



CITY COUNCIL AGENDA

JANUARY 8, 2013

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
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 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**
9:31 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.
- **Invocation (District 10)**
Rev. Samer Youssef, Antiochian Orthodox Church of the Redeemer 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 Agenda were approved, with Ceremonial Item 1.3 heard first and Items 2.3(a) and (h) deferred to January 15, 2013.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Meyerholz Elementary School for its outstanding achievement in being named a 2012 National Blue Ribbon School. (Constant)
Mayor Reed and Council Member Constant recognized and commended Meyerholtz Elementary School.
- 1.2 Presentation of a commendation to All Nippon Airways (ANA) for its investment of service at Mineta San José International Airport and its commitment to provide 21st century air service to Silicon Valley business and leisure travelers. (Mayor)
Mayor Reed recognized and commended All Nippon Airways for its investment of service and commitment to provide 21st century air service.
- 1.3 Administer Oaths of Office for newly elected and reelected Council Members. (City Clerk)
Mayor Reed presented introductory remarks. Acting City Clerk Toni J. Taber administered the Oaths of Office to newly elected Council Member Khamis and reelected Council Members Chu, Herrera, Kalra and Oliverio.
- 1.4 Presentation of a proclamation recognizing the month of January 2013 as “National Mentoring Month” in the City of San José in honor of those who have given their time and effort to help mentor youth in need of guidance. (Campos)
(Rules Committee referral 12/19/12)
Mayor Reed and Council Member Campos recognized the month of January 2013 as “National Mentoring Month” in 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. 29195 – Amending Chapter 13.32 of Title 13 of the San José Municipal Code to amend Sections 13.32.020, 13.32.070, 13.32.090, 13.32.100, 13.32.110, and 13.32.120, and add Sections 13.32.041 and 13.32.095, and amending Sections 20.100.140, 20.100.220, and 20.100.300 of Chapter 20.100 of Title 20, all to modify the tree removal requirements for single-family residences to streamline the permitting process and to modify the permit recordation requirements for tree removal and certain other permits.

Ordinance No. 29195 adopted.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (b) Rules and Open Government Committee Report of February 1, 2012.
- (c) Rules and Open Government Committee Report of February 15, 2012.
- (d) Rules and Open Government Committee Report of February 22, 2012.
- (e) Rules and Open Government Committee Report of February 29, 2012.
- (f) Rules and Open Government Committee Report of March 7, 2012.
- (g) Rules and Open Government Committee Report of March 14, 2012.
- (i) Rules and Open Government Committee Report of March 28, 2012.

(Mayor)

Approved.

- (a) Rules and Open Government Committee Report of January 25, 2012.

- (h) Rules and Open Government Committee Report of March 21, 2012.

(Mayor)

Deferred to January 15, 2013 per Orders of the Day.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

Council Member Constant presented highlights of the Federated Retirement Board Meeting and the Police and Fire Retirement Board Meeting.

2.7 City Manager's Travel to Las Vegas, Nevada.

Recommendation: Authorize travel for City Manager Debra Figone to Las Vegas, Nevada, on January 24-26, 2013, to participate in the Large Cities Executive Forum. Source of Funds: City Manager's Non Personal Services Appropriation. CEQA: Not a Project, File No. PP10-069, Administrative Activities. (City Manager's Office)

Approved.

2.8 Agreements with A-N West, Inc. and MTH Engineers, a Joint Venture, and AECOM Technical Services, Inc. for Consulting Services.

Recommendation: Approve the consultant master agreements with A-N West, Inc. and MTH Engineers, a Joint Venture, and AECOM Technical Services, Inc., for consultant services, including engineering services for design of storm pump stations, from the date of execution through December 31, 2015, in a total 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. CONSENT CALENDAR

2.9 North San José Development Update and Noble Dog Park Community Meetings.

Recommendation: As recommended by the Rules and Open Government Committee on December 19, 2012:

- (a) Approve the North San José Development Update and Noble Dog Park Community Meetings as City-sponsored Special Events.
- (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 12/19/12 – Item G(5)]

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that the start of the Fiscal Year 2013-2014 budget process has begun and that a memorandum was circulated to the Council providing direction on preparing budget proposals and other pertinent budget information.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

Heard at 9:30 a.m.

