



CITY COUNCIL AGENDA

FEBRUARY 11, 2014

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 or Successor Agency to the Redevelopment Agency. 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 <http://www.sanjoseca.gov/index.aspx?NID=3549>. 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

- **Invocation (District 2)**
 - * The Dazzling Divas of Southside Senior Center

- **Pledge of Allegiance**

- **Orders of the Day**

* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

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

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.

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29369 – Rezoning certain real property of approximately 0.24 acres situated on the south side of West Hedding Street, approximately 330 feet easterly of Spring Street, from CO Commercial Office Zoning District to LI Light Industrial Zoning District.
- (b) ORD. NO. 29370 - Rezoning certain real property situated on the easterly terminus of Skyway Drive, east of Monterey Road (Valley Christian School), from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.
- (c) ORD. NO. 29371 - Rezoning certain real property situated on the northeast corner of Williams Road and San Tomas Expressway on a 0.294 gross-acre site (3691 Williams Road) to the R-1-8 Single Family Residence Zoning District.
- (d) ORD. NO. 29372 - Rezoning certain real property situated on the southwest corner of Silver Creek Valley Place and Silver Creek Valley Road, approximately 450 feet easterly of the Highway 101 exit ramp, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.
- (e) ORD. NO. 29373 - Rezoning certain real property situated on the east side of Boynton Avenue, approximately 90 feet north of Williams Road (970 and 978 Boynton Avenue), to R-M(PD) Planned Development Zoning District.
- * (f) ORD. NO. 29374 - Amending Section 4.46.039.10 of Chapter 4.46 of Title 4 of the San José Municipal Code and Section 4.47.095 of Chapter 4.47 of Title 4 to continue the suspension of the collection of the building and structure construction tax and the Commercial-Residential-Mobilehome Park Building tax for tenant improvements to office, research and development uses, data center uses and installation of solar photovoltaic systems until March 31, 2017.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of January 22, 2014.](#) (Mayor)
- (b) [Community and Economic Development Committee Report of January 27, 2014.](#)
(Herrera)

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 [Amendment to the Agreement with David J. Powers and Associates, Inc. for Airport Environmental Analysis Services.](#)

Recommendation: Approve a [Second Amendment](#) to the Consultant Agreement with David J. Powers & Associates, Inc. for Airport environmental analysis services, extending the term of the Agreement from June 30, 2014, to June 30, 2017, and increasing maximum compensation from \$350,000 to \$450,000. CEQA: Not a Project, File No. PP10-066(d), Consultant Services for Design/Study/Research/Inspection. (Airport)

2.8 Senior Citizens Commission Nomination.

Recommendation:

- (a) Determine that a change to the term end date of the vacant District 3 position on the Senior Citizens Commission with an unexpired term is in the best interest of the Commission to realign with the City Clerk's Office recruitment schedule and realign the term end date from June 30, 2014 to June 30, 2017; and
- (b) Appoint Mary Tucker to the District 3 Seat on the Senior Commission to an unexpired term ending June 30, 2017.

(City Clerk)

(Rules Committee referral 2/5/14)

* **RECOMMEND DEFERRAL TO 2/25/14 PER CITY CLERK**

2.9 [AB 1193 \(TING\) – Bikeways.](#)

Recommendation: As recommended by the Rules and Open Government Committee on February 5, 2014 and outlined in the attached memo previously submitted by the Rules and Open Government Committee, pursuant to the City's streamlined bill process for responding quickly to legislative proposals, re-affirm a position in support for AB 1193 (TING). CEQA: Not a Project, File No. PP10-068(c), Code or Policy changes that involve no changes in the physical environment. (Transportation)

* [Rules Committee referral 2/5/14 – Item G(4)]

2. CONSENT CALENDAR

2.10 [District 4 Community Priority Setting Sessions.](#)

Recommendation: As recommended by the Rules and Open Government Committee on February 5, 2014:

- (a) Approve the District 4 Priority Setting Sessions as a City Council sponsored Special Event and approve the expenditure of funds; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (Chu)

* [Rules Committee referral 2/5/14 – Item G(5)]

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Edward Shikada (Verbal Report)

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

TO BE HEARD AT 9:00 A.M.

