

CITY COUNCIL AGENDA

MARCH 19, 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. 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**
 - 9:38 a.m.** - Closed Session, Call to Order in Council Chambers
Absent Council Members: Constant, Liccardo. (Excused)
 - 1:33 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: Constant, Liccardo; Reed. (Excused)
 - 7:00 p.m.** - Regular Session, Council Chambers, City Hall
Canceled.
- **Invocation (District 3)**
Youth Poetry Voices, Movimiento de Arte y Cultura Latino Americana presented the Invocation.
- **Pledge of Allegiance**
Vice Mayor Nguyen 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 March 25, 2013 as “Greek Independence Day” in the City of San José. (Constant)
Dropped.
- 1.2 Presentation of a proclamation declaring March 20, 2013 as “Nowruz–Persian/Iranian New Year” in the City of San José. (Khamis)
Vice Mayor Nguyen and Council Member Khamis recognized March 20, 2013 as Nowruz–Persian/Iranian New Year” in the City of San José.
- 1.3 Presentation of a commendation to the Association for Viet Arts (AVA), which, as the first nonprofit Vietnamese arts organization in the Bay Area, has fostered excellence in Vietnamese American performing, visual, and literary arts and enriched the cultural landscape of this region. (Nguyen)
Deferred to April 16, 2013 in the evening.
- 1.4 Presentation of a commendation to the Pacific Coast Farmers’ Market Association for providing economic opportunities for California farmers and food producers, local access to farm fresh products, support for local businesses and community organizations, and education regarding food, nutrition and the sustainability of California agriculture, for the past 25 years. (Herrera)
Vice Mayor Nguyen and Council Member Herrera recognized and commended the Pacific Coast Farmers’ Market Association.

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. 29219 – Retroactively extending the Business Tax Amnesty and Business Improvement District Assessment Amnesty Programs (Ordinances Nos. 29166 and 29167, respectively) from March 29, 2013 up through and including May 31, 2013.
Ordinance No. 29219 adopted.
- (b) ORD. NO. 29220 – Amending Chapter 4.76 of Title 4 of the San José Municipal Code to add a new Section 4.76.748 to exempt San José Police Officers and Reserve 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.
Ordinance No. 29220 adopted.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Ad Hoc Committee on Economic Competitiveness Report of February 4, 2013. (Mayor)
 - (c) Rules and Open Government Committee Report of January 30, 2013. (Mayor)
- Approved.**

- (b) Rules and Open Government Committee Report of January 23, 2013. (Mayor)
Deferred to March 26, 2013.

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 Sale of City-Owned Property at Sunny Oaks Drive and Blossom Hill Road.

Recommendation: Adopt a resolution:

- (a) Authorizing an alternative competitive process for the sale of the property at Sunny Oaks Drive and Blossom Hill Road, APN: 464-23-056.
- (b) Approving an agreement between the City and J Jesus Magana, for sale of the property in the amount of \$135,000.
- (c) Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction.

CEQA: Exempt, File No. PP99-06-119. Council District 10. (Economic Development)

Resolution No. 76574 adopted.

2.8 Sale of City-Owned Property at 126 South King Road.

Recommendation: Adopt a resolution:

- (a) Approving an agreement between the City and Kevin Vu, the adjoining property owner, for sale of the property identified as APN 481-17-020 and located at 126 South King Road in the amount of \$50,000.
- (b) Authorizing the City Manager or her designee to execute the sale agreement, the deed, and all other documents necessary to complete the transaction.

CEQA: Exempt, File No. PP10-040. Council District 5. (Economic Development)

Resolution No. 76575 adopted.

2. CONSENT CALENDAR

2.9 Council Member Campos' Travel to Pasadena, CA.

Recommendation: Approve travel by Council Member Campos to Pasadena, CA on April 4 – 5, 2013 to attend the League of California Cities' Transportation, Communication & Public Works Policy Committee Meeting. Source of Funds: Mayor & Council Travel Fund. (Campos)
Approved.

2.10 Council Member Herrera's Travel to Pasadena, CA.

Recommendation: Approve travel by Council Member Campos to Pasadena, CA on April 4 – 5, 2013 to attend the League of California Cities' Transportation, Communication & Public Works Committee Meeting as Vice Chair and Women's Caucus. Source of Funds: Mayor & Council Travel Fund. (Herrera)
Approved.

2.11 Appointment to the Advisory Commission on Rents.

Recommendation: Appoint John Adams to the Advisory Commission on Rents (Landlord position) to a term expiring June 30, 2013. (City Clerk)
Approved.

2.12 District 10 Leadership Group Summit Event.

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

- (a) Approve the District 10 Leadership Group Summit Event as a Council-Sponsored Special Event.
- (b) Approve expending funds and accept donations from various individuals, businesses, and community groups to support the event.

CEQA: Not a Project. (Khamis)

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone highlighted the good news concerning the 43 new San José Police Officers that graduated from the Police Academy on March 15, 2013.

City Manager Debra Figone congratulated City Staff and the private sector partners for creating the wickedly fast free Wi-Fi in Downtown San José.

3. STRATEGIC SUPPORT SERVICES

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

Heard at 9:30 a.m.

No Report.

