



CITY COUNCIL AGENDA

MARCH 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**
9:33 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Constant.
1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Constant.
- **Invocation (District 3)**
Pastor Dana Bainbridge of First Christian Church provided the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation recognizing the Week of March 11-15, 2013 as “Science Fair Week” in the City of San José. (Mayor/Campos)
Mayor Reed and Council Member Campos recognized the Week of March 11-15, 2013 as “Science Fair Week” in the City of San José.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None provided.

- 2.2 **Final Adoption of Ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29212 – Amending Section 4.46.036 of Chapter 4.46 and Section 4.47.089 of Chapter 4.47 of Title 4 of the San José Municipal Code to expand the Suspension Program for the collection of a portion of construction taxes on Downtown High Rise Developments.
Ordinance No. 29212 adopted.
Noes: Kalra.
- (b) ORD. NO. 29214 – Rezoning certain real property situated at the southwest corner of William Street and South 8th Street from the CN Commercial Neighborhood and R-M Multiple Residence Zoning Districts to the A(PD) Planned Development Zoning District. PDC09-019
Ordinance No. 29214 adopted.
- (c) ORD. NO. 29215 – Rezoning certain real property situated at the northwest corner of Margaret Street and South 13th Street (681 South 13th Street, APN 472-22-087) to the R-1-8(PD) Planned Development Zoning District. PDC13-002
Ordinance No. 29215 adopted.
- (d) ORD. NO. 29216 – Rezoning certain real property situated on the east side of San Felipe Road and west side of Livery Lane, approximately 650 feet southerly of Running Springs Road, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC11-021
Ordinance No. 29216 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 January 16, 2013. (Mayor)
- (b) Rules and Open Government Committee Report of February 6, 2013. (Mayor)
- (c) Rules and Open Government Committee Report of February 13, 2013. (Mayor)
- (e) Public Safety, Finance and Strategic Support Committee Report of February 21, 2013. (Constant)
- (f) Community and Economic Development Committee Report of February 25, 2013. (Herrera)
- (g) Rules and Open Government Committee Report of February 27, 2013. (Mayor)
- (h) Rules and Open Government Committee Report of January 9, 2013. (Mayor)

Approved.

- (d) Rules and Open Government Committee Report of February 20, 2013. (Mayor)
Approved, with Item G.3 “Adopt a resolution to support the Food and Drug Administration’s regulation of menthol and flavored tobacco products” pulled, to be agendized for action by the City Council on April 9, 2013.
Noes: Khamis, Oliverio.

2.4 Mayor and Council Excused Absence Requests. None provided.

2.5 City Council Travel Reports. None provided.

2.6 Report from the Council Liaison to the Retirement Boards. None provided.

2.7 Foreign Trade Zone Alternative Site Framework Application to Expand San José’s Service Area.

Recommendation: Adopt a resolution authorizing the City Manager to Submit a Foreign Trade Zone Alternative Site Framework Application to the Foreign Trade Zones Board of the U.S. Department of Commerce to expand the City of San José service area. CEQA: Not a Project, File No.PP10-067(a), Non-Project Specific Funding Mechanism. (Economic Development)

Resolution No. 76570 adopted.

2. CONSENT CALENDAR

2.8 Agreement with 1stACT Silicon Valley for the Parque De Los Pobladores Pavement-to-Plaza Project.

Recommendation: Approve a First Amendment to the agreement between the City of San José and 1stACT Silicon Valley to reimburse 1stACT Silicon Valley in the amount of \$17,916 for electroliers installed as part of the construction of recreational improvements to Parque de los Pobladores and South First Street between Williams Street and Reed Street. CEQA: Exempt, File No. PP12-037. Council District 3. (Economic Development/Parks, Recreation and Neighborhood Services)

Approved.

2.9 Reimbursement to the Vineyard Park Owners Association.

Recommendation: Adopt a resolution authorizing a reimbursement in the amount of \$38,995.14 to the Vineyard Park Owners Association for water service payments erroneously made for Vineyard Lake from August 1, 2008 to August 10, 2012. CEQA: Not a Project, File No. PP10-066. Council District: 8. (Transportation)

Resolution No. 76571 adopted.

2.10 Agreement with the City of Santa Clara for the Montague Expressway Improvements.

Recommendation:

(a) Approve a funding agreement to receive a fair-share contribution from the City of Santa Clara in the amount of \$427,875 for the widening and improvement of Montague Expressway between Orchard Drive and River Oaks Parkway and for intersection improvements at North First Street and Montague Expressway.

Approved.

