

CITY COUNCIL AGENDA

AUGUST 14, 2012

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
NANCY PYLE

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 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**
9:32 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Constant (Excused)
1:34 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Constant (Excused)
- **Invocation (District 7)**
Monsignor Francisco Rios from Our Lady of Refuge 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 commendation to the Santa Clara County Alliance of Black Educators in recognition of their dedication to enriching the lives and enhancing the educational opportunities of African American students in Santa Clara County. (Kalra)
Mayor Reed and Council Member Kalra honored the Santa Clara County Alliance of Black Educators in recognition of their dedication to enriching the lives and enhancing the educational opportunities of African American students in Santa Clara County.
- 1.2 Presentation of a commendation to Sparky Harlan, CEO of the Bill Wilson Center, for being recognized as a Champion of Change by the White House in honor of her work to address homelessness among children and youth. (Mayor)
Deferred to 8/28/12.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

(a) Regular Minutes of February 7, 2012.

(b) Study Session Minutes on 2012-2013 Budget Planning of February 13, 2012.

Approved.

2.2 Final Adoption of Ordinances.

None.

2.3 Approval of Council Committee Reports.

None.

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Council Member Constant from the City Council Study Session on November 13, 2012 and the Regular Meeting of the Rules and Open Government Committee on November 14, 2012 due to Authorized City Business: IFEBP's 58th Annual Employee Benefits Conference in San Diego, CA. (Constant)
(Rules Committee referral 8/8/12)

Approved.

2.5 City Council Travel Reports.

None provided.

2. CONSENT CALENDAR

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

2.7 Agreement with Dr. Howard Michaels to Provide Medical Director Services with the Fire Department Emergency Medical Services Program.

Recommendation: Adopt a resolution authorizing the City Manager to execute a one-year agreement with Dr. Howard Michaels to provide Medical Director Services within the Fire Department Emergency Medical Services program, in an amount not to exceed \$89,138.04; and to execute two one-year options to renew, subject to the appropriation of funds. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Fire)

Resolution No. 76380 adopted.

2.8 Master Agreements with MWH Americas Inc. and HDR Engineering Inc. for Civil Engineering Support Services.

Recommendation: Approve consultant master agreements with MWH Americas Inc. and HDR Engineering Inc. for a variety of civil engineering support services from the date of execution through December 31, 2015, in an amount not to exceed \$500,000 for each master agreement. CEQA: Not a Project, File No. PP10-066(d), Contracts for professional services. (Public Works)

Approved.

2.9 Intention to Form Community Facilities District No. 13 (Guadalupe Mines).

Recommendation: Adopt a resolution of intention to form Community Facilities District No. 13 (Guadalupe Mines) to authorize the levy of special tax pursuant to the City of San José Community Facilities District Financing Procedure, to set a public hearing on October 2, 2012 at 1:30 p.m. regarding the formation of the District, to hold an election immediately following the close of the public hearing and authorizing other related actions. CEQA: Mitigated Negative Declaration, Resolution No. 75550. Council District 10. (Public Works)

Resolution No. 76388 adopted.

2. CONSENT CALENDAR

2.10 Agreement for Final Design Services with the Santa Clara Valley Transportation Authority for the Santa Clara-Alum Rock Bus Rapid Transit Project.

Recommendation:

- (a) Approve an Agreement for Final Design Services with the Santa Clara Valley Transportation Authority for the Santa Clara-Alum Rock Bus Rapid Transit (BRT) Project in an amount not to exceed \$580,000.

Approved.

- (b) Adopt the following 2012-2013 Appropriation Ordinance and Funding Source Resolution amendments in the Construction Excise Tax Fund:
- (1) Increase the estimate for Earned Revenue by \$580,000; and
 - (2) Increase the Santa Clara/Alum Rock Bus Rapid Transit appropriation to the Department of Transportation by \$580,000.

Ordinance No. 29119 adopted.

Resolution No. 76389 adopted.

