * [Deferred from 2/26/13 – Item 2.3(g)]
- (i) [Transportation and Environment Committee Report of February 4, 2013.](#) (Liccardo)
 - * [Deferred from 2/26/13 – Item 2.3(h)]

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 Actions Related to Councilmember Constant's Travel to Washington, D.C.

Recommendation:

- (a) [Approve travel by Councilmember Constant to Washington, D.C. on March 19 – 21, 2013](#) to participate in the Silicon Valley Leadership Group's Annual Washington, D.C. Advocacy Trip. Source of Funds: District 1 Office Budget. (Constant)
- (b) [Request for an excused absence for Councilmember Constant from the Closed Session and Regular City Council Meeting on March 19, 2013, the Regular Meeting of the Rules and Open Government Committee on March 20, 2013, and the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on March 21, 2013](#) due to Authorized City Business: Silicon Valley Leadership Group Annual Washington, D.C. Advocacy Trip. (Constant)
 - * (Rules Committee referral 2/27/13)

2.8 [Human Rights Commission Reappointment.](#)

Recommendation: Reappoint Guadalupe Rodriguez to the Human Rights Commission to a term expiring June 30, 2013. (City Clerk)

- * (Rules Committee referral 2/27/13)

2.9 [Cesar Chavez Day Flag Raising Ceremony.](#)

Recommendation: As recommended by the Rules and Open Government Committee on February 27, 2013:

- (a) Approve the Cesar Chavez Day Flag Raising as a City Council sponsored Special Event; and
 - (b) Approve expending funds and accept donations from various individuals, businesses, or community groups to support the event.
- CEQA: Not a Project. (Campos)
- * (Rules Committee referral 2/27/13)

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 9:30 A.M.

3.3 [Extension of Business Tax and BID Assessment Amnesty Programs and Exemption of Police Officers Engaged in Secondary Employment While in Uniform from the City's Business Tax.](#)

Recommendation: As recommended by the Rules and Open Government Committee on February 13, 2013:

- (a) Approve an [ordinance](#) retroactively extending the Business Tax Amnesty and Business Improvement District (“BID”) Assessment Amnesty Programs from March 29, 2013 up through and including May 31, 2013; and
- (b) Approve an [ordinance](#) amending Chapter 4.76 of Title 4 of the San José Municipal Code to add a new Section 4.76.748 to exempt police officers and reserve police officers engaged in secondary employment while in their police uniforms from the City's Business Tax and providing for the exemption from payment of the Business Tax and Business Tax Exemption Processing Fee to apply retroactively to January 1, 2009.

CEQA: Not a Project; File No. PP10-068(c), Municipal Code or Policy. (City Attorney's Office/Finance)

3.4 [Audit of the Office of Economic Development's Performance Measures.](#)

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on February 21, 2013, accept the audit of the Office of Economic Development's Performance Measures. (City Auditor)

* [Public Safety, Finance and Strategic Support Committee referral 2/21/13 – Item D(4)]

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Agreements for the Development of Samsung's Research and Development Center.](#)

Recommendation: Adopt a resolution authoring the City Manager to execute the following agreements:

- (a) An Incentive Agreement between the City of San José and Samsung Semiconductor, Inc. outlining the City and State incentives to be provided to Samsung in coordination with the development of the proposed Research and Development (R&D) Center in North San José;

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Agreements for the Development of Samsung's Research and Development Center. (Cont'd.)

Recommendation:

- (b) A Capital Equipment and Assistance Agreement with Samsung Semiconductor, Inc., in which the City will provide an amount not to exceed \$500,000 for the acquisition of production and assembly equipment to be installed at Samsung Semiconductor's new R&D facility in San José; and
- (c) Utility Users Tax Reimbursement Agreement with Samsung Semiconductor, Inc., that will provide funding in an amount equal to 50% of the City's 5% of net new utility user taxes received from Samsung Semiconductor for 10 consecutive years in an amount not to exceed \$500,000.

