

CITY COUNCIL AGENDA

APRIL 4, 2017

SYNOPSIS

CHAPPIE JONES
SERGIO JIMENEZ
RAUL PERALEZ
LAN DIEP
MAGDALENA CARRASCO
VICE MAYOR

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

SAM LICCARDO MAYOR

DEV DAVIS
TAM NGUYEN
SYLVIA ARENAS
DONALD ROCHA
JOHNNY KHAMIS

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the 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, the Mayor 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 6 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=5322>. 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, Tower 14th 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 City.Clerk@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**
9:40 a.m. - Closed Session, Call to Order in Council Chambers
Councilmembers Absent: All present.

1:34 p.m. - Regular Session, Council Chambers, City Hall
Councilmembers Absent: All present.
- **Invocation (District 4)**
Santa Clara County Poet Laureate, Arlene Biala, introduced 11-year-old poet, America Yulissa Cihuapilli Irineo (Cihuapilli), who presented a poem for National Poetry Month.
- **Pledge of Allegiance**
Mayor Sam Liccardo led the Pledge of Allegiance accompanied by 6th grade students from Ocala STEAM Academy.
- **Orders of the Day – *Heard after Ceremonial Items***
The Orders of the Day and the Amended Agenda were approved.

- **Closed Session Report**
None provided.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation recognizing April 4, 2017 as National Service Day in the City of San José. (Mayor)
Mayor Sam Liccardo and all councilmembers presented a proclamation to AmeriCorps and City Year Team Member representatives recognizing April 4, 2017 as National Service Day in the City of San José.

2. CONSENT CALENDAR

- 2.1 **Approval of City Council Minutes.**
None provided.

- 2.2 **Final Adoption of Ordinances.**
None provided.

- 2.3 **Approval of Council Committee Minutes.**

Recommendation: Approval of Council Committee Minutes.

- (a) Transportation and Environment Committee Minutes of March 6, 2017.
(Carrasco)
- (b) Neighborhood Services and Education Committee Minutes of March 9, 2017.
(Rocha)
- (c) Rules and Open Government Committee Minutes of March 15, 2017. (Mayor)
CEQA: Not a Project, File No. PP10-069(c), City Organizational & Administrative Activities.

Approved.

- 2.4 **Mayor and Council Excused Absence Requests.**
None provided.

- 2.5 **City Council Travel Reports.**
Councilmember Johnny Khamis presented a report on his trip to China with the Silicon Valley Chinese Business Association.

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

2. CONSENT CALENDAR

2.7 Amendment to the Agreement with San Jose Streets Team for Place-Based Rapid Re-Housing Services.

Recommendation: Approve the Second Amendment to the Agreement for Rapid Re-Housing Services between the City of San José and San José Streets Team to increase the maximum funding by \$230,000, from \$1,950,000 to \$2,180,000, and to retroactively extend the Place-Based Rapid Re-Housing Program by four (4) months from March 1, 2017 through June 30, 2017. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts, Services that involve no physical changes to the environment. (Housing) **Approved.**

2.8 East Side Dia del Niño Book Giveaway.

Recommendation: As recommended by the Rules and Open Government Committee on March 29, 2017:

- (a) Approve the Dia del Niño Book Giveaway scheduled on Saturday, April 29, 2017, as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Carrasco) **Approved.**

2.9 12th Annual West Valley Senior Walk.

Recommendation: As recommended by the Rules and Open Government Committee on March 29, 2017:

- (a) Approve the 12th Annual West Valley Senior Walk scheduled on Friday, April 14, 2017, as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Jones) **Approved.**

2.10 César Chavez Day Flag Raising and Reception.

Recommendation: As recommended by the Rules and Open Government Committee on March 29, 2017:

- (a) Retroactively approve the César Chavez Day Flag Raising and Reception scheduled on Thursday, March 23, 2017, as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Peralez/Jimenez) **Approved.**

2. CONSENT CALENDAR

2.11 Great American Litter Pick-Up.

Recommendation: As recommended by the Rules and Open Government Committee on March 29, 2017:

- (a) Approve the Great American Litter Pick-up scheduled for Saturday, April 22, 2017, as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (City Clerk)
[Rules Committee referral 3/29/17 – Item G.1.d.]

Approved.