(b) Adopt the following Appropriation Ordinance Amendments in the Construction Excise Tax Fund:

(1) Increase the Earned Revenue estimate in the amount of \$427,875; and

(2) Increase the Ending Fund Balance in the amount of \$427,875.

CEQA: Negative Declaration, Resolution No. 75696. Council District 4.

(Transportation/City Manager's Office)

Ordinance No. 29222 adopted.

2.11 Council Member Campos' Travel to Los Angeles, CA.

Recommendation: Approve travel by Council Member Campos to Los Angeles, CA on March 21 – 22, 2013 to attend the Water Education for Latino Leaders (WELLS) Conference. Source of Funds: Water Education for Latino Leader/District 5 Council Fund. (Campos)

(Rules Committee referral 3/6/13)

Approved.

2. CONSENT CALENDAR

2.12 Deferred Compensation Advisory Committee Appointments.

Recommendation: As recommended by the Rules and Open Government Committee on March 6, 2013, approve the following appointments to the Deferred Compensation Advisory Committee for four year terms ending March 1, 2017:

- (a) Appoint Darren Wallace as the representative nominated by the San José Firefighters, Local 230 (IAFF);
- (b) David Woolsey as the representative nominated by the San José Police Officers Association (SJPOA); and
- (c) Pascal Roubineau as the representative nominated by the “trades organizations” consisting of Association of Building, Mechanical & Electrical Inspectors (ABMEI), International Union of Operating Engineers, Local 3 (OE#3), and International Brotherhood of Electrical Workers (IBEW) to the Deferred Compensation Advisory Committee for four year terms ending March 1, 2017.

(City Manager’s Office)

[Rules Committee referral 3/6/13 – Item F(1)(a)]

Approved.

2.13 Work2Future Board Nomination.

Recommendation: As recommended by the Rules and Open Government Committee on March 6, 2013, approve the appointments of Jeff Burrill, President and CEO of Pangenera, LLC, dba Panera Brea, and George Massoud, CEO and Founder of IntraServe Syses, to serve as private sector representatives on the work2future Board of Directors.

(Mayor)

[Rules Committee referral 3/6/13 – Item F(1)(b)]

Approved.

2.14 District 10 Great American Litter Pick-Up Event.

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

- (a) Approve the District 10 Great American Litter Pick-Up Event as a City Council-Sponsored Special Event; and
- (b) Approve expending funds and accept donations from various individuals, businesses, and community groups to support the event.

CEQA: Not a Project. (Khamis)

[Rules Committee referral 3/6/13 – Item G(2)]

Approved.

2. CONSENT CALENDAR

2.15 Santa Clara Valley Water District FY 2014 – Joint Advocacy Federal Projects.

Recommendation: As recommended by the Rules and Open Government Committee on March 6, 2013, accept the Santa Clara Valley Water District's (SCVWD) FY 2014 – Joint Advocacy Federal Projects in the City of San José's jurisdiction and approve the City's mutual request for funds through the funding process. (City Manager's Office/ Environmental Services)

[Rules Committee referral 3/6/13 – Item G(4)]

Accepted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)

City Manager Debra Figone reported that the San Jose Minimum Wage Ordinance took effect March 11, 2013, and announced that the Vietnam War Memorial dedication will be held on March 30, 2013. She also thanked those who successfully organized and participated in the memorial for the fallen Santa Cruz Police Officers.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.
None provided.

3.3 Adoption of a Statement of Policy and City Council Questions Related to the Director of Human Resources.

Recommendation: Adopt a statement of Policy and City Council Questions related to the selection of a prospective Director of Human Resources as described in the staff memorandum, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

Adopted.

3.4 FY 2013-2014 Mayor's March Budget Message.

Recommendation: Conduct a Public Hearing on the FY 2013-2014 Mayor's March Budget Message. (Mayor)

Public hearing held.

No action required.

3. STRATEGIC SUPPORT SERVICES

3.5 Resolution in Support of Immigration Reform.

Recommendation: Consideration of adoption of a resolution in support of immigration reform. (Campos/Rocha)

(Referred by City Council – 3/5/13)

Resolution No. 76573 was adopted, with the inclusion of a reference to reforming the current green card and H-1B visa system to allow Silicon Valley’s driving industries to compete successfully for global talent and meet workforce demands.

Noes: Oliverio.

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;
- (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. Council District 4. (Economic Development)

(Deferred from 3/5/12 – Item 4.1 and 02/26/13 – Item 4.2)

Deferred to 3/19/13 per Rules and Open Government Committee

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Follow Up to Council Questions from November 13, 2012 Housing Needs and Strategies Study Session.