- (c) Adopt a Resolution authorizing the Director of Public Works to negotiate and execute future amendments to the Agreement provided there is no additional cost to the City and the amendments are for providing design and construction support services related to the traffic signals and pedestrian lighting for the BRT Project.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. Council Districts 3, 5 and 8. (Public Works/City Manager's Office)

Resolution No. 76390 adopted.

2.11 Agreement for Arterial System Synchronization Grant.

Recommendation: Approve a Waiver of Claims and Indemnification Agreement with MTC to allow the City to receive in-kind consultant services valued at \$39,500, to implement weekend timing of 14 traffic signals. CEQA: Not a Project, File No. PP10-113. Council Districts 6 and 7. (Transportation)

Approved.

2.12 Actions Related to the Neighborhoods Commission Pilot Program and Board and Commission Structural Improvement Program.

Recommendation: As recommended by the Rules and Open Government Committee on August 1, 2012:

- (a) Amend Ordinance No. 28178 to extend the pilot program for the Neighborhoods Commission to June 30, 2013; and
- (b) Direct the City Clerk to complete the Boards and Commission Structural Improvement Report by December 1, 2012.

(Mayor/Nguyen/Herrera)

[Rules Committee referral 8/1/12 – Item G(4)]

Note: Renumbered to Item 3.6

2. CONSENT CALENDAR

2.13 Mayor Reed's Travel to Seattle, WA.

Recommendation: Approve travel by Mayor Reed to Seattle, WA on July 16, 2012 to meet with the new president of Alaska Airlines. Source of Funds: Mayor's Office.

(Mayor)

(Rules Committee referral 8/8/12)

Approved.

2.14 Mayor Reed's Travel to Philadelphia, PA and Washington, D.C.

Recommendation: Approve travel by Mayor Reed to Philadelphia, PA and Washington, D.C. on July 18 - 20, 2012 for leadership meetings with U.S. Conference of Mayors and meetings with member of Congress and the Administration. Source of Funds: Mayor's Office. (Mayor)

(Mayor)

(Rules Committee referral 8/8/12)

Approved.

2.15 City Auditor Travel to South Lake Tahoe, CA.

Recommendation: Approve travel by City Auditor, Sharon Erickson, for a business-related trip to South Lake Tahoe, CA from September 6-7, 2012 to attend the Western Intergovernmental Audit Forum. Source of Funds: Profession Development Program Funds. (City Auditor)

(Rules Committee referral 8/8/12)

Approved.

2.16 SB 1219 (Wolk) Recycling: Plastic Bags; AB 1834 (Brownley) Recycling: Reusable Bags.

Recommendation: As recommended by the Rules and Open Government Committee on August 8, 2012, approve supports positions for SB 1219 (Wolk) and AB 1834

(Brownley). (Environmental Services)

[Rules Committee referral 8/8/12 – Item G(5)]

Position of support approved.

2.17 Park Wilshire Neighborhood Block Party.

Recommendation: As recommended by the Rules and Open Government Committee on August 8, 2012:

(a) Approve the Park Wilshire Neighborhood Block Party as a City Council sponsored Special Event; and

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

CEQA: Not a Project. (Rocha)

[Rules Committee referral 8/8/12 – Item G(7)]

Approved.

2. CONSENT CALENDAR

2.18 District 2 Indian Independence Flag Raising Ceremony and Reception.

Recommendation: As recommended by the Rules and Open Government Committee on August 8, 2012:

- (a) Approve the District 2 Indian Independence Flag Raising Ceremony and Reception as a City Council sponsored Special Event; and
- (b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (Kalra)

[Rules Committee referral 8/8/12 – Item G(8)]

Approved.

3. STRATEGIC SUPPORT SERVICES

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

The City Manager declared the success of National Night Out and thanked those City employees who helped to build a positive relationship with the community through this year's event.

3.2 Labor Negotiations Update

None provided.

