

# **CITY COUNCIL AGENDA**

**MARCH 13, 2012**

## **SYNOPSIS**

PETE CONSTANT  
ASH KALRA  
SAM LICCARDO  
KANSEN CHU  
XAVIER E. CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON NGUYEN, VICE MAYOR  
ROSE HERRERA  
DONALD ROCHA  
NANCY PYLE

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

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

Welcome to the San José City Council meeting!

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

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

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

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](http://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, 2<sup>nd</sup> 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](mailto: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: Nguyen (Excused)  
1:32 p.m. - Regular Session, Council Chambers, City Hall  
Absent Council Members: Nguyen (Excused)
- **Invocation (District 3)**  
Eddie Gale, San José's Ambassador of Jazz, provided words of inspiration and a jazz piece for 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 Item 4.1 continued to 03/20/12.
- **Closed Session Report**  
None provided.

## 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a proclamation recognizing the week of March 11-17, 2012 as “National Groundwater Awareness Week” in the City of San José. (Chu)  
(Rules Committee referral 2/29/12)  
**Deferred to 3/20/12 per District 4.**
- 1.2 Presentation of a proclamation declaring Tuesday, March 13<sup>th</sup> as Show Us Your Hope Day. (Pyle)  
(Rules Committee referral 2/29/12)  
**Mayor Reed and Council Member Pyle recognized Tuesday, March 13<sup>th</sup> as Show Us Your Hope Day**
- 1.3 Presentation of a proclamation declaring March 19, 2012 as “Iranian New Year” in the City of San José. (Pyle)  
(Rules Committee referral 3/7/12)  
**Mayor Reed and Council Members Kalra and Pyle recognized March 19, 2012 as “Iranian New Year” in the City of San José.**
- 1.4 Presentation of a commendation to Mathew Dutra, who woke up two residents sleeping above Tee Nee Thai Restaurant when the building caught on fire. (Oliverio)  
(Rules Committee referral 3/7/12)  
**Mayor Reed and Council Member Oliverio commended Mathew Dutra for his heroic efforts.**

## 2. CONSENT CALENDAR

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- 2.1 **Approval of Minutes.**  
**None provided.**
- 2.2 **Final Adoption of Ordinances.**

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29040 – Rezoning certain real property situated on the east side of Morse Street, approximately 320 feet north of McKendrie Street (980 Morse Street), from R-1-8 Single-Family Residence District to R-1-8(PD) Planned Development Zoning District. PDC11-010  
**Ordinance No. 29040 adopted.**
- (b) ORD. NO. 29041 – Rezoning certain real property situated on