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.
- (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 to March 26, 2013 per Administration.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Agreement with Pacific Gas & Electric for the Silicon Valley Energy Watch Program and Related Appropriation Actions.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Pacific Gas and Electric, along with all related documents necessary to effectuate the program, to receive funding in the amount of \$1,126,440 for the term beginning April 1, 2013 through December 31, 2014 for the Silicon Valley Energy Watch (SVEW) program.

Resolution No. 76576 adopted.

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for fiscal year 2012-2013:
- (1) Increase the appropriation to the Environmental Services Department for Personal Services by \$54,000.
 - (2) Increase the appropriation to the Environmental Services Department for Non-personal/Equipment by \$60,000.
 - (3) Increase the Estimate for Revenue from Local Agencies by \$114,000.

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

Ordinance No. 29227 adopted.

Resolution No. 76577 adopted.

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Agreement with JPMorgan Chase Bank, NA for Merged Area Redevelopment Project Revenue Bonds, Series 1996 A & B and Series 2003 A & B.

Recommendation: Adopt a resolution:

- (a) Authorizing, subject to the approval of the Oversight Board of the Successor Agency (the "Oversight Board") and State Department of Finance ("DOF"), the execution and delivery, in substantially final form, of an Amended and Restated Reimbursement Agreement (the "Reimbursement Agreement") with JPMorgan Chase Bank, NA ("JPMorgan") to extend the terms of the letters of credit (the "Letters of Credit") relating to:

(Item continued on the next page)

9 REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Agreement with JPMorgan Chase Bank, NA for Merged Area Redevelopment Project Revenue Bonds, Series 1996 A & B and Series 2003 A & B. (Cont'd.)

Recommendation:

- (a)
 - (1) Redevelopment Agency of the City of San José Merged Area Redevelopment Project Revenue Bonds, 1996 Series A and 1996 Series B (collectively, "1996 Bonds").
 - (2) Redevelopment Agency of the City of San José Merged Area Redevelopment Project Taxable Revenue Bonds, Series 2003 A (Subordinate Tax Allocation) and Redevelopment Agency of the City of San José Merged Area Redevelopment Project Revenue Bonds, 2003 Series B (Subordinate Tax Allocation (collectively, "2003 Bonds").
- (b) Authorizing, subject to the approval of the Oversight Board and DOF, the execution and delivery, in substantially final form, of an Amended Letter Agreement regarding fees and charges for the Letters of Credit provided by JPMorgan under the Reimbursement Agreement in the amount of 2.80% of the aggregate outstanding face amounts of the Letters of Credit, assuming that two of the three ratings assigned by Fitch, Moody's or Standard & Poor's on the senior lien Redevelopment Agency of the City of San José Merged Area Redevelopment Project Tax Allocation Bonds are not withdrawn, suspended or otherwise become unavailable.
- (c) Authorizing, subject to the approval of the Oversight Board and DOF, the execution and delivery, in substantially final form, of a Second Supplemental Indenture of Trust relating to the 1996 Bonds between the Successor Agency and U.S. Bank National Association, as Trustee (the "1996 Trustee").
- (d) Authorizing, subject to the approval of the Oversight Board and DOF, the execution and delivery, in substantially final form, of a First Supplemental Indenture of Trust relating to the 2003 Bonds between the Successor Agency, U.S. Bank National Association as Trustee (the "2003 Trustee) and the 1996 Trustee.
- (e) Appointing U.S. Bancorp ("U.S. Bancorp") as Remarketing Agent for the 1996 Series B Bonds and Citigroup Global Markets Inc. ("Citigroup") as Remarketing Agent for the 2003 Series B, in each case to replace Bank of America Merrill Lynch.
- (f) Authorizing, subject to the approval of the Oversight Board and DOF, the execution and delivery, in substantially final form, of Amended and Restated Remarketing Agreements with Citigroup and U.S. Bancorp with respect to the 1996 Bonds and JPMorgan and Citigroup with respect to the 2003 Bonds.
- (g) Authorizing, the execution and delivery, in substantially final form, of a Remarketing Memorandum with respect to the 1996 Bonds and 2003 Bonds.
- (h) Authorizing the Executive Officer of the Successor Agency, the Director of Finance of the City of the City of San José, or their designee, to take any actions and execute any and all documents necessary to complete this transaction.

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

Successor Agency Resolution No. 7020 adopted.

- **Open Forum**
There was no public testimony.
- **Adjournment**
The Council of the City of San José was adjourned at 2:09 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar at this time.

11.2 Administrative Hearing and Consideration of an Appeal of the Planning Commission's Decision to Approve a Conditional Use Permit to Allow the Expansion of an Existing Cemetery Site.

Recommendation: Conduct an Administrative Hearing and consider an Appeal of the Planning Commission's decision to approve a Conditional Use Permit to allow the expansion of an existing cemetery site in the R-1-8 Residential Zoning District, on two parcels consisting of 0.20 and 0.18 gross acres, located on the east side of Alexander Avenue, approximately 260 feet southerly of Madden Avenue (60 and 80 Alexander Avenue) (Roman Catholic Bishop of San José, Owner). CEQA: Exempt.

CP12-038 – District 5

Deferred to March 26, 2013 per Administration.