

CITY COUNCIL AGENDA

NOVEMBER 6, 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**
9:02 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

- **Invocation (District 10)**
Staff Sergeant Brooks Casey accompanied by the Color Guard from the United States Army recognized Election Day and honored Veterans Day.

Joyce Randolph sang Our National Anthem, “The Star Spangled Banner”.

- **Pledge of Allegiance**
Mayor Reed, accompanied by the United States Army Color Guard, led the Pledge of Allegiance.

- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Ceremonial 1.5 added to the Amended Agenda.

- **Closed Session Report**
City Attorney Doyle disclosed the following Closed Session actions of November 6, 2012:

A. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The names of the action(s) and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action(s) is/are formally commenced.

Council Vote: Ayes: Campos, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.
Noes: None.
Abstain: None.
Not Present: None.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a proclamation recognizing November 11, 2012 as Veterans Day in the City of San José in honor of those who have served our nation in the United States Armed Forces. (Mayor/Herrera)
(Deferred from 10/30/12 – Item 1.2)
Mayor Reed and Council Member Herrera recognized November 11, 2012 as Veterans Day in the City of San José honoring those who have serviced our nation in the United States Armed Forces.
- 1.2** Presentation of a commendation to Kelly Estes for her dedication and commitment to spearheading the Veterans Proactive Assistance Task Force. (Chu/Herrera)
Mayor Reed and Council Members Chu and Herrera recognized and commended Kelly Estes for her exemplary dedication and commitment.
- 1.3** Presentation of a proclamation in support of the Shop San José Initiative to Women Impacting Public Policy (WIPP) and representatives of San José’s neighborhood business associations declaring November 24, 2012 as “Small Business Saturday” in the City of San José. (Herrera/Economic Development)
Mayor Reed and Council Member Herrera recognized November 24, 2012 as “Small Business Saturday” in the City of San José.
- 1.4** Presentation of a commendation to the Nederlander Organization for its contributions to the arts and musical theatre in San José as it celebrates its 100th Anniversary. (Mayor)
(Rules Committee referral 10/31/12)
Mayor Reed recognized and commended the Nederlander Organization on its 100th Anniversary.

1. CEREMONIAL ITEMS

- 1.5 Presentation of a commendation recognizing the month of November as “Sikh Awareness Month” in the City of San José. (Mayor/Kalra)
Per Orders of the Day.
Mayor Reed and Council Member Kalra recognized the month of November as “Sikh 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. 29169 – To amend Section 17.72.530 of Chapter 17.72 of Title 17 of the San José Municipal Code to require certain drainage into landscaped areas and to amend Section 20.95.020 of Chapter 20.95 of Title 20 of the San José Municipal Code to extend stormwater requirements to certain small projects and detached single-family residences, and making other clarifying or minor technical amendments to those sections.

Ordinance No. 29169 adopted.

- (b) ORD. NO. 29170 – Rezoning certain real property situated on the west side of Wilson Avenue, approximately 200 feet southerly of The Alameda, on a 1.04 gross-acre site (45 Wilson Avenue) to the CG Commercial General Zoning District. C12-017

Ordinance No. 29170 adopted.

- (c) ORD. NO. 29171 – Amending Ordinance No. 28178, as amended, to extend the ending date of the pilot for the Neighborhoods Commission to June 30, 2013.

Ordinance No. 29171 adopted.

- 2.3 **Approval of Council Committee Reports.**
There were none.

- 2.4 **Mayor and Council Excused Absence Requests.**
There were none.

- 2.5 **City Council Travel Reports.**
Mayor Reed and Council Members Liccardo and Constant presented details relating to their trip to the 2012 San José/Silicon Valley Chamber of Commerce City-to-City Trip and Study Mission to San Diego, California, which included pension and retirement issues, revitalization of urban areas, the Convention Center and the Family Domestic Violence Center.

