



CITY COUNCIL AGENDA

FEBRUARY 26, 2013

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
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. 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**
 - 9:00 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
 - 7:00 p.m. - Public Hearings, Council Chambers, City Hall
- **Invocation (District 2)**
 - Demone Carter, Director of Future Arts Now
- **Pledge of Allegiance**
- **Orders of the Day**

ADJOURNMENT: This meeting will be adjourned in memory of Ed Harris, who passed away January 27, 2012. His life's passion was his devotion to his family, friends, and serving the Lord. He always had a smile on his face and made everyone, including strangers, feel special. He truly had the fruit of the Spirit: love, joy, peace, patience, kindness, goodness, faithfulness and self-control. (Rocha)

- Orders of the Day (Cont'd.)

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 Nu Alpha Kappa fraternity in celebration of their 25th Anniversary. (Campos)
TO BE HEARD IN THE EVENING
- 1.2** Presentation of a commendation to Times Media, Inc., Silicon Valley's largest independent newspaper group including the Almaden Times, the Evergreen Times, and the Willow Glen Times, in celebration of their 30 years of dedicated and comprehensive community news coverage. (Herrera)
- 1.3** Presentation of commendations to the Mt. Pleasant, Overfelt, and Silver Creek High Schools Junior Reserve Officers' Training Corps programs for their service to the Evergreen community during the annual Day in the Park celebration and throughout the year. (Herrera)
TO BE HEARD IN THE EVENING
- 1.4** Presentation of a commendation honoring Asian Americans for Community Involvement (AACI) for 40 years of service to the community. (Nguyen)
TO BE HEARD IN THE EVENING

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.**

2. CONSENT CALENDAR

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) [ORD. NO. 29206](#) – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Think Truong DBA AWR Dumpsters.
- (b) [ORD. NO. 29207](#) – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Bernardini Enterprises, Inc., DBA Chip It Recycling.
- (c) [ORD. NO. 29209](#) – Rezoning certain real property situated on the southeast corner of West San Carlos Street and South Bascom Avenue on a 0.65 gross-acre site (1990 West San Carlos Street) to the CG Commercial General Zoning District. C13-001

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of June 6, 2012. (Mayor)
- (b) Rules and Open Government Committee Report of June 13, 2012. (Mayor)
- (c) Rules and Open Government Committee Report of September 5, 2012. (Mayor)
- (d) Rules and Open Government Committee Report of September 12, 2012. (Mayor)
- (e) Rules and Open Government Committee Report of September 19, 2012. (Mayor)
- (f) Rules and Open Government Committee Report of September 26, 2012. (Mayor)
- * (g) [Community and Economic Development Committee Report of January 28, 2013.](#) (Herrera).
- * (h) [Transportation and Environment Committee Report of February 4, 2013.](#) (Liccardo)

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 [Lease with Our City Forest for Real Property Located At 1590 Las Plumas Avenue.](#)

- * **Recommendation:** Adopt a resolution authorizing the City Manager to execute a [lease](#) with Our City Forest for space in real property located at 1590 Las Plumas Avenue at a below market rental pursuant to Council Policy 7-1. CEQA: Not a Project, File No. PP12-096. Operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structure, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. CEQA: Exempt, File No. PP12-096. (Economic Development)

2. CONSENT CALENDAR

2.8 [Report on Bids and Award of Construction Contract for the Dissolved Air Flotation Dissolution Improvements Project.](#)

[Letter from the Treatment Plant Advisory Committee](#)

Recommendation:

- (a) Report on bids and award the construction contract for the Dissolved Air Flotation Dissolution Improvements Project to the low bidder, Monterey Mechanical Co., Oakland, CA in the amount of \$535,000.
 - (b) Approve a 15% contingency in the amount of \$80,000.
- CEQA: Exempt, File No. PP11-020. (Environmental Services)

2.9 [Agreements for the San José/Santa Clara Water Pollution Control Plant Capital Improvement Program.](#)

[Letter from the Treatment Plant Advisory Committee](#)

Recommendation: Approve the first amendments to the Capital Improvement Program (CIP) master agreements with [AECOM](#) and [Brown & Caldwell](#), the first amendments to the Electrical master agreements with [Black & Veatch](#), [CDM Smith](#), and [GHD](#), and the second amendments to the CIP master agreements with [Black & Veatch](#), [Carollo Engineers](#), and [CH2M HILL](#), extending the terms from June 30, 2013 to June 30, 2015, for a continuation of ongoing engineering consultant services supporting the San José/Santa Clara Water Pollution Control Plant Capital Improvement Program, at no additional cost to the City. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Environmental Services)