CEQA: Statutorily Exempt, File No. PP10-066(a), Equipment Acquisition. (Economic Development)

(Deferred from 02/26/13 – Item 4.2)

* **DEFERRED TO 3/12/13 PER ADMINISTRATION**

4.2 [TEFRA Hearing for the Rocketship Tamien Public School and Rocketship Sylvandale Academy.](#) [Conflict of Interest for Councilmember Liccardo](#)

Recommendation:

- (a) Conduct a Tax Equity and Fiscal Responsibility (TEFRA) Act Hearing for the issuance of \$24,000,000 of tax-exempt 501(c)(3) revenue bonds by the California Municipal Finance Authority (“CMFA”).
- (b) Adopt a [resolution](#) approving the issuance of tax-exempt revenue bonds, by the CMFA in an aggregate principal amount not to exceed \$24,000,000 to:
 - (1) Finance and refinance the acquisition, construction, improvements, and equipping of certain charter school educational facilities to be known as Rocketship Tamien Public School #8 and Rocketship Sylvandale Academy.
 - (2) Pay certain expenses incurred in connection with the issuance of the bonds.
 - (3) Fund all or a portion of a reserve fund deposit and capitalized interest.

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

* **DROP**

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Pavement Maintenance Funding Strategy.](#)

[Memo from Vice Mayor Nguyen and Councilmember Campos](#)

[Memo from Councilmember Khamis](#)

[Memo from Councilmember Rocha](#)

[Memo from Councilmember Herrera](#)

Recommendation: As recommended by the Transportation and Environment Committee on February 4, 2013, accept the staff report and presentation on proposed funding strategy to fully address the City's pavement maintenance needs consisting of the following concurrent elements:

- (a) Coordinate with the Santa Clara Valley Transportation Authority ("VTA") to pursue a potential ballot measure to "extend and amend" the VTA's countywide transportation sales tax program to include major street sealing and rehabilitation;
- (b) Pursue City funding from new General Fund revenues raised through a potential City ballot measure;
- (c) Pursue City funding from a potential ballot measure for a street repair bond program; and
- (d) Support State legislation allowing ballot measures to increase tax revenues for local transportation purposes to be approved 55% voter approval instead of the current 2/3rds threshold.

(Transportation)

[Transportation and Environment Committee referral 2/4/13 – Item D(2)]

(Deferred from 02/26/13 – Item 6.1)

* **TO BE HEARD LAST, NO EARLIER THAN 2:30 P.M.**

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Agreement with HKA Enterprises, Inc. for Temporary Staffing at the Water Pollution Control Plant.](#)

[Supplemental Memo from the Director of Environmental Services](#)

Recommendation: Adopt a resolution:

- (a) Authorizing the City Manager to execute a [master agreement with HKA Enterprises, Inc.](#), to provide temporary staffing of Plant Operators and Plant Mechanics for the San José/Santa Clara Water Pollution Control Plant, for the term beginning March 1, 2013 through March 1, 2014, for an amount not to exceed \$1,200,000, subject to the appropriation of funds.
- (b) Authorizing the City Manager to exercise up to four additional one-year options to extend the term of the Agreement through March 1, 2018, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Environmental Services)
(Deferred from 02/26/13 – Item 7.2)

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 [Proposition 84 Storm Water Grant Program Funding for Stormwater Green Streets Projects.](#)

[Memo from Councilmember Liccardo](#)

Recommendation:

- (a) Adopt a [resolution](#) authorizing the City Manager to accept a California Proposition 84 Stormwater Grant in the amount of \$1,804,308 to fund the design and construction of the Martha Gardens Green Alley and Park Avenue Green Avenue pilot projects and to negotiate and execute a grant agreement with the State Water Resources Control Board and all related documents necessary to effectuate the grant;
- (b) Adopt the following Appropriation Ordinance amendments in the Storm Sewer Capital Fund:
 - (1) Eliminate the Reserve for Martha Gardens Alley Way Project in the amount of \$800,000;
 - (2) Establish an appropriation to the Public Works Department for the Martha Gardens Green Alley project in the amount of \$393,000;
 - (3) Establish an appropriation to the Public Works Department for the Park Avenue Green Avenue project in the amount of \$347,000; and
 - (4) Increase the Ending Fund Balance by \$60,000.

CEQA: Exempt, Existing Facilities, Replacement or Reconstruction, and Minor Alterations to Land, File No. PP12-011 (Martha Gardens Green Alleys Pilot Project) and File No. PP12-012 (Park Avenue Green Avenue Pilot Project). (Environmental Services/City Manager's Office)

8. PUBLIC SAFETY SERVICES

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.

- **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.