2.12 Coffee with a Cop.

Recommendation: As recommended by the Rules and Open Government Committee on March 29, 2017:

- (a) Retroactively approve Coffee with a Cop scheduled on Saturday, March 25, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Jones/Davis)
[Rules Committee referral 3/29/17 – Item G.1.e.]

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Norberto Dueñas (Verbal Report). None provided.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.
None provided.

3. STRATEGIC SUPPORT SERVICES

3.3 Fee Schedule for City-Generated Zone Towing Services Agreements.

Recommendation: Adopt a resolution setting a new fee schedule for City-Generated Zone Towing Services and authorizing the City Manager to execute amendments to the Agreements for City-Generated Zone Towing Services with rates not to exceed the allowable tow fees under the State of California Highway Patrol Tow Services Agreement for the Golden Gate Region- San José Office to take effect April 5, 2017, with the below contractors:

- (a) Matos Auto Towing & Transport
- (b) City Towing, Inc.
- (c) Century Tow
- (d) Motor Body Company, Inc.
- (e) Courtesy Tow Services, Inc.
- (f) Alongi Brothers, Inc.

CEQA: Not a Project, File No. PP10-067(a), Non-Project Specific Funding Mechanism, Increase or Adjustment to Fees, Rates & Fares. (Planning, Building and Code Enforcement)

(Continued from 3/21/17 – Item 3.4)

Resolution No. 78118 adopted.

3.4 Status of Open Audit Recommendations as of December 2016.

Recommendation: Accept the Status of Open Audit recommendations as of December 2016. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Staff Reports, Assessments, and Annual Reports that involve no approvals of any City Actions. (City Auditor)

Accepted.

3.5 TEFRA Hearing for California Enterprise Development Authority’s Issuance of Tax-Exempt Revenue Bonds to Finance and Refinance Educational Facilities Located at 14271 Story Road for the Foundation for Hispanic Education.

Recommendation:

- (a) Hold a Tax Equity and Fiscal Responsibility Act (“TEFRA”) Public Hearing for the issuance of up to \$15,500,000 in tax-exempt revenue bonds (“Bonds”) by California Enterprise Development Authority (the “Authority”) for the purpose of financing and refinancing the cost of acquiring, constructing, installing, improving, equipping, and furnishing school facilities located at 14271 Story Road, San José, California for the benefit of The Foundation for Hispanic Education, a California nonprofit public benefit corporation and an organization described under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

(Item Continued on the Next Page)

3. STRATEGIC SUPPORT SERVICES

3.5 TEFRA Hearing for California Enterprise Development Authority’s Issuance of Tax-Exempt Revenue Bonds to Finance and Refinance Educational Facilities Located at 14271 Story Road for the Foundation for Hispanic Education (Cont’d.)

- (b) Consideration of a resolution approving the issuance of Tax-Exempt Revenue Bonds by the Authority in a principal amount of up to \$15,500,000 to be used to finance and refinance the educational facilities and to pay certain expenses incurred in connection with the issuance of the Bonds.

CEQA: Not a Project, File No. PP10-067, Non-Project Funding Mechanism. Council District 5. (Finance)

Resolution No. 78119 adopted.

3.6 Annual Summary of Labor Negotiations.

Recommendation: Accept staff report and public input on the Annual Summary of Upcoming Labor Negotiations. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Annual Reports that involve no approvals of any City Actions. (City Manager)

(Deferred from 3/28/17 – Item 3.4)

Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Construction Taxes – Unified Office Rate.

Recommendation: Approve an ordinance to:

- (a) Amend Title 4 of the San José Municipal Code to extend the expiration of the temporary partial suspension for “office, research and development” and “data center” uses (SJMC 4.46.039.10 and SJMC 4.47.095) from March 31, 2017, to March 31, 2019.

- (b) Amend Title 4 of the San José Municipal Code to create a temporary partial suspension from the Commercial-Residential-Mobilehome Park Building Tax (SJMC 4.47), beginning April 1, 2019, from 3% to 0.5% for the following uses:

- (1) Office, General Business (SJMC 20.200.813)
- (2) Office, Research and Development (SJMC 20.200.818)

To allow the City Council the flexibility to review the uses included and verify that these sectors are being accurately represented, this provision shall sunset March 31, 2024.