2.10 [Amendments to the Purchase Orders with Ray Scheidts Electric Inc.](#)

Recommendation: Authorize the City Manager to:

- (a) Issue Open Purchase Orders for the third of four one-year options with Ray Scheidts Electric Inc. (San José, CA) and Cupertino Electric Inc. (San Jose, CA) to provide electrical maintenance and repair services citywide, in an amount not to exceed \$500,000 each for the period beginning February 1, 2013 through January 31, 2014;
 - (b) Transfer available funds between the purchase orders for Ray Scheidts Electric Inc. and Cupertino Electric Inc. as may be required based on requirements and vendor capacity; and
 - (c) Exercise the remaining one-year option, subject to the appropriation of funds.
- CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)

2.11 [Amendments to the Purchase Order with Long's Custom Discing Inc.](#)

Recommendation: Authorize the City Manager to:

- (a) Amend Open Purchase Order 46963 with Long's Custom Discing Inc. (San José, CA) to increase compensation by an additional \$120,000, for a revised total amount not-to-exceed \$370,000 for the initial term ending February 28, 2014; and
- (b) Increase the compensation for the initial term, and exercise three one-year options to extend the term of the services through February 28, 2017, subject to the appropriation of funds.

CEQA: Exempt, File No. PP08-245, Agreements and Contracts. (Finance)

2. CONSENT CALENDAR

2.12 [Extensions of Contracts with Community Development Block Grant, Emergency Solutions Grant and Housing Opportunity for Persons with AIDS.](#)

Recommendation:

- (a) Approve the extension of the Public Services contracts to Community Development Block Grant grantees for two additional years, through Fiscal Year 2014-15;
- (b) Approve the extension of the contracts for Place Based Neighborhoods for two additional years, through Fiscal Year 2014-15;
- (c) Approve the extension of the contracts for Emergency Solutions Grant and Housing Opportunity for Persons with AIDS program funding for two additional years, through Fiscal Year 2014-15;
- (d) Adopt a resolution authorizing the Director of Housing to negotiate and execute any amendments to the Community Development Block Grant, Place Based Neighborhoods, ESG & HOPWA agreements to extend the terms through Fiscal Year 2014-15; and
- (e) Direct the Administration to bring back recommendations for the allocation of remaining Community Development Block Grant funding during the Fiscal Year 2013-14 Consolidated Plan process.

CEQA: Not a Project, File No. PP10-0768, General Procedure and Policy Making. (Housing)

* **RENUMBERED TO ITEM 4.8**

2.13 [New Park Name “Vista Montaña” at the Intersection of Vista Montana and North First Street.](#)

Recommendation: Approve the name “Vista Montaña” for the turnkey community park at the intersection of Vista Montana and North First Street. CEQA: Not a Project, File No. PP10-068(b), Council Policy on naming City facilities. Council District: 4. (Parks, Recreation and Neighborhood Services)

2.14 [Agreement with MRF Geosystems Corporation for Storm GIS Data Improvement Project.](#)

Recommendation: Approve the [fourth amendment to the agreement](#) with MRF Geosystems Corporation of Calgary, Alberta, Canada, for GIS consultant services for the Storm GIS Data Improvement Project to extend the term of the agreement to March 31, 2015, at no cost to the City. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works)

2. CONSENT CALENDAR

2.15 [Agreement with the State of California Department of Forestry and Fire Protection for an Urban Forestry Grant.](#)

Recommendation: Adopt a [resolution](#) authorizing the City Manager or designee to:

- (a) Execute and submit a grant application to the State of California Department of Forestry and Fire Protection (CAL FIRE) for an Urban Forestry Grant entitled “An Urban Forest for Every City,” in the amount not to exceed \$150,000, with a local match not to exceed \$50,000 for the completion of an inventory of the City’s street trees;
- * (b) Certify that the City of San José has sufficient funds available to begin the project, and that the City of San José will expend the grant funds prior to March 30, 2015; and other assurances and certifications required by CAL FIRE; and
- (c) Conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, and payment requests and so on, which may be necessary for the completion of the grant project.