3.3 Federated Retirement System Tier 2 Pension Plan Ordinance.

Recommendation: Approve an ordinance amending various sections of Chapters 3.28 and 3.44 of Title 3 of the San José Municipal Code to implement a Tier 2 pension plan for new employees of the City of San José in the Federated City Employees' Retirement System. CEQA: Not a Project; PP10-068(b), Municipal Code or Policy. (City Manager's Office/City Attorney's Office)

Ordinance No. 29120 passed for publication.

3.4 Revisions to Council Policy 1-17, "Donation, Sponsorship and Fundraising Policy."

Recommendation: As recommended by the Rules and Open Government Committee on August 1, 2012, adopt a resolution approving revisions to Council Policy 1-17, "Donation, Sponsorship and Fundraising Policy." (City Manager's Office)

[Rules Committee referral 8/1/12 – Item G(8)]

Deferred to 8/21/12 per Administration.

3. STRATEGIC SUPPORT SERVICES

3.5 Service Level Restoration Priorities.

Recommendation: Accept this report on the Administration's initial prioritization of selected General Fund service restorations by department to baseline January 1, 2011 service levels. (City Manager)

(Deferred from 8/7/12 – Item 3.5)

Dropped per 8/8/12 Rules and Open Government Committee.

3.6 Actions Related to the Neighborhoods Commission Pilot Program and Board and Commission Structural Improvement Program.

Recommendation: As recommended by the Rules and Open Government Committee on August 1, 2012:

- (a) Amend Ordinance No. 28178 to extend the pilot program for the Neighborhoods Commission to June 30, 2013; and
- (b) Direct the City Clerk to complete the Boards and Commission Structural Improvement Report by December 1, 2012.

(Mayor/Nguyen/Herrera)

[Rules Committee referral 8/1/12 – Item G(4)]

Renumbered from Item No. 2.12

Deferred to 9/18/12 to allow participation of commission liaison. Staff directed to report on the status of the Neighborhood Commission, how it operates and provide a progress report on the pilot program. The City clerk is directed to present an update on changes that have already been in effect for Boards and Commissions and any other suggested changes considered “low hanging fruit” that need Council approval and direction, making sure to include the Neighborhood Commission’s jurisdiction when considering the boards and commissions’ roles.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Public Hearing on the Appeal of the Final Environmental Impact Report for the Newby Island Sanitary Landfill and the Recyclery Rezoning Project.

Recommendation:

- (a) Conduct an Administrative Hearing on and consider an Appeal of the Planning Commission’s certification of the Final Environmental Impact Report (FEIR) for the proposed Newby Island Sanitary Landfill and The Recyclery Rezoning Project, File No. PDC07-071.

Hearing held.

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Public Hearing on the Appeal of the Final Environmental Impact Report for the Newby Island Sanitary Landfill and the Recyclery Rezoning Project (Cont'd.)

- (b) Uphold the Planning Commission's certification and adopt a resolution to certify that:
- (1) The City Council has read and considered the Final EIR;
 - (2) The Final EIR has been completed in compliance with the California Environmental Quality Act;
 - (3) The Final EIR reflects the independent judgment and analysis of the City of San José; and
 - (4) The Director of Planning, Building and Code Enforcement shall transmit copies of the Final EIR to any other decision-making body for the project.

Council District 4. (Planning, Building and Code Enforcement)

Resolution No. 76391 adopted.

4.2 Rezoning Real Property Located at the Westerly Terminus of Dixon Landing Road.

Recommendation: Consideration of an ordinance rezoning the real property located at the westerly terminus of Dixon Landing Road, approximately 3,000 feet west of I-880 and Dixon Landing Road (1601 Dixon Landing Road) from R-M Multiple Residence and A(PD) Planned Development Zoning Districts to A(PD) Planned Development Zoning District to allow a landfill, recyclables processing, composting, and other related uses at an existing landfill and materials recovery facility (Newby Island Sanitary Landfill and Recyclery), to increase the maximum height of the landfill from 150 feet to 245 feet, and to increase the landfill capacity by 15.12 million cubic yards on a 352 gross acre site (International Disposal Corporation of California, Owner). CEQA: EIR Resolution to be considered for adoption. Planning Commission recommends approval (4-0-2-1 commissioners Bit-Badal and Abelite absent, Commissioner Yob recused).