3.3 [Approval of the 2013-2014 Mid-Year Budget Review Report. Presentation](#)

Recommendation:

- (a) Approve the 2013-2014 Mid-Year Budget Review Report.
- (b) Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) of the 2013-2014 Mid-Year Budget Review Report.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager's Office)

3.4 [Terms of an Agreement with the International Union of Operating Engineers, Local No. 3.](#)

Recommendation: Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the International Union of Operating Engineers, Local No. 3 (OE#3), and authorize the City Manager to execute an agreement for a term from July 1, 2013 to June 30, 2015. The agreement is subject to ratification by OE#3 membership. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

DEFERRED TO 2/25/14 PER ADMINISTRATION

3. STRATEGIC SUPPORT SERVICES

- 3.5 [Commission Appointments.](#)
[Supplemental from the City Attorney](#)
[Memo from Councilmembers Khamis and Nguyen](#)
[Supplemental from the Director of Housing](#)
[Memo from Councilmember Constant](#)

Recommendation:

- (a) (1) Approve appointments to the Housing and Community Development Commission; or, in the alternative
(2) Approve an ordinance amending Section 2.08.090 and Part 28 of Chapter 2.08 of Title 2 of the San José Municipal Code to modify the appointment process for the Housing and Community Development Commission and to make modifications to the quorum requirements for all boards and commissions.
(b) Approve an ordinance amending Part 32 of Chapter 2.08 of Title 2 of the San José Municipal Code adding the appointment process for the Library and Early Education Commission.

CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy change, Title 2 (Administration). (City Clerk/City Attorney) [Ordinance including 3.5\(a\)\(2\) and 3.5\(b\)](#)

* (Deferred from 1/14/14 – Item 2.7, 1/28/14 – Item 2.7 and 2/4/14 – Item 3.4)

4. COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 [Agreement with San José Streets Team, Inc. to Serve as the Place-Based Rapid Re-Housing Program Service Administrator.](#)

Recommendation: Adopt a [resolution](#) authorizing the City Manager to execute an [Agreement](#) in the amount of \$650,000 with San José Streets Team, Inc., under which San José Streets Team will serve as the Place-Based Rapid Re-Housing Program Service Administrator, providing housing, case management and employment development services to residents of a targeted homeless encampment. CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts. (Housing)

- 4.2 [Report on Bids and Award of Contract for Roberto Antonio Balermino Park Project.](#)

[Memo from Councilmember Nguyen](#)

Recommendation: Report on bids and award of a construction contract for 5980 - Roberto Antonio Balermino Park located on 1501 Almaden Road, to the sole bidder, Suarez & Munoz Construction, Inc., in the amount of \$1,789,000, and approve a five percent contingency in the amount of \$89,450. CEQA: Exempt, File No. PP08-166. Council District 7. (Public Works)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 Audit of Taxi Service and Regulation in San José.

- * **Recommendation:** As recommended by the Airport Competitiveness Committee on January 31, 2014, accept the Audit of Taxi Service and Regulation in San José. (City Auditor)

[Airport Competitiveness Committee referral 1/31/14 – Item A]

**ITEMS 6.1 AND 6.2 TO BE HEARD LAST
DEFERRED TO 2/25/14 PER ADMINISTRATION**

6.2 Airport Ground Transportation Program.

- * **Recommendation:** As recommended by the Airport Competitiveness Committee on January 31, 2014:

(a) Adopt a resolution amending and restating the Airport general fee resolution to establish trip fees for all ground transportation pick-ups at the Airport and to continue a \$.50 reduced trip fee for clean fuel vehicles and vehicles with Americans with Disabilities Act compliant equipped lifts, eliminating drop-off fees and permit requirements and returning the Off-Airport parking operator fees to 10% of gross revenues plus standard per trip fee and repealing Resolution No. 76587.

(b) Approve an ordinance amending Chapter 25.08 of the San José Municipal Code to eliminate permit requirements for on-demand taxi and shuttle services at the Norman Y. Mineta San José International Airport and to implement a concession management system for on-demand taxi and shuttles services at the Airport.