2. CONSENT CALENDAR

- 2.6 Report from the Council Liaison to the Retirement Boards.**
Council Member Constant provided highlights of the Federated Retirement Board and Police/Fire Retirement Board Meetings.

- 2.7 Amendment to Agreement with Public Information and Emergency Response Management System.**

Recommendation: Approve a fourth amendment to the agreement with Public Information and Emergency Response System to extend subscription services for an on-demand online public information and emergency response services through June 30, 2015, at an additional cost of \$47,800, for a total contract amount of \$295,768. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (City Manager's Office)

Approved.

- 2.8 Actions Related to the Grace Community Center.**

Recommendation:

- (a) Approve a service delivery redesign of the Day Rehabilitation and Therapeutic Drop-In Programs at Grace Community Center.
- (b) Authorize the City Manager or designee to seek gap funding from Santa Clara County to support the Drop-In Therapeutic Recreation Services at Grace Community Center.

Approved.

- (c) Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Grace Community Center Agreement with Santa Clara County to enhance the Therapeutic Drop-In Program, to terminate the Day Rehabilitation Program, and to include available county funding for the redesigned program. CEQA: Not a Project, File PP10-066(e) Services that involve no change to the environment. (Parks, Recreation and Neighborhood Services)

Resolution No. 76468 adopted.

- 2.9 Amendment to Agreement with Conroy & Associates for Financial Background Investigation Services.**

Recommendation: Adopt a resolution authorizing the City Manager to execute a second amendment to the Agreement with Conroy & Associates, Inc., to expand the scope of services and to increase compensation related to providing financial background investigation services to the Division of Gaming Control for the period of October 1, 2011, to September 30, 2014, in an additional amount not to exceed \$380,000 for a total compensation not to exceed \$570,000. CEQA: Not a Project, File No. PP10-066(a), Professional Services. (Police)

Resolution No. 76469 adopted.

2. CONSENT CALENDAR

2.10 Little Saigon Highway Directional Signage Resolution.

Recommendation: Adopt a resolution pursuant to California Streets and Highways Code Section 101.12 to:

- (a) Designate the name “Little Saigon” to be used on directional signs on State Highway Route 101.
- (b) Recognize and designate the area on Story Road from State Highway Route 101 to Senter Road as “Little Saigon”.
- (c) Request the Department of Transportation of the State of California to allow the installation of “Little Saigon” directional signs on State Highway Route 101.

CEQA: Not a Project; PP10-069, Organizational and administrative activities. Council District 7. (Transportation)

[Referred from 9/25/12 – Item 2.3(a)]

Resolution No. 76470 adopted.

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 9:00 a.m.

No Report.

3.3 Adoption of a Statement of Policy and City Council Questions for the Prospective Finance Department Director.

Recommendation: Adopt a statement of Policy and City Council Questions related to the selection of a prospective Finance Department Director 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. STRATEGIC SUPPORT SERVICES

3.4 Issuance of City of San José Airport Revenue Refunding Bonds, Series 2012.

Recommendation: Adopt the 18th Supplemental Resolution of the City Council authorizing the issuance of City of San José Airport Revenue Refunding Bonds, Series 2012 in a total aggregate principal amount not to exceed \$49,140,000 to be sold through a private placement with Bank of America Public Capital Corp; approving substantially final forms of the Ninth Supplemental Trust Agreement and Bond Purchase Agreement; and authorizing and approving other related actions in connection with the issuance of the 2012 Bonds. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)

Heard before Consent Calendar and after Ceremonial Items.

Resolution No. 76471 adopted.

3.5 Ordinance to Implement Retirement Benefits in Federated Employees Retirement System.

Recommendation: Approve an ordinance amending various sections of Chapter 3.28 of Title 3 of the San José Municipal Code to clarify the City Charter supersedes the Federated Retirement Plan in the event of conflict, and clarify the definition of Tier 2 member, and discontinue the Supplemental Retiree Benefit Reserve, clarify actuarial soundness is determined consistent with the California Constitution, and make Medicare enrollment mandatory at age 65. CEQA: Not a Project, File No. PP10-068(b), Municipal Code. (City Manager's Office)

Ordinance No. 29174 passed for publication.

