



CITY COUNCIL AGENDA

APRIL 3, 2012

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
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.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

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 4)**
Piedmont Middle School Orchestra

- **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 Presentation of a commendation to Kim Trang Nguyen for her many years of service, leadership, and contributions to the City of San José. (Chu)
* (Rules Committee referral 3/28/12)
- 1.2 Presentation of a proclamation declaring the Month of April 2012 as “Month of the Young Child” in the City of San José. (Pyle)
* (Rules Committee referral 3/28/12)

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.

Recommendation: Approval of minutes:

- (a) [Closed Session Minutes of November 18, 2011.](#)
* [Deferred from 3/27/12 – Item 2.1(f)]

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29047 – Amending Section 20.70.100 of Chapter 20.70 (Downtown Zoning Regulations) of Title 20 (Zoning Code) of the City of San José to allow certain uses in the DG Area (Downtown Ground-Floor Space) when certain enumerated criteria are met.
- (b) ORD. NO. 29048 – Rezoning certain real property situated at the north side of River Oaks Parkway, approximately 200 feet east of Research Place, from the IP Industrial Park District to the IP(PD) Planned Development Zoning District. PDC11-018
- (c) ORD. NO. 29049 – Approving a Development Agreement with the Irvine Company relative to the development of the River Oaks Multifamily Residential Project on certain real property located in North San José and authorizing the city clerk to execute the Development Agreement and cause the same to be recorded with the Santa Clara County Recorder’s Office.
- (d) ORD. NO. 29050 – Rezoning certain real property situated at the southeast corner of Almaden Expressway and Chynoweth Avenue, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC10-006

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) [Request for an excused absence for Councilmember Chu from the Regular Meeting of the Neighborhood Services and Education Committee on April 12, 2012 due to Authorized City Business: BART Silicon Valley Santa Clara Valley Transportation Agency's Berryessa Extension Groundbreaking.](#) (Chu)

* (Rules Committee referral 3/28/12)

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 [Settlement in *Emily Contreras and Jose Lua, Sr. v. City of San Jose, et al.*](#)

Recommendation: Approve settlement in the case of *Emily Contreras and Jose Lua, Sr. v. City of San José, et al.*, and authorize the City Attorney to execute a [Settlement Agreement](#) and Release with Emily Contreras and Jose Lua, Sr., and their attorney, in the amount of \$200,000. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney's Office)

2.8 [Intention to Annex Territory into Maintenance District 15 with Formation of New Zone I.](#)

Recommendation: Adopt a [resolution](#) of intention to annex territory into Maintenance District 15 (Silver Creek Valley), form new Zone I, annex a portion of the new territory into existing Zone B, and directing the Director of Public Works to create and file an engineer's report. CEQA: Mitigated Negative Declaration, File No. PDC09-010. Council District 8. (Public Works)

2.9 [Intention to Annex Territory into Maintenance District 19.](#)

Recommendation: Adopt a [resolution](#) of intention to annex territory into Zone A of Maintenance District 19 (River Oaks), and directing the Director of Public Works to create and file an engineer's report. CEQA: North San José Development Policy Update EIR, Resolution No. 72768. Council District 4. (Public Works)

2. CONSENT CALENDAR

2.10 [Agreement with Compass Group for the Operation of the Senior Nutrition Program at Designated Community Centers.](#)

Recommendation: Adopt a resolution authorizing the City Manager to execute an [agreement](#) and extensions with Compass Group USA, Inc., Bateman Division, in the amount of \$940,452, for the operation of the Senior Nutrition Program at designated City of San José community centers. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)

* **RENUMBERED FROM ITEM 5.1**

2.11 [Refund of Construction Taxes for Polycom, Inc.](#)

Recommendation: Approve a refund of construction taxes in the amount of \$349,427.68 paid under the incorrect rate by Novo Construction, Inc. for a project located at 6001 America Center Drive and direction to the Director of Finance to make payment in accordance with the instructions in the refund claim. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. Council District 4. (Planning, Building and Code Enforcement)

* (Rules Committee referral 3/28/12)

2.12 [Beautiful Day “Project Restoration.”](#)

Recommendation: As recommended by the Rules and Open Government Committee on March 28, 2012:

- (a) Approve the Beautiful Day “Project Restoration” 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: Exempt. (City Clerk)

* [Rules Committee referral 3/28/12 – Item G(3)]

2.13 [Great American Litter Pick-up.](#)

Recommendation: As recommended by the Rules and Open Government Committee on March 28, 2012:

- (a) Approve the Great American Litter Pick-up as a City Council sponsored Special Event; and
- (b) Approve and accepting donations from various individuals, businesses, or community groups to support the event.