CEQA: Not a Project, File No. PP10-066, Feasibility and Planning Studies.
(Transportation)

2.16 **Actions Related to Councilmember Constant’s Travel to Washington, D.C.**

Recommendation:

- (a) [Approve travel by Councilmember Constant to Washington, D.C. on March 9 - 13, 2013](#) to attend the 2013 National League of Cities Congressional Cities Conference in Washington, D.C. representing San José at seminars and workshops and preside as chair of the NLC Public Safety & Crime Prevention Committee. Source of Funds: Mayor & Council Travel Fund. (Constant)
- (b) [Request for excused absences for Councilmember Constant from the Closed Session and Regular Session of the City Council Meeting on March 12, 2013, and the Regular Meeting of the Rules and Open Government Committee on March 13, 2013](#) due to Authorized City Business: attending the 2013 National League of Cities Congressional Cities Conference in Washington, D.C. representing San José at seminars and workshops and presiding as chair of the NLC Public Safety & Crime Prevention Committee. (Constant)
- * (Rules Committee referral 02/06/13)

2.17 [Westfield Oakridge Winter Walk.](#)

Recommendation: As recommended by the Rules and Open Government Committee on February 13, 2013:

- (a) Approve the Westfield Oakridge Winter Walk as a City Council Sponsored Event; and
- (b) Approve and accept donations from various individuals, businesses and community groups to support this event.

CEQA: Not a Project. (City Clerk)
[Rules Committee referral 02/13/13 – Item G(3)]

2. CONSENT CALENDAR

2.18 West Valley Senior Walk.

Recommendation: As recommended by the Rules and Open Government Committee on February 13, 2013:

- (a) Approve the West Valley Senior Walk as a City Council Sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses and community groups to support this event.

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 02/13/13 – Item G(5)]

2.19 District 4 Community Events.

Recommendation: As recommended by the Rules and Open Government Committee on February 13, 2013:

- (a) Approve the Great American Litter Pick-up on April 20, 2013, the 3rd Annual District 4 Family Day on April 27, 2013, the 3rd Annual District 4 Photography Contest, and the District 4 Community Shred Day and Resource Fair on March 23, 2013 as City sponsored Special Events; and
- (b) Approve and accept donations from various individuals, businesses and community groups to support the events.

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 02/13/13 – Item G(6)]

2.20 Future Roots Cultural Festival.

Recommendation: As recommended by the Rules and Open Government Committee on February 13, 2013:

- (a) Approve the Future Roots Cultural Festival sponsored by District 2 as a City Council Sponsored Special Event; and
- (b) Approve expending funds and accept donations from various individuals, businesses and community groups to support this event.

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 02/13/13 – Item G(7)]

2.21 Actions Related to the Office of Juvenile Justice and Delinquency Prevention Community-Based Violence Prevention Demonstration Program Grant.

Recommendation:

- (a) Adopt a [resolution](#) accepting the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Community-Based Violence Prevention Demonstration Program Grant in the amount of \$499,712 and authorize the Director of Parks, Recreation and Neighborhood Services to execute the Grant Agreement and all related documents;

(Item continued on the next page)

2. CONSENT CALENDAR

2.21 **Actions Related to the Office of Juvenile Justice and Delinquency Prevention Community-Based Violence Prevention Demonstration Program Grant. (Cont'd.)**

Recommendation:

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:
 - (1) Establish a city-wide expense appropriation to the Parks, Recreation and Neighborhood Services Department for the OJJDP Community-Based Violence Prevention Demonstration Program Grant in the amount of \$400,000;
 - (2) Increase the Earned Revenue Estimate from the Federal Government by \$400,000; and
- (c) Adopt a resolution authorizing the City Manager to execute the agreement with Resource Development Associates in the amount not to exceed \$344,983 contingent upon approval of the actions in 1 and 2 above.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Parks, Recreation and Neighborhood Services/City Manager's Office)

* **RENUMBERED FROM ITEM 5.1**

2.22 **Actions Related to the Backesto Park Tennis Court.**

Memo from Councilmember Liccardo

Recommendation:

- (a) Report on bids and award of contract for the 5938-Backesto Park Tennis Court Improvements Project Re-Bid to the low bidder, Redwood Engineering Construction, for the base bid and Add Alternate No. 1 in the total amount of \$668,500, and approval of a contingency in the amount of \$33,425.
- (b) Adoption of the following Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:
 - (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Backesto Park Improvements Project in the amount of \$136,000; and
 - (2) Decrease the Reserve: Future PDO/PIO Projects in the amount of \$136,000.

CEQA: Exempt, File No. PP10-170. Council District: 3. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

* **RENUMBERED FROM ITEM 5.2**

2.23 **Celebrate Cambrian Festival.**

Recommendation:

As recommended by the Rules and Open Government Committee on February 20, 2013:

- (1) Approve the Celebrate Cambrian Festival as a City Council Sponsored Event.
- (2) Approve expending funds and accepting donations from various individuals, businesses and community groups to support this event.