Noes: Campos, Chu, Kalra, Pyle.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Funding Commitment for the Ford & Monterey Family Affordable Housing Development by Eden Housing and Modifications to the NSP2 Consortium Funding Agreement.

Recommendation:

- (a) Adopt a resolution:
 - (1) Authorizing the City Manager or designee to negotiate and execute a Third Amendment to the Neighborhood Stabilization Program 2 ("NSP2") Consortium Funding Agreement with The Housing Trust of Santa Clara County to increase the amount of NSP2 funds allocated to the City from \$19,139,324 to \$21,139,324 and to allow the use of up to \$2,000,000 of NSP2 funds, including program income funds to provide \$1,770,000 for construction and permanent financing for the 75-unit Ford Road Family Housing Project, and \$230,000 for project delivery costs.

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Funding Commitment for the Ford & Monterey Family Affordable Housing Development by Eden Housing and Modifications to the NSP2 Consortium Funding Agreement. (Cont'd.)

Recommendation:

- (a) Adopt a resolution: (Cont'd.)
 - (2) Approving a funding commitment to Eden Housing or its designated affiliate for up to \$1,770,000 for a Project construction/permanent loan funded from NSP2 program funds and allowing the capitalization of up to \$254,000 in construction interest to be accrued on the loan.

Resolution No. 76472 adopted.

Noes: Oliverio.

- (b) Approval of the following 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund:
 - (1) Increase the estimate for Recovery Act – Federal Revenue by \$2,000,000.
 - (2) Increase the appropriation to the Housing Department for the Recovery Act – Neighborhood Stabilization Program 2 project by \$2,000,000.

CEQA: Mitigated Negative Declaration, File No. PDC09-022. (Housing/City Manager's Office)

Ordinance No. 29175 adopted.

Resolution No. 76473 adopted.

Noes: Oliverio.

4.2 Ordinance to Amend the Height Limitations in Airport Influence Areas, Further Implement Height Policies Set Forth in the Envision San José 2040 General Plan, and Make Other Changes.

Recommendation: Consideration of an Ordinance of the City of San José amending Title 20 of the San José Municipal Code by amending Section 20.20.200 of Chapter 20.20, Section 20.30.200 of Chapter 20.30, Section 20.40.200 of Chapter 20.40, Section 20.50.200 of Chapter 20.50, and Sections 20.85.010, 20.85.020, and 20.85.030 of Chapter 20.85. all to amend the height limitations in Airport Influence Areas, to further implement the height policies set forth within the Envision San Jose 2040 General Plan, and to make other technical, nonsubstantive, or formatting changes within those sections of Title 20. CEQA: Envision San José 2040 General Plan Update EIR Resolution No. 76041, File No. PP09-011. Planning Commission recommends approval (6-0-1; Kamkar Absent). (Planning, Building and Code Enforcement)

Ordinance No. 29176 passed for publication.

Staff directed to check in with the Federal Aviation Administration (FAA) to identify and engage potential stakeholders.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Rezoning Real Property Located on the North Side of Coleman Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the north side of Coleman Avenue, approximately 740 feet easterly of Brokaw Road (1190 Coleman Avenue), from LI Light Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District on an approximately 1.04 gross acre site. CEQA: Envision San José 2040 General Plan Update EIR Resolution No. 76041, File No. PP09-011.

C12-016 – District 3

Ordinance No. 29177 passed for publication.

4.4 Vacation of a Portion of Emory Street from Stockton Avenue to Laurel Street.

Recommendation: Conduct a public hearing and adopt a resolution to vacate a portion of Emory Street from Stockton Avenue to Laurel Street. CEQA: Mitigated Negative Declaration, PDC07-072. Council District: 6. (Public Works)

The Public Hearing was held.