CEQA: Not a Project, File No. PP10-068(c), Municipal Code or policy change that involve no changes to the physical environment. (Airport)

[Airport Competitiveness Committee referral 1/31/14 – Item B]

**ITEMS 6.1 AND 6.2 TO BE HEARD LAST
DEFERRED TO 2/25/14 PER ADMINISTRATION**

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Actions Related to the Implementation of Energy and Utility Conservation Measures Identified by Chevron Energy Solutions.](#)

[Memo from Mayor Reed, Councilmembers Nguyen, Liccardo, Rocha and Khamis Supplemental](#)

- * **Recommendation:** Amend and restate the recommendation to include additional direction and authorization as follows:

(a) Adopt a [resolution](#) as follows with regard to the energy and utility conservation measures (“ECMs”) identified by Chevron Energy Solutions (“Chevron”) in Bundle 1A:

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Actions Related to the Implementation of Energy and Utility Conservation Measures Identified by Chevron Energy Solutions. (Cont'd.)

Recommendation:

- (a)
 - (1) Approving the ECMs identified in Bundle 1A for implementation;
 - (2) Authorizing the Director of Public Works to do the following contingent upon the City obtaining the necessary financing and subject to the appropriation of funds:
 - (a) Negotiate and execute a Bundle 1A Energy Services Agreement with Chevron to implement the Bundle 1A ECMs for a maximum compensation of \$2,979,320;
 - (b) Establish a 15% contingency for the Bundle 1A Energy Services Agreement in the amount of \$424,398;
 - (c) Negotiate and execute one or more amendments to the Bundle 1A Energy Services Agreement to increase the maximum compensation by an aggregate amount not to exceed the contingency to pay for any unexpected work necessary to complete the project; and
 - (3) Directing implementation of the ECMs in Bundle 1A without the purchase of any energy savings guarantee agreements.
- (b) Adopt a [resolution](#) authorizing the Director of Public Works to do the following with regard to ECMs identified by Chevron in Bundle 1B, contingent upon the City obtaining the necessary financing and subject to the appropriation of funds:
 - (1) Approve for implementation the ECMs identified by Chevron in Bundle 1B if the Director concurs with Chevron's analysis that the ECMs are feasible;
 - (2) Negotiate and execute a Bundle 1B Energy Services Agreement with Chevron to implement Bundle 1B for a maximum compensation of \$18,113,709 contingent on each of the following:
 - (a) The Director approving the ECMs identified in draft Bundle 1B;
 - (b) Chevron having completed implementation of Bundle 1A in accordance with the Bundle 1A Energy Services Agreement and the Director's determination that the performance of the Bundle 1A ECMs are providing the utility/energy savings set forth in the applicable investment grade audit prepared by Chevron;
 - (c) Chevron completes Bundle 1A on schedule and at a cost that does not exceed Chevron's cost estimates, and provides quality work and customer service as determined by the Director of Public Works;
 - (3) Establish a 15% contingency for the Bundle 1B Energy Services Agreement in the amount of \$2,717,056;

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Actions Related to the Implementation of Energy and Utility Conservation Measures Identified by Chevron Energy Solutions. (Cont'd.)

Recommendation:

- (b) (4) Negotiate and execute one or more amendments to the Bundle 1B Energy Services Agreement to increase the maximum compensation by an aggregate amount not to exceed the contingency to pay for any unexpected work necessary to complete the project;
- (5) Negotiate and execute the purchase of one or more energy savings guarantee agreements for some or all of the ECMs in Bundle 1B contingent on each of the following:
 - (a) Implementation of the ECMs in Bundle 1B continue to be feasible when the additional cost of any guarantee agreement is considered;
 - (b) The Director determines that having the guarantee is desirable for the City when the risk of actually realizing the estimated utility savings is weighed against the scope, limits and cost of the guarantee.

CEQA: Exempt, File Nos. PP13-111, PP13-112, PP13-113, PP13-114, PP13-115, PP13-116, PP13-117, PP14-003, PP14-004. (Public Works)

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 [Review and Discussion of the Long-Range Property Management Plan. Supplemental](#)

- * **Recommendation:** Discussion of and direction to staff on the Long-Range Property Management Plan. (Successor Agency)
(Deferred from 1/14/14 – Item 9.1 and 1/28/14 – Item 9.1)

- **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>
10225	Southeast corner of Mabury Road and Educational Park Drive	4	Taylor Morrison	22 Lots/ 18 Units	SFD

- **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**

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.