(District 9)

* (Rules Committee referral 02/20/13 – Item G.2)



2. CONSENT CALENDAR

2.24 [District 10 HP Grant to Kiwanis Club of Almaden.](#)

Recommendation: As recommended by the Rules and Open Government Committee on February 20, 2013: Adopt a resolution authorizing the City Clerk to execute a [grant](#) of \$1,000 to the Kiwanis Club of Almaden to be paid from the budgeted District 10 HP Pavilion at San José allocation, which is funded by the Arena Community Fund Citywide appropriation. (District 10)

* (Rules Committee referral 02/20/13 – 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 9:00 A.M.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Japantown Corporation Yard Term Sheet.](#) [Memo from Councilmember Liccardo](#)

Recommendation: Adopt a [resolution](#) to approve the parameters of a non-binding Term Sheet presented by Williams/Dame Associates for the purchase of the City's former Corporation Yard, and direct staff to continue non-binding and non-exclusive discussions with the developer for the purposes of preparing a Purchase and Sale Agreement for City Council's consideration. CEQA: Japantown Corporation Yard Redevelopment Project, EIR Resolution No. 74384. (Economic Development)

TO BE HEARD FIRST IN THE EVENING

4.2 [Agreements for the Development of Samsung's Research and Development Center.](#)

Recommendation: Adopt a resolution authoring the City Manager to execute the following agreements:

- (a) An Incentive Agreement between the City of San José and Samsung Semiconductor, Inc. outlining the City and State incentives to be provided to Samsung in coordination with the development of the proposed Research and Development (R&D) Center in North San José;

(Item continued on the next page)



4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Agreements for the Development of Samsung's Research and Development Center. (Cont'd.)

Recommendation:

- (b) A Capital Equipment and Assistance Agreement with Samsung Semiconductor, Inc., in which the City will provide an amount not to exceed \$500,000 for the acquisition of production and assembly equipment to be installed at Samsung Semiconductor's new R&D facility in San José; and
- (c) Utility Users Tax Reimbursement Agreement with Samsung Semiconductor, Inc., that will provide funding in an amount equal to 50% of the City's 5% of net new utility user taxes received from Samsung Semiconductor for 10 consecutive years in an amount not to exceed \$500,000.

CEQA: Statutorily Exempt, File No. PP10-066(a), Equipment Acquisition. (Economic Development)

* **DEFERRED TO 03/05/13 PER RULES AND OPEN GOVERNMENT COMMITTEE**

4.3 [Actions Related to Leasing Property to Japantown Apartments LP and Funding for the Japantown Senior Apartments.](#)

[Memo from the Director of Housing](#)

Recommendation: Conduct a public hearing and adopt a [resolution](#):

- (a) Accepting the [Summary Report](#) prepared pursuant to the California Health and Safety Code Section 33433 for the groundleasing and development of the 0.55-acre City-owned property located at 675 N. Sixth Street ("Site") for the Japantown Senior Apartments ("Project"), under the terms and conditions of the proposed Disposition and Development Agreement ("DDA");
- (b) Approving a [DDA](#) for the Project between the City of San José and Japantown Apartments LP, a limited partnership formed by First Community Housing, including an up to 75-year ground lease of the Site, and authorizing the Director of Housing to negotiate and execute the DDA, the ground lease, and any other documents regarding the leasehold disposition of the Site; and
- * (c) Approving a funding commitment to Japantown Apartments LP for up to \$4,900,000 in HOME funds for a Project construction/permanent loan.

CEQA: Resolution No. 74384, File No. GP07-03-04/PDC08-010. Council District: 3. (Housing)

4.4 [Funding for the Donner Lofts Apartments Project.](#)

[Memo from the Director of Housing](#)

- * **Recommendation:** Adopt a [resolution](#) approving a funding commitment to MidPen Donner Associates, L.P. for a construction/permanent loan up to \$4,900,000 for the planned 102-unit Donner Lofts Apartments, a rental project to be located at 156 E. St. John Street, to be made available to extremely low-income and very low-income households, and allowing a Loan to Value ratio greater than 100%. CEQA: Addendum to the Downtown Strategy 2000 EIR, File No. H09-004, EIR Resolution No. 72767. Council District 3. (Housing)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 [Actions Related to the Third Street Residential Development.](#) [Supplemental Memo from the Departments of Finance and Housing](#)

Recommendation: 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 (Third Street Residential Development), Series 2013A” in an aggregate principal amount not to exceed \$7,000,000;
- (b) Approving a loan of Series 2013A Note proceeds to San José Third Street Associates, L.P., a California limited partnership to finance the construction of the Third Street Residential Development located at 1010 South Third 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; and
- (d) Authorizing and directing the City Manager, Director of Finance, Assistant Director of Finance, Treasury Division Manager, Debt Administrator, and Director of Housing, or their designees, to execute and deliver the Series 2013A Documents and other related Series 2013A Note documents as necessary.