Resolution No. 76474 adopted, as amended, with Staff directed to omit the 12 foot pedestrian access easement.

4.5 Development Services Update and Economic Strategy “Top 5” Work Plan Priorities.

Recommendation: As recommended by the Community and Economic Development Committee on October 22, 2012:

- (a) Accept the status update on Development Services activity, performance measures, and other activities.
- (b) Accept staff’s report on the progress implementing the “Top Five” highest work plan priorities for the Economic Strategy.

(Planning, Building and Code Enforcement/Economic Development)

The memorandum from Mayor Reed, dated November 1, 2012, was approved, accepting the status update on Development Services activity, performance measures and other activities, and accepting Staff’s report on the progress implementing the “Top Five” highest work plan priorities for the Economic Strategy, with the following direction:

FOR PRIORITY #1: *Work at the speed of business on major development projects that can have a measurable impact on job creation or revenues within the next 18 months.*

- (1) Set a goal of issuing permits for \$1 Billion of new investment in major projects in San José over the next six months.
- (2) Create a Jobs and Revenue Project Management Team representing the departments of Planning, Building, Public Works, Fire and the Office of Economic Development, who will oversee major projects for office/research and development and campus developments for driving-industry companies, high-rise residential projects and retail projects over 200,000 square feet through the planning and building permit process to get them permitted with expedited review.

(Action continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Development Services Update and Economic Strategy “Top 5” Work Plan Priorities. (Action Cont’d.)

- (3) Present a monthly written report to the Economic Competiveness Committee on each major project and the status of its permit approvals, as well as a monthly written report on the status of attraction and retention efforts to gain additional major projects.**
- (4) Staff directed to include the Sun Garden Shopping Center as one of the priority projects.**
- (5) Staff directed to return to the Community and Economic Development Committee with the Customer Service Initiative in January 2013.**

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Amendment to the Agreement with Macias Gini & O’Connell LLP for Financial and Compliance Audit Services.

Recommendation: It is recommended that the City Council, acting in its capacity as Successor Agency to the Redevelopment Agency, approve the First Amendment to the Agreement with Macias Gini & O’Connell LLP to amend the Scope of Services for the Fiscal Year 2011-12 audit to reflect the dissolution of the former Redevelopment Agency as of February 1, 2012, to increase the current contract amount by \$28,306, for a total fee for the Fiscal Year 2011-12 audits of \$113,750, and a total contract amount not to exceed \$460,418. CEQA: Not a Project, File No. PP10-066, Agreements.
(Rules Committee referral 10/31/12)

Approved.

- **Notice of City Engineer's Pending Decision on Final Maps**
In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10128	S/W Corner of Chynoweth Avenue and Cedar Grove Circle	2	San Ramon Land LLC	6 Lots / 6 Units	SFD	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10128	S/W Corner of Chynoweth Ave and Cedar Grove Cir	2	San Ramon Land LLC	6 Lots / 6 Units	SFD

- **Open Forum**
 - (1) **David Wall voiced concern that City Officials were being interviewed by the news media and stated their positions related to Proposition 34; Mr. Wall suggested that Council consider a study session for the Sewer Service and Use Charge and the Storm Sewer and Use Charge.**
 - (2) **Jeff Bedolla expressed concern that following public comment on Item 4.4, the proposal to omit the 12 foot pedestrian access easement was approved, which provided no further opportunity for the public to comment on that new change.**

- **Adjournment**
The Council of the City of San José was adjourned at 4:41 p.m. in memory of Esther Medina; social activist, stalwart of the disenfranchised, and executive director of MACSA for over two decades. Born in a migrant farm workers camp in California, Esther understood from an early age the hardships endured by poverty stricken communities. She advocated for youth and seniors and provided low-income housing to seniors. Throughout her years, Esther was a steadfast and inexorable community leader. Esther passed away on October 17, 2012, at the age of 76. (Campos)