CEQA: Exempt. (City Clerk)

* [Rules Committee referral 3/28/12 – Item G(4)]

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 [SB 1220 \(DeSaulnier and Steinberg\) – Housing Opportunity Trust Fund Act of 2012.](#)

[Supplemental Memo from the City Attorney](#)

[Supplemental Memo from the Director of Housing](#)

Recommendation: As recommended by the Rules and Open Government Committee on March 7, 2012, approve a support position for SB 1220 (DeSaulnier and Steinberg) – Housing Opportunity Trust Fund Act of 2012. (City Manager’s Office)
[Rules Committee referral 3/7/12 – Item G(5)]
(Referred from 3/20/12 – Item 2.7)

3.4 [Resolution Amending the Council’s Rules of Conduct of Meetings.](#)

Recommendation: As recommended by the Rules and Open Government Committee on March 28, 2012, adopt a [resolution](#) amending the Rules for the Conduct of City Council and City Council Committee Meetings and superseding Resolution No. 75246. CEQA: Not a Project. (City Attorney’s Office/City Clerk)

* [Rules Committee referral 3/28/12 – Item G(2)]

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Public Hearing on the Draft Consolidated Plan - Annual Action Plan FY 2012-2013.](#) [Supplemental Memo from the Director of Housing](#)

* **Recommendation:** Hold a public hearing on the draft 2012-2013 Consolidated Annual Action Plan, as required by the U.S. Department of Housing and Urban Development, in order to receive federal housing and community development funding, and announce that as of March 29, 2012, the draft Consolidated Annual Action Plan has been available to the public for review and comment. CEQA: Not a Project, File No.PP10-069(a), Annual Report. Specific development projects that are funded as a result of the Consolidated Annual Action Plan are subject to project-specific CEQA clearance. (Housing)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [Amendments to Section 20.100.500 of Chapter 20.100 \(Administration and Permits\) of Title 20 of the San José Municipal Code \(the Zoning Code\).](#)

Recommendation: Conduct a public hearing and consider an [ordinance](#) amending Section 20.100.500 of Chapter 20.100 (Administration and Permits) of Title 20 of the San José Municipal Code (the Zoning Code) to extend the period for the Director of Planning to reactivate certain expired Development Permits and to extend certain Development Permits for a discrete period of time and make other related clarifying changes. CEQA: Exempt. (Planning, Building and Code Enforcement)

* **RECOMMEND CONTINUANCE TO 4/17/12 PER ADMINISTRATION**

4.3 [Actions Related to 1st and Rosemary Family Apartments and First and Rosemary Senior Apartments.](#)

[Supplemental Memo from the Department Directors of Finance and Housing](#)

* **Recommendation:**

- (a) Adopt a [resolution](#):
 - (1) Amending and superseding Resolution No. 76008 adopted on September 27, 2011;
 - (2) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (1st and Rosemary Family Apartments), Series 2012C” in an aggregate principal amount not to exceed \$35,500,000 (the “Series 2012C Note”);
 - (3) Approving a loan of Series 2012C Note proceeds to 1st and Rosemary Family Housing, L.P., a California limited partnership created by ROEM 1st and Rosemary Family, LLC, to finance the construction of the 1st and Rosemary Apartments located at 60 East Rosemary Street in San José;
 - (4) Approving in substantially final form the [Borrower Loan Agreement](#), [Funding Loan Agreement](#), Assignment of [Deed of Trust](#), and Regulatory Agreement and [Declaration of Restrictive Covenants](#) (collectively, the “Series 2012C Documents”) and;
 - (5) Authorizing and directing the City Manager, Acting Director of Finance and Director of Housing, or their designees, to execute and, deliver the Series 2012C Documents and other related Series 2012C Note documents as necessary.
- (b) Take the following actions with respect to the 1st and Rosemary Senior Apartments Project (“Senior Project”):
 - (1) Adopt a resolution:
 - (a) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (1st and Rosemary Senior Apartments), Series 2012D” in an aggregate principal amount not to exceed \$15,500,000 (the “Series 2012D Note”);

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Actions Related to 1st and Rosemary Family Apartments and First and Rosemary Senior Apartments. (Cont'd.)