Recommendation: Accept report and provide direction on responses to questions posed at the November 13, 2012 study session on housing needs and strategies. CEQA: Not a Project, File No. PP10-069(a), Staff Report. (Housing)

Accepted, with direction to Staff to (1) Explore a possible bond issue with Finance regarding creating some continuing source to bond off of, such as bonding against potential development fees; (2) Return during the budget process with an analysis of how to prioritize special needs' groups, such as those that are displaced by domestic violence and military veterans; (3) Provide an analysis of allowing an option of funding for relocation, if that best serves an individuals' needs.

4.3 Actions Related to Amending Title 23, The Sign Code.

Recommendation: Consideration of an ordinance amending Title 23 of the San José Municipal Code (The Sign Code) as follows:

- (a) Amend Chapter 23.02, Part 1, Definitions, to revise Section 23.02.480 Safety or Directional Sign;
- (b) Amend various Sections of Chapter 23.02, Part 2, General Provisions, including to revise Section 23.02.110, Signage At Service Stations, to allow signs required by The Business & Professions Code Section 13531 to be Programmable Electronic Signs;
- (c) Amend various Sections of Chapter 23.02, Part 4, Permits and Procedures, including to amend Section 23.02.1310, Exemption From Permit, to allow only Non-Programmable Electronic Signs to be Exempt From A Permit;
- (d) Amend various Sections of Chapter 23.04 Part 1, CO, CP, CN, CG, IP, LI, And HI Commercial And Industrial Zoning Districts And Neighborhood Business Districts, including to amend Section 23.04.020, Attached Signs, to add Safety Or Directional Sign For Public Parking Garages as Programmable Electronic Signs; and amend Section 23.04.030, Free Standing Signs, to add Safety Or Directional Sign for Public Parking Garages as Programmable Electronic Signs;
- (e) Amend various Sections Of Chapter 23.04 Part 2, Downtown Sign Zone, including to amend Types Of Signs Section 23.04.120 to allow Flat-Mounted Signs to be placed no higher than sixty (60) feet above grade on wholly nonresidential buildings at least one hundred forty (140) feet in height above grade; and add Safety Or Directional Sign for Public Parking Garages as Programmable Electronic Signs;
- (f) Amend various Sections of Chapter 23.04 Part 2.5, Urban Mixed Use Development Sign Zone, including to amend Section 23.04.156, Types Of Signs, to Add Safety or Directional Sign for Public Parking Garages as Programmable Electronic Signs;

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Actions Related to Amending Title 23, The Sign Code (Cont'd.)

- (g) Make other non-substantive, ministerial, technical, or typographical changes to various sections of said Chapters 23.02 and 23.04 of Title 23 of The San Jose Municipal Code.

CEQA: Negative Declaration, File No. PP10-111, and Addendum thereto, File No. PP13-015. (Planning, Building and Code Enforcement)

Ordinance No. 29223 passed for publication, with direction as provided in the memorandum cosigned by Vice Mayor Nguyen and Council Member Constant dated March 8, 2013, to add a zoning amendment that includes minimum requirements for brightness and size for permanent storefront signage within the Downtown and other commercial sign zones of the City, for any new or expanding business, and direct Staff to return to the Rules and Open Government Committee after 30 days with a progress report.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Emergency Correction to the Federal Asset Forfeiture Fund.

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.
Approved.

(b) Adopt the following Appropriation Ordinance amendments in the General Fund effective retroactively to March 8, 2013:

(1) Decrease the Police Department's Personal Services Appropriation by \$66,238.

Ordinance No. 29224 adopted.

(c) Adopt the following Appropriation Ordinance amendments in the State Asset Forfeiture Fund effective retroactively to March 8, 2013:

(1) Increase the Transfer to the Federal Drug Forfeiture Fund by \$12,529, and

(2) Decrease the Unrestricted Ending Fund Balance by \$12,529.

Ordinance No. 29225 adopted.

(d) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Federal Asset Forfeiture Fund effective retroactively to March 8, 2013:

(1) Increase the Unrestricted Ending Fund Balance by \$78,767, and

(2) Increase the estimate for Transfers by \$78,767.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Police/City Manager's Office) (Orders of the Day)

Ordinance No. 29225 adopted.

Resolution No. 76572 adopted.

9. REDEVELOPMENT – SUCCESSOR AGENCY

- **Open Forum**
 1. **David Wall offered criticism of actions taken at today's Council meeting.**
 2. **Ross Signorino commented on the spread of graffiti in the City of San José.**

- **Adjournment**

The Council of the City of San José adjourned at 5:45 p.m.