- (c) Amend Title 4 of the San José Municipal Code to suspend the Commercial-Residential-Mobilehome Park Building Tax (SJMC 4.47), and create a temporary partial suspension of the Building and Structures Construction Tax (SJMC 4.46), beginning April 1, 2019, to achieve a rate of 1% for Data Center uses as defined by SJMC 20.200.265, including a provision that this suspension shall sunset March 31, 2024.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Construction Taxes – Unified Office Rate (Cont'd.)

- (d) Amend Title 4 of the San José Municipal Code to amend section 4.82.320 to authorize the City Manager or designee to compromise or settle tax refund claims for amounts exceeding fifty thousand dollars (\$50,000.00) and up to five hundred thousand dollars (\$500,000.00), with the written approval of the City Attorney.

CEQA: Not a Project, File No. PP10-068(c), General Procedure & Policy Making, Code or Policy change that involves no changes in the physical environment. (Economic Development)

[Community and Economic Development Committee referral 1/23/17 – Item (d)(2)]
(Deferred from 2/14/17 – Item 4.1, 2/28/17 – Item 4.1, et al, and 3/28/17 – Item 4.1)

Ordinance No. 29897 passed for publication, including the supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas; Director of Transportation, Jim Ortbal and Deputy City Manager/Director of Economic Development Kim Walesh, dated March 29, 2017.

4.2 Donation of City Surplus Vehicles to Goodwill of Silicon Valley.

Recommendation:

- (a) Approve staff's recommendation to donate up to 20 surplus light duty vehicles, estimated value at \$21,180, to Goodwill of Silicon Valley (Goodwill SV) which will be distributed to flood victims that lost their vehicles during the Coyote Creek Flood in accordance with San José Municipal Code 4.16.250.
- (b) Waive the requirement in Council Policy 1-20, section 4.b: "Notices donation of surplus personal property at a Rules and Open Government Committee meeting with a 30-day period to receive requests for donations and reaches out to potential donees."

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Public Works)

Approved, with the option to donate up to twenty additional light duty vehicles as they become available.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 Actions Related to the Amendment to the Airport Retail Concession Agreement.

Recommendation:

- (a) Approve the Sixth Amendment to the AMS-SJC-JV (“AMS”) Airport Retail Concession Agreement (the “AMS Agreement”) to:
 - (1) Incorporate the retail concession areas (stores) currently operated by WDFG North America LLC (“WDFG”) under the same terms and conditions as the current Airport Retail Concession Agreement (the “WDFG Agreement”);
 - (2) Provide AMS with storage space to support its concession operations; and
 - (3) Extend the term of the AMS Agreement from June 30, 2024 to June 30, 2026, to allow those concessions that currently are under the WDFG Agreement to remain in place until June 30, 2026, while retaining the AMS concession areas termination date of June 30, 2024.

Approved.

- (b) Approve the Fifth Amendment to the WDFG Agreement to terminate the Agreement upon incorporation of the Airport retail concession areas currently operated by WDFG into the AMS Agreement under the same terms and conditions as the current WDFG Agreement.

Approved.

- (c) Adopt a resolution authorizing the Director of Aviation to negotiate and execute amendments to the AMS Agreement at any time prior to its expiration to:
 - (1) Rebalance the retail concessions area allowing for the maximization of retail revenue, improving customer service, and providing for an equitable bidding opportunity for future retail solicitations by revising the expiration date of the individual locations to either June 30, 2024 or June 30, 2026;
 - (2) Revise the Minimum Annual Guarantee Concession Fee to reflect any such revisions to ensure continued revenues for the City; and
 - (3) Revise the Capital Investment and/or the Minimum Mid-Term Concession Refurbishment Expenditure consistent with any such changes to the concession areas.

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

Resolution No. 78120 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Independent Police Auditor Recruitment.

Recommendation: As recommended by the Rules and Open Government Committee on March 29, 2017, approve the timeline and initiate the process to recruit an Independent Police Auditor for the City of San José. CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (Mayor)
[Rules Committee referral 3/29/17 – Item G.3.]
Approved.

9. REDEVELOPMENT – SUCCESSOR AGENCY

- **Open Forum**

Blair Beekman said a formal good-bye to Walter Katz and discussed ideas for the D-2 process while waiting for a new IPA.

- **Adjournment**

The Council of the City of San José adjourned at 4:11 p.m.