Recommendation:

- (b) (1) (b) Approving a loan of Series 2012D Note proceeds to 1st and Rosemary Senior Housing, L.P., a California limited partnership created by ROEM 1st and Rosemary Senior, LLC, to finance the construction of the 1st and Rosemary Senior Apartments located at 1290 N. First Street, at the corner of Rosemary Street in San José;
 - (c) Approving in substantially final form the [Borrower Loan Agreement](#), [Funding Loan Agreement](#), Assignment of [Deed of Trust](#), and Regulatory Agreement and [Declaration of Restrictive Covenants](#) (the “Series 2012D Documents”);
 - (d) Authorizing and directing the City Manager, Acting Director of Finance and Director of Housing, or their designees, to execute and, deliver the Series 2012D Documents and other related Series 2012D Note documents as necessary; and
- (2) Adopt a [resolution](#) in connection with the City’s existing loan for the Senior Project approving the conversion of a funded acquisition loan in the amount of \$3,700,000 to a construction/permanent loan of up to \$3,700,000 for the Senior Project.

CEQA: EIR Resolution No. 72768 and Addendum thereto, File No. PDC07-101.
Council District 3. SNI: Rincon De Los Esteros. (Housing/Finance)

* (Deferred from 3/27/12 – Item 4.3)

5. NEIGHBORHOOD SERVICES

5.1 [Agreement with Compass Group for the Operation of the Senior Nutrition Program at Designated Community Centers.](#)

[Memo from Councilmembers Rocha and Pyle](#)
[Memo from Councilmembers Herrera and Constant](#)

Recommendation: Adopt a resolution authorizing the City Manager to execute an [agreement](#) and extensions with Compass Group USA, Inc., Bateman Division, in the amount of \$940,452, for the operation of the Senior Nutrition Program at designated City of San José community centers. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)

* **RENUMBERED TO ITEM 2.10**

5.2 Ordinance Amending Chapter 9.44 of the San Jose Municipal Code to Regulate Outdoor Smoking.

Recommendation: Approve an ordinance amending Chapter 9.44 of Title 9 of the San José Municipal Code to regulate outdoor smoking. CEQA: Exempt; File No. PP12-010. (City Attorney's Office)

RECOMMEND DEFERRAL TO 4/10/12 PER RULES AND OPEN GOVERNMENT COMMITTEE

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Report on Request for Proposal for Airport Parking Operations and Management and In-lot Parking Shuttle Services.](#)

Recommendation: Accept the report on the Request for Proposal for Airport Parking Operation and Management Services at the Norman Y. Mineta San José International Airport and adopt a resolution authorizing City Manager to:

- (a) Execute an [agreement](#) with Ampco System Parking, Inc., doing business as Ampco AirPark (Los Angeles, CA) for Airport Parking Operations and Management and in-lot Parking Shuttle Services at the Norman Y. Mineta San José International Airport for an initial three year term, in an amount not-to-exceed \$13,801,420, subject to annual appropriations of funds.
- (b) Execute amendments to the agreement to increase the not-to-exceed compensation amount during the initial three year term due to changing business conditions, subject to the appropriation of funds.
- (c) Execute five one-year options to renew the agreement, subject to the appropriation of funds.

CEQA: Not a Public Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)

TO BE HEARD IMMEDIATELY FOLLOWING ITEM 6.2

6.2 [Approval of Minimum Standards for Development of Lands on the West Side of the Airport and Acceptance of Terms and Conditions for a New Fixed Base Operator.](#)

[Supplemental Memo from the Director of Aviation](#)

[Memo from Mayor Reed and Councilmembers Herrera, Pyle and Liccardo](#)

[Memo from Councilmember Rocha](#)

[Presentation](#)

[Attachment – Memo from Councilmember Liccardo](#)

Recommendation:

- (a) Adopt a [resolution](#) establishing Minimum Standards for general aviation facilities on the west side of the Norman Y. Mineta San José International Airport;
- (b) Accept the key terms and conditions to be used in the Request For Proposals process for a new fixed base operator leasehold to be developed on the west side of the Airport.
- (c) Adopt a RFP-first approach for West Side general aviation that would have a second, new full-service FBO operational in late 2014 (estimated).

CEQA: Resolution Nos. 67380 and 71451, File No. PP12-001. (Airport)

(Deferred from 3/13/12 – Item 6.1 and Continued from 3/20/12 – Item 6.1)

TO BE HEARD IMMEDIATELY FOLLOWING CONSENT CALENDAR

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 [Audit of Police Department Secondary Employment.](#)

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on March 15, 2012, accept the Audit of Police Department Secondary Employment. (City Auditor)

[Public Safety, Finance and Strategic Support referral 3/15/12 – Item D(5)]

- * **RECOMMEND DEFERRAL TO 4/10/12 PER RULES AND OPEN GOVERNMENT COMMITTEE**

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, Redevelopment Agency Board, 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, Redevelopment Agency Board, 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.