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. Council District 3. (Finance/Housing)

4.6 **Citywide Capital Improvement Program Annual Status Report.**

Recommendation:

- (a) [Accept the Annual Status Report on the Citywide Capital Improvement Program](#); and
[Capital Improvement Program Annual Status Report](#)
- (b) Accept each of the reports submitted by the [Parks Bond Citizen Oversight Committee](#), [Library Bond Citizen Oversight Committee](#), and [Public Safety Bond Oversight Committee](#).
[Branch Library Bond Projects Funds](#)
[Neighborhoods Security Bond Project](#)
[Parks and Recreation Bond Projects Fund](#)

CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (Public Works)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.7 [High Rise Incentive.](#) [Supplemental Memorandum from Planning, Building and Code Enforcement](#)

Recommendation: As recommended by the Rules and Open Government Committee on February 6, 2013, approve an [ordinance](#) amending Section 4.46.036 of Chapter 4.46 and Section 4.47.089 of Chapter 4.47 of Title 4 of the San Jose Municipal Code to expand and extend the Downtown High Rise Development Incentive program by suspending the collection of fifty percent (50%) of the construction taxes for qualified downtown high rise developments that meet the following criteria:

- (a) Filed a completed application for a development permit by October 31, 2013, and
- (b) Filed a completed application for a demolition permit by December 31, 2013 or filed a completed application for a building permit for the high rise building by June 30, 2014, and
- (c) Obtained a building permit for the high rise building by December 31, 2014, and
- (d) Obtained a certificate of occupancy for the high rise building by August 31, 2016.

(Mayor/Liccardo)

[Rules Committee referral 2/6/13 – Item G(6)]

4.8 [Extensions of Contracts with Community Development Block Grant, Emergency Solutions Grant and Housing Opportunity for Persons with AIDS.](#)

Recommendation:

- (a) Approve the extension of the Public Services contracts to Community Development Block Grant grantees for two additional years, through Fiscal Year 2014-15;
- (b) Approve the extension of the contracts for Place Based Neighborhoods for two additional years, through Fiscal Year 2014-15;
- (c) Approve the extension of the contracts for Emergency Solutions Grant and Housing Opportunity for Persons with AIDS program funding for two additional years, through Fiscal Year 2014-15;
- (d) Adopt a resolution authorizing the Director of Housing to negotiate and execute any amendments to the Community Development Block Grant, Place Based Neighborhoods, ESG & HOPWA agreements to extend the terms through Fiscal Year 2014-15; and
- (e) Direct the Administration to bring back recommendations for the allocation of remaining Community Development Block Grant funding during the Fiscal Year 2013-14 Consolidated Plan process.

CEQA: Not a Project, File No. PP10-0768, General Procedure and Policy Making.
(Housing)

* **RENUMBERED FROM ITEM 2.12**

5. NEIGHBORHOOD SERVICES

5.1 [Actions Related to the Office of Juvenile Justice and Delinquency Prevention Community-Based Violence Prevention Demonstration Program Grant.](#)

Recommendation:

- (a) Adopt a [resolution](#) accepting the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Community-Based Violence Prevention Demonstration Program Grant in the amount of \$499,712 and authorize the Director of Parks, Recreation and Neighborhood Services to execute the Grant Agreement and all related documents;
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:
 - (1) Establish a city-wide expense appropriation to the Parks, Recreation and Neighborhood Services Department for the OJJDP Community-Based Violence Prevention Demonstration Program Grant in the amount of \$400,000;
 - (b) (2) Increase the Earned Revenue Estimate from the Federal Government by \$400,000; and
- (c) Adopt a resolution authorizing the City Manager to execute the agreement with Resource Development Associates in the amount not to exceed \$344,983 contingent upon approval of the actions in 1 and 2 above.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Parks, Recreation and Neighborhood Services/City Manager's Office)

* **RENUMBERED TO ITEM 2.21**

5.2 [Actions Related to the Backesto Park Tennis Court.](#) [Memo from Councilmember Liccardo](#)

Recommendation:

- (a) Report on bids and award of contract for the 5938-Backesto Park Tennis Court Improvements Project Re-Bid to the low bidder, Redwood Engineering Construction, for the base bid and Add Alternate No. 1 in the total amount of \$668,500, and approval of a contingency in the amount of \$33,425.
- (b) Adoption of the following Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:
 - (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Backesto Park Improvements Project in the amount of \$136,000; and
 - (2) Decrease the Reserve: Future PDO/PIO Projects in the amount of \$136,000.

