

CITY COUNCIL AGENDA

OCTOBER 30, 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.

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 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: None.

1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Constant (2:33 p.m.). (Excused)
- **Invocation (District 9)**
Jerry Snyder, Artistic Director, South Bay Guitar Society presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended were approved.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Telemundo of Northern California for providing more than \$400,000 in scholarships to our youth for the past 17 years. (Campos)
Mayor Reed and Council Member Campos recognized and commended Telemundo of Northern California for their extraordinary efforts.
- 1.2 Presentation of a proclamation recognizing November 11, 2012 as Veteran’s Day in the City of San José in honor of those who have served our nation in the United State Armed Forces. (Mayor/Herrera)
Deferred to November 06, 2012 per Mayor Reed.
- 1.3 Presentation of a proclamation declaring October 30th as Los Lupeños Day in the City of San José. (Pyle/Liccardo/Campos)
(Rules Committee referral 10/17/12)
Mayor Reed and Council Members Pyle, Liccardo and Campos recognized October 30, 2012 as Los Lupeños Day in the City of San José.
- 1.4 Presentation of a proclamation declaring the month of October as “Breast Cancer Awareness Month” in the City of San José. (Herrera)
(Rules Committee referral 10/24/12)
Mayor Reed and Council Member Herrera recognized the month of October as “Breast Cancer Awareness Month” in the City of San José.

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. 29166 – To provide for a Business Tax Amnesty program which forgives taxpayers who pay certain past due business taxes from liability for remaining past due business taxes, interest, and civil and criminal penalties.

Ordinance No. 29166 adopted.

(b) ORD. NO. 29167 – To provide for a Business Improvement District Assessment Amnesty program which forgives businesses that pay certain past due assessments from liability for interest and penalties

Ordinance No. 29167 adopted.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Public Safety, Finance and Strategic Support Report of September 20, 2012. (Constant)
- (b) Community and Economic Development Committee of September 24, 2012. (Herrera)
- (c) Transportation and Environment Committee of October 1, 2012. (Liccardo)
- (d) Neighborhood Services and Education Committee of October 11, 2012. (Pyle)

Approved.

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on October 24, 2012 due to Authorized City Business: 2012 San José/Silicon Valley Chamber of Commerce City-to-City Trip and Study Mission to San Diego, California. (Mayor)

Excused.

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 Settlement in Guerrero, et al. v. City of San Jose, et al.

Recommendation: Approve settlement and authorize the City Attorney to execute a Settlement Agreement and Release with Gesel Guerrero, Mayra Guerrero, Ysenia Guerrero and Juan Quezada (Plaintiffs), providing for payment to Plaintiffs and their attorneys in the amount of \$150,000, as considered by the City Council during Closed Session held on October 2, 2012. CEQA: Not a Project, File No. PP10-066(h), Settlement Agreements. (City Attorney's Office)

Approved.

2.8 Amendment to the Agreement with HDR Engineering, Inc. for Consultant Services.

Recommendation: Adopt a resolution authorizing the City Manager to execute the Third Amendment to the Agreement for Consultant Services between the City of San José and HDR Engineering, Inc. to extend the term from December 31, 2012, to December 31, 2013, and to increase the maximum compensation from \$250,000 to \$400,000. CEQA: Construction and Demonstration Phase – Categorical Exemption, File No. PP10-130; CEQA Guidelines Section 15303(d), New Construction and Conversion of Small Structures. (Environmental Services)

Resolution No. 76463 adopted.

2. CONSENT CALENDAR

2.9 Increase in Funding for EHC LifeBuilders' Downtown Homeless Outreach and Engagement Program.

Recommendation: Approve an amendment to the grant agreement with EHC LifeBuilders for the Downtown Homeless Outreach and Engagement program, extending the term of the agreement through November 30, 2012, and increasing the compensation by \$40,000, to a total amount not to exceed \$210,000. CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts. (Housing)

Approved.

2.10 Samsung Dinner Event.

Recommendation: Approve the receipt of gifts received in official capacity in accordance with San José Municipal Code Section 12.08.040. (Mayor)
(Rules Committee referral 10/24/12)

Approved.

2.11 Actions Related to the Neighborhoods Commission.

Recommendation: Approve an ordinance amending Ordinance No. 28178, as amended, to adjust the dates of the two-year pilot for the Neighborhoods Commission to reflect an extension of the Commission to June 30, 2013. CEQA: Not a Project, File No. PP10-069. (City Manager's Office)
(Rules Committee referral 10/24/12)

Ordinance No. 29171 passed for publication, as amended, with Staff directed to include a requirement that the Chair of the Neighborhoods Commission, or its designee, provide a summary of all matters decided upon by the Commission, and to be included in a Staff Report back to the Council.

2.12 Council District 4 Community Activities.

Recommendation: As recommended by the Rules and Open Government Committee on October 18, 2012,

- (a) Approve various community events sponsored by Council District 4 as City-sponsored Special Events:
 - (1) Public Safety Community Meeting held on Thursday, October 11, 2012
 - (2) First Aid & CPR Training on Saturday, November 3, 2012.
 - (3) 2nd Annual "Let's Give" Donation Drive on November 10, 2012.
 - (4) 4th Annual Breakfast with Santa on Saturday, December 10, 2012.
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 10/24/12 – Item G(2)]

Approved.

3. STRATEGIC SUPPORT SERVICES

**3.1 Report of the City Manager, Debra Figone (Verbal Report)
No Report.**

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

Heard at 9:30 a.m.

No Report.