No Report.

3.3 Audit of Staffing Reductions.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on November 15, 2012, accept the audit of staffing reductions. (City Auditor)
[Public Safety, Finance and Strategic Support Committee referral 11/15/12 – Item D(4)]

Report Accepted, including City Manager's comments.

Noes: Campos, Chu, Kalra, Nguyen, Rocha.

3.4 2012 Service Efforts and Accomplishments Report.

Recommendation: Accept the 2012 Service Efforts and Accomplishments Report. (City Auditor)

Deferred to January 15, 2013 per Mayor Reed.

3. STRATEGIC SUPPORT SERVICES

3.5 Statement of Policy and City Council Questions for the Prospective Police Chief.

Recommendation: Adopt a statement of Policy and City Council Questions related to the selection of a prospective Police Chief 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, with the following additional questions added:

- (1) What has been your experience of using analytics to improve police effectiveness and what are your plans for the San José Police Department?**
- (2) With routine shortfalls and funding, what are some of best ideas you are seeing in other Cities' departments to provide policing more efficiently and what kind of innovative solutions have you led in your own department?**
- (3) How do you plan to promote diversity within the department?**

3.6 Recycle Plus Billing and Customer Service – Service Delivery Evaluation Update.

Recommendation: Approve discontinuing the City's in-house service delivery model for Recycle Plus Billing and Customer Service; choose not to implement the Public Private Competition Policy; and continue to evaluate two alternative service delivery options with a final recommendation to be brought forward to Council in Spring 2013. CEQA: Not a Project, File No. PP10-069(a), City organizational and administrative activities. (Environmental Services/Finance)

Deferred to January 15, 2013 per Mayor Reed.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Lease Agreement with Whispers Inc, dba Whispers Café & Creperie.

Recommendation: Approve an agreement with Whispers Inc, dba Whispers Café & Creperie for the lease of real property located at 150 S. 2nd Street for the purpose of operating a restaurant with the following annual rent: Year 1 - \$70,980; Year 2 - \$110,526; Year 3 - \$116,610; Year 4 - \$122,694; Year 5 - \$128,778; Year 6 - \$133,422; Year 7 - \$137,425; Year 8 - \$141,548; Year 9 - \$145,794; Year 10 - \$150,168 for a total compensation to the City of approximately \$1,257,944 during the initial 10-year term. CEQA: Exempt, File No. PP10-095. Council District 3. (Economic Development)

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Actions Related to Rocketship Tamien School.

Recommendation:

- (a) Adopt a resolution adopting the Mitigated Negative Declaration and the associated Mitigation Monitoring Plan and Report Program prepared for the Rocketship Tamien Public School #8 and Joint Use Area (File No. PP12-091) as having been completed in compliance with the California Environmental Quality Act reflecting the City's independent judgment and analysis.

Resolution No. 76529 adopted.

Noes: Campos, Chu, Kalra, Rocha.

Abstain: Liccardo.

- (b) Adopt a resolution:
- (1) Declaring 26,528 square feet of real property on Goodyear Street adjacent to Lick Avenue (near the Tamien Transit Station) surplus to the needs of the City of San José;
 - (2) Approving a Purchase and Sale Agreement and Escrow Instruction between the City of San José and Launchpad Development Company for the sale of approximately 26,528 square feet of real property in the amount of \$848,896 to facilitate the construction of Rocketship Tamien Public School #8;
 - (3) Authorizing the City Manager to negotiate and execute a Joint Use Agreement between the City of San José, Launchpad Development Nine, LLC, and Rocketship Education for the use of approximately 34,545 square feet of real property for the construction and joint use of recreational improvements and a parking lot associated with the development of Rocketship Tamien Public School #8 for a term of 33 years and in the amount of \$651,104; and
 - (4) Authorizing the City Manager or her designee to execute the sale agreement, and to negotiate and execute the quitclaim deed and all other documents necessary to complete the various transactions with Launchpad Development Company, Launchpad Development Nine LLC, and Rocketship Education to facilitate development of the Rocketship Tamien Public School # 8.