CEQA: Exempt, File No. PP10-170. Council District: 3. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

* **RENUMBERED TO ITEM 2.22**

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Pavement Maintenance Funding Strategy.](#)

Recommendation: As recommended by the Transportation and Environment Committee on February 4, 2013, accept the staff report and presentation on proposed funding strategy to fully address the City's pavement maintenance needs consisting of the following concurrent elements:

- (a) Coordinate with the Santa Clara Valley Transportation Authority ("VTA") to pursue a potential ballot measure to "extend and amend" the VTA's countywide transportation sales tax program to include major street sealing and rehabilitation;
- (b) Pursue City funding from new General Fund revenues raised through a potential City ballot measure;
- (c) Pursue City funding from a potential ballot measure for a street repair bond program; and
- (d) Support State legislation allowing ballot measures to increase tax revenues for local transportation purposes to be approved 55% voter approval instead of the current 2/3rds threshold.

(Transportation)

[Transportation and Environment Committee referral 2/4/13 – Item D(2)]

* **DEFERRED TO 03/05/13 PER RULES AND OPEN GOVERNMENT COMMITTEE**

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Phase-Out of Expanded Polystyrene Foam Food Ware Report.](#)

[Plastic Bag Matrix by Jurisdiction](#)

[Overview of Key Northern CA EPS Ordinances by Jurisdiction](#)

[Final Report Economic Impact analysis of EPS Foodware Costs](#)

[EPS Food Service Ware Alternative Products](#)

[Memo from the Director of Environmental Services](#)

[Memo from Councilmember Chu](#)

[Memo from Councilmembers Constant and Campos](#)

[Memo from Councilmember Liccardo](#)

[Memo from Councilmember Rocha](#)

Recommendation:

- (a) Accept the staff report providing additional information and analysis on actions to reduce expanded polystyrene foam food ware in San José; and
- (b) Direct staff to schedule a Public Hearing this summer to approve and adopt the Phase-Out of Expanded Polystyrene Foam Food Ware [Ordinance](#).

CEQA: Not a Project, File No. PP 10-069(a), Staff Reports. (Environmental Services)

TO BE HEARD NO EARLIER THAN 3:00 P.M.

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 Agreement with HKA Enterprises, Inc. for Temporary Staffing at the Water Pollution Control Plant.

Recommendation: Adopt a resolution:

- * (a) Authorizing the City Manager to execute a master agreement with HKA Enterprises, Inc., to provide temporary staffing of Plant Operators and Plant Mechanics for the San José/Santa Clara Water Pollution Control Plant, for the term beginning March 1, 2013 through March 1, 2014, for an amount not to exceed \$1,200,000, subject to the appropriation of funds.
- (b) Authorizing the City Manager to exercise up to four additional one-year options to extend the term of the Agreement through March 1, 2018, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Environmental Services)

RECOMMEND DEFERRAL TO 3/5/13 PER ADMINISTRATION

8. PUBLIC SAFETY SERVICES

8.1 [Actions Related to the 2012-2014 Supplemental Law Enforcement Services Grant Spending Plan.](#)

Recommendation: Approve the following actions:

- (a) Approve the proposed 2012-2014 Spending Plan for the Supplemental Law Enforcement Services (SLES) Grant for \$1,561,998, and authorize the Chief of Police to amend the Spending Plan in conformity to the budget priorities set out in this Memorandum in the event State SLES Grant payments are less than expected.
- * (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Supplemental Law Enforcement Services Fund (Fund 414):
 - (1) Increase the Earned Revenue by \$617,433; and
 - (2) Establish an appropriation for the Police Department for the SLES Grant 2012-2014 for \$617,433.