PDC07-071 – District 4

(Deferred from 6/12/12 – Item 4.4, and to be deferred from 8/7/12 – Item 4.1)

Ordinance No. 29121 passed for publication.

Resolution No. 76392 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Proposed Zoning Code Amendment for Certified Farmers' Markets.

Recommendation: Consideration of an ordinance of the City of San José Amending Title 20 (The Zoning Ordinance) of the San José Municipal Code by amending section 20.30.100 of Chapter 20.30, Section 20.40.100 of Chapter 20.40, Section 20.50.100 of Chapter 20.50, and Section 20.70.100 of Chapter 20.70, adding a new Part 3.5 entitled “Certified Farmers’ Markets” to Chapter 20.80, and adding a new Section 20.200.185 to Chapter 20.200, all to establish land use regulations for certified farmers’ markets, to facilitate a more streamlined process for certain certified farmers' markets and making other technical, nonsubstantive, clarifying changes to said title. The Planning Commission voted 7-0-0 to recommend to the City Council approval of a proposed ordinance to amend Title 20 of the San José Municipal Code to establish land use regulations pertaining to Certified Farmers’ Markets as recommended by staff. CEQA: EIR Resolution No.76041. (Planning, Building, Code Enforcement)

Ordinance No. 29122 passed for publication, with acceptance of the memorandum cosigned by Council Members Campos, Kalra and Liccardo, dated August 10, 2012, and with direction that Staff provide a status report in one year.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report on Bids and Award of Contract for the 5583 - Montague Expressway Widening Project.

Recommendation: Report on bids and award of contract for the 5583 - Montague Expressway Widening Project to the low bidder, LH Engineering Co., Inc., in the amount of \$1,757,645 and approval of a contingency amount of \$176,000. CEQA: EIR Resolution No. 75696. Council District 4. (Public Works)

Approved.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Agreements to Provide Temporary Staffing at the Water Pollution Control Plant.

Recommendation: Report on Request for Qualification for temporary staffing resources at the Water Pollution Control Plant and recommendation to:

- (a) Accept Telstar Instruments' proposal to provide Instrumentation Control Technicians, and Industrial Electricians; and adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Telstar Instruments, not to exceed \$3,000,000 for the first twelve months of the agreement, subject to the appropriation of funds.

Resolution No. 76393 adopted, with direction that Staff approach the bargaining unit regarding negotiation of increases, either for specific classifications by 'special adjustments' or to everyone in the bargaining unit and that Council confer in Closed session to review Staff's proposal. Additionally, contract to return back to Council for review before the first one-year extension is enacted.

Noes: Campos, Kalra.

- (b) Reject all proposals for temporary staffing resources for Plant Operators and Plant Mechanics, and authorize the City Manager to enter into negotiations with any firm that can provide temporary staffing resources without further competition, with the final agreement(s) subject to Council approval.

CEQA: Not a Project, File No.PP10-066(a), Agreements and Contracts for Professional Services. (Finance/Environmental Services)

Approved.

Noes: Campos, Kalra.

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

- **Open Forum**
 1. **David Wall criticized wage and benefit cuts and enforcement of the sewer & use charges.**
 2. **Helen Garza questioned the reliability of the parking permit process at City parks and recommended installation of an electronic system to enforce accountability.**
 3. **Richard McCoy (United Veteran's Council) promoted the annual Veteran's Day Parade and requested support from the Mayor, Council and community.**
 4. **Mark Trout expressed his opposition to gun control.**
 5. **Ross Signorino commented on the beauty and patriotism of the Olympics.**

- **Adjournment**

The Council of the City of San José adjourned at 5:08 p.m. in memory of Phyllis Simpkins, a long time supporter and benefactor of the San José State University Athletics and Education, who passed away on July 7, 2012 at the age of 87, leaving a lasting legacy with her generosity to students and the community alike. (Campos)