3.3 Workers' Compensation – Alternative Service Delivery Evaluation Analysis.

Recommendation: Approve staff's proposed strategy to re-evaluate the current in-house service delivery model for the Workers' Compensation program and pursue a two year pilot program using a third party administrator (TPA) to handle a portion of claims administration and handle bill review, utilization review and medical case management for all claims as is currently done. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities. (City Manager's Office)

Approved.

Staff directed to return to the Public Safety, Finance and Strategic Support Committee in 12 months with a Status Report.

Noes: Campos, Chu, Kalra, Pyle.

3.4 Audit of Fire Department Injuries.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on October 18, 2012, accept the Audit of Fire Department Injuries. (City Auditor)

Heard before Item 3.3.

Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Public Hearing and Election on the Maintenance District 15 (Silver Creek Valley) Annexation.

Recommendation:

- (a) Conduct a public hearing regarding the proposed annexation of Annexation Area No. 1 and formation of Zone I to Maintenance District 15 and at the close of the public hearing, direct the City Clerk to tabulate the property owner ballots and report the results.

The Public Hearing was held.

- (b) If the majority of the votes tabulated are weighted in favor of the proposal:
- (1) Adopt a resolution:
- (a) Declaring the ballot tabulation results;
- (b) Approving the engineer's report, base assessment and annual adjustments and annexing territory and forming Zone I in Maintenance District 15; and
- (c) Imposing the assessments on those properties within the district as proposed in the engineer's report.

Resolution No. 76464 adopted.

- (2) Adopt the following 2012-2013 Appropriation Ordinance and Funding Source Resolution Amendments in the Maintenance District No. 15 (Silver Creek Valley) Fund:
- (a) Increase the estimate for Earned Revenue by \$53,650;
- (b) Establish an estimate for Transfers from Other Funds in the amount of \$22,118;
- (c) Increase the Personal Services appropriation for the Transportation Department by \$2,540;
- (d) Increase the Non-Personal/Equipment appropriation for the Transportation Department by \$63,650;
- (e) Increase the overhead appropriation by \$760; and
- (f) Increase the Ending Fund Balance by \$8,818.

Ordinance No. 29172 adopted.

Resolution No. 76465 adopted.

- (3) Adopt the following 2012-2013 Appropriation Ordinance Amendments in the Storm Sewer Operating Fund:
- (a) Establish a Transfer to the Maintenance District No. 15 (Silver Creek Valley) Fund in the amount of \$22,118; and
- (b) Decrease the Ending Fund Balance by \$22,118.

CEQA: Mitigated Negative Declaration, File No. PDC09-010. Council District 8. (Public Works/City Manager's Office)

Ordinance No. 29173 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Public Hearing and Election on the Maintenance District 19 (River Oaks Area Landscaping) Annexation.

Recommendation:

- (a) Conduct a public hearing regarding the proposed annexation to Maintenance District 19 (River Oaks Area Landscaping) and at the close of the public hearing, direct the City Clerk to tabulate the property owner ballots and report the results.

The Public Hearing was held.

- (b) If the majority of the votes tabulated are weighted in favor of the proposal, adopt a resolution:
- (1) Declaring the ballot tabulation results;
 - (2) Approving the engineer's report, base assessment and annual adjustments and annexing territory in Maintenance District 19 (River Oaks Area Landscaping); and
 - (3) Imposing the assessments on those properties within the district as proposed in the engineer's report

CEQA: North San José Development Policy Update EIR, Resolution No. 72768. Council District 4. (Public Works)

Resolution No. 76466 adopted.

5. NEIGHBORHOOD SERVICES

5.1 San José Family Camp Master Plan Approval.

Recommendation:

- (a) Adopt a resolution adopting the Mitigated Negative Declaration and the associated Mitigation Monitoring Plan and Report Program prepared for the San José Family Camp (at Yosemite) Master Development Plan (File No. PP11-057) as having been completed in compliance with the California Environmental Quality Act reflecting the City's independent judgment and analysis.

Resolution No. 76467 adopted.

- (b) Approve the San José Family Camp (at Yosemite) Master Plan regarding possible repairs and/or enhancement/improvement projects to this City facility located on Federal land in the Stanislaus National Forest and authorize its submission to the U.S. Forest Service with Alternative Two being the preferred option of the City.

Approved.

CEQA: The Director of Planning recommends that the City Council adopt a resolution adopting the Mitigated Negative Declaration prepared for the San José Family Camp (at Yosemite) Master Development Plan (File No. PP11-057) as having been completed in compliance with the California Environmental Quality Act (CEQA) reflecting the City's independent judgment and analysis. (Parks, Recreation and Neighborhood Services/Planning, Building and Code Enforcement)

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Status Report on the San José Police Department's Secondary Employment Unit.

Recommendation: Accept this six-month status report on the San José Police Department's Secondary Employment Unit. CEQA: Not a Project, File No. PP10-069(a), Staff report. (Police)

Accepted.

9. REDEVELOPMENT – SUCCESSOR AGENCY

- **Open Forum**

- (1) **David Wall spoke in support to the acquisition of three 4.6 megawatt generators at the Water Pollution Control Plant, but he added for safety reasons, each generator should be housed in a separate building.**
- (2) **Judy Bender expressed her own concerns that there is not adequate Staffing at Fire Station 35.**

- **Adjournment**

The Council of the City of San José was adjourned at 4:28 p.m. in memory of Isaiah, “Ike” White Jr., retired Chief Master Sergeant, United States Air Force. Born on May 29, 1930, Ike died on October 13, 2012, after a lifetime of public service to the residents of Evergreen, the City of San José and the Nation. (Herrera)