CEQA: Not a Project, File No. PP10-066(a). (Police/City Manager's Office)

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 [Actions Related to the Successor Agency Oversight Board.](#) [Supplemental Memo from the Managing Director of the Successor Agency](#)

- * **Recommendation:** Adopt resolutions:
 - (a) Approving the Administrative Budget for July 1 through December 31, 2013; and
 - (b) Approving the Recognized Obligation Payment Schedule 13-14A (ROPS4) and authorizing payment of expenditures for items on ROPS 13-14A, which details the obligations of the Successor Agency for the period July 1, 2013 through December 31, 2013. [Resolution](#)
- CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Successor Agency)
(Deferred from 2/12/13 – Item 9.1)

9.2 [Agreement with Gallo Family Real Estate Partnership.](#)

Recommendation: Approve a [Termination Agreement](#) with the Gallo Family Real Estate Partnership to terminate that certain Parking Lease Agreement dated August 5, 2009, of the surface parking lot located at 173 North Morrison Avenue for a final payment by the Successor Agency of \$29,900. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Successor Agency)

9.3 [Amendment to the Urban Markets Settlement.](#) [Supplemental Memo from the Managing Director of the Successor Agency](#)

- * **Recommendation:** Approve amendments to the Promissory Note with Urban Markets LLC to effectuate a settlement regarding the release of retention. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Successor Agency)
[Promissory Note 1](#) [Promissory Note 2](#)
- **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.
- Council will recess until 7:00 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) 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 will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar at this time.

11.2 [Rezoning Real Property Located at the Southwest Corner of William Street and South 8th Street.](#)

[Memo from Councilmember Liccardo](#)

[Supplemental Memo from Planning, Building and Code Enforcement](#)

- * **Recommendation:** Consideration of an [ordinance](#) rezoning the real property located at the southwest corner of William Street and S. 8th Street (346 E. William Street) to allow for the development of a four-story, mixed-use project with (1) up to 28 attached residential units, (2) 1,780 feet of ground floor commercial space, (3) two levels of parking, and (4) the conversion of one single-family residence to a private community center on a 0.57 gross acre site (Ho Year LLC, Owner; JPH Consulting Paulo Hernandez, Developer). Planning Commission recommends approval (5-0-1-1; Commissioner Bit-Badal abstain and Commissioner Cahan absent). SNI: University. CEQA: [Mitigated Negative Declaration](#) to be adopted.

[PDC09-019](#) – District 3

(Deferred from 1/15/13 – Item 11.2)

11.3 [Rezoning Real Property Located at the Northwest Corner of Margaret Street and South 13th Street.](#)

- * **Recommendation:** Consideration of an [ordinance](#) rezoning the real property located at the northwest corner of Margaret Street and South 13th Street (681 South 13th Street) from the R-1-8 to the R-1-8(PD) Planned Development Zoning District to allow up to two single-family residential units on a 0.21 gross acre site (Firoz Pradhan & Mohammad Ibrahim, Owners). Planning Commission recommends approval (7-0-0). CEQA: Exempt.

[PDC13-002](#) – District 3

11. PUBLIC HEARINGS

11.4 [Planned Development Permit and Consideration of Public Convenience or Necessity to Allow Construction of a Grocery Store.](#)

- * **Recommendation:** Consideration of a Planned Development Permit and Consideration of Public Convenience or Necessity to allow construction of an approximately 32,900 square foot grocery store (Whole Foods) with off-site sales of alcohol (full range of alcoholic beverages) and an on-site brewery on a 2.19 gross acre site, located on the northwest corner of The Alameda and Stockton Avenue (155 Stockton Avenue) (Alameda/Stockton LLC, Owner). Planning Commission recommends approval (7-0-0). CEQA: Re-use of Mitigated Negative Declaration, File No. PDC06-064. [PD12-017/ABC13-001](#) – District 6

11.5 [Rezoning Real Property Located on the East Side of San Felipe Road and the West Side of Livery Lane.](#)

- * **Recommendation:** Consideration of an [ordinance](#) rezoning the real property located on the east side of San Felipe Road and the west side of Livery Lane, approximately 650 feet southerly of Running Springs Road, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow for up to seven (7) new single-family detached dwellings and preservation of an existing historic house/complex and ranch buildings on approximately 7.48 gross acres (E.N. Richmond Trust, Owner). Planning Commission recommends approval (7-0-0). CEQA: [Mitigated Negative Declaration](#). [PDC11-021](#) – District 8

11.6 **Actions Related to Ordinances Amending Title 20 of the San José Municipal Code.** [Planning Commission Memo](#) [Supplemental Memo from the Director of PBCE](#)