CEQA: Mitigated Negative Declaration to be adopted, File No. PP12-091. Council District 3. (Parks, Recreation and Neighborhood Services/Planning, Building Code Enforcement/Economic Development)

The memorandum from Mayor Reed and Vice Mayor Nguyen, dated January 4, 2013, was approved, approving the Staff recommendations in Item 4.2, with the City Manager directed to:

- (1) **Allocate the proceeds from the sale of the City property towards future development of Tamien Park in its entirety.**
- (2) **Complete the masterplan and estimated project cost schedule for Tamien Park and return to Council for approval of the conceptual design in Fall of 2013.**

Resolution No. 76530 adopted.

Noes: Campos, Chu, Kalra, Rocha.

Abstain: Liccardo.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Actions Related to the 2013-2014 Hazardous Vegetation Commencement Report for the Removal of Weeds or Refuse.

Recommendation: Conduct a public hearing and adopt a resolution:

- (a) Overruling any and all objections to the 2013-2014 Hazardous Vegetation Commencement Report; and
- (b) Directing the Santa Clara County Department of Agriculture and Resource Management to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Exempt, File No. PP08-245. (Planning, Building and Code Enforcement)

The Public Hearing was held.

Resolution No. 76531 adopted.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 Actions Related to the Curb Café Pilot Program.

Recommendation: Approve the following actions to establish a San José Curb Café pilot program:

- (a) Approve an ordinance amending various sections of Part 1 of Chapter 13.36 of Title 13 relating to encroachment permits upon public right of way and Part 12 of Chapter 20.100 of Title 20 of the San José Municipal Code relating to the permitting of sidewalk cafés.

Ordinance No. 29196 passed for publication.

- (b) Adopt a resolution implementing guidelines for a pilot program to authorize up to five Curb Cafés within a one year period.

CEQA: Exempt 15304(b), File No. PP12-103. (Transportation/Public Works)

Resolution No. 76532 adopted.

The memorandum from Council Member Liccardo, dated January 7, 2013, was approved, approving the Staff recommendations with the following condition:

- ♦ **The City Manager directed to create a single fee and approval process for “curb cafés”, integrating -- by no later than through the June 2013 budget process in the annual Statement of Fees and Charges -- the Public Works-related construction fee with the Planning-related “outdoor dining” use fee.**

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT SUCCESSOR AGENCY

9.1 Purchase and Sale Agreements for the Sale of Four Successor Agency Parcels.

Recommendation: Approve the Purchase and Sale Agreements for the following Successor Agency owned properties:

- (a) 193 East Santa Clara Street to Symphony Development for a purchase price in the amount of \$4,250,000.
- (b) 1171 Mesa Drive to Alok Damireddy for a purchase price in the amount of \$225,000.
- (c) 5647 Gallup Drive to Alok Damireddy for a purchase price in the amount of \$228,000.
- (d) 88 East San Fernando Street (Central Place Parking Garage) to Next Ventures, LLC for a purchase price in the amount of \$446,016.71.

(Successor Agency)

(Deferred from 12/18/12 – Item 9.2)

Deferred to January 15, 2013 per Administration.

- **Open Forum**

Jose Medeiros expressed his concerns about being homeless, a victim of identify theft and home foreclosure fraud.

- **Adjournment**

The Council of the City of San José was adjourned at 6:57 p.m.