- * **Recommendation:**
 - (a) Consideration of an [Ordinance](#) of the City of San José amending Title 20 of the San José Municipal Code (the Zoning Ordinance) to amend: Section 20.70.330 of Chapter 20.70 (Downtown Zoning Regulations); numerous sections of Chapter 20.90 (Parking and Loading); Sections 20.100.1300 and 20.100.1320 of Chapter 20.100 (Administration and Permits); and to add new sections to Chapter 20.200 (Definitions) to add definitions for “Area Development Policy,” “Car-Share,” “Charge or Charging Station,” and “Urban Village,” all to modify parking requirements for certain enumerated uses to further implement the Economic Development, Land Use, and Transportation Policies set forth within the Envision San José 2040 General Plan, and to make other technical, formatting or other nonsubstantive changes within those Chapters of Title 20 (File No. PP13-007). Planning Commission recommends approval (7-0-0).

(Item continued on the next page)

11. PUBLIC HEARINGS

11.6 Actions Related to Ordinances Amending Title 20 of the San José Municipal Code. (Cont'd.)

Recommendation:

Planning Commission Memo

- * (b) Consideration of an [Ordinance](#) of the City of San José amending Title 20 of the San José Municipal Code (the Zoning Ordinance) to amend: Section 20.10.060 of Chapter 20. 10 (General Provisions and Zoning Districts) to add the CIC-Combined Industrial Commercial and the TEC-Transit Employment Center. Zoning Districts; Section 20.20.100 of Chapter 20.20 (Open Space & Agricultural Zoning Districts) to allow Certified Farmers' Markets in the A-Agriculture and OS-Open Space Zoning Districts; Sections 20.40.100, 20.40.200, 20.40.230 and 20.40.400 of Chapter 20.40 (Commercial Zoning Districts) to allow Wholesale Auto Dealers with no on-site storage as a Permitted Use in Commercial Zoning Districts, to reduce minimum required setbacks for Commercial Zoning Districts, and to clarify Incidental Auto-Repair uses; Section 20.50.010 of Chapter 20.50 to create the TEC-Transit Employment Center Zoning District category, Sections 20.50.100 and 20.50.200 of Chapter 20.50 to add more flexibility for the development of specific Commercial and Industrial uses in the Industrial Zoning Districts including, but not limited to creating the TEC-Transit Employment Center Zoning District enumerated uses and development standards, adding Off-site Sale of Alcohol as a Conditional Use incidental to a Winery/Brewery or Distillery and clarifying Incidental Auto-Repair uses; Sections 20.80.710 and 20.80.720 of Chapter 20.80 to allow Cottage Food Operations as Home Occupations within Residential Zoning Districts and Section 20.80.1400 of Chapter 20.80 to amend provisions for outdoor private property special events; Section 20.120.110 of Chapter 20.120 (Zoning Changes and Amendments) to add the TEC Zoning District as a Conforming District; Chapter 20.150 by deleting Section 20.150.330 (Amortization – Incidental Dancing and Music); and Chapter 20.200 to add new sections to add definitions of “Banquet Facility” and “Cottage Food Operation,” and Section 20.200.700 of Chapter 20.200 to amend the definition of “Lot Line”; all to further implement the Economic Development, Land Use, and Transportation Policies set forth within the Envision San José 2040 General Plan and to make other technical, formatting or other nonsubstantive changes within those sections of Title 20 (File No. PP13-008). Planning Commission recommends approval (7-0-0).

CEQA: Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan, EIR Resolution No. 76041 (File Nos. PP13-007 and PP13-008). Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the Envision San José 2040 General Plan Program approved previously. The Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan entitled, “Envision San José 2040 General Plan,” for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, adequately describes the activity for the purposes of CEQA. The project does not involve new significant effects beyond those analyzed in this Final EIR. Therefore, the City of San José may take action on the project as being within the scope of the Final EIR, File Nos. PP13-007 and PP13-008.

- **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 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> |
|--------------|--|-------------------------|---------------------|--------------------|-------------|
| 10173 | W/S of Masonic Dr, approx. 520’ S/O Canoas Garden Avenue | 6 | Vitoil Scottish LLC | 2 lots/86 Units | MFA |

- **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**

This meeting will be adjourned in memory of Ed Harris, who passed away January 27, 2012. His life’s passion was his devotion to his family, friends, and serving the Lord. He always had a smile on his face and made everyone, including strangers, feel special. He truly had the fruit of the Spirit: love, joy, peace, patience, kindness, goodness, faithfulness and self-control. (Rocha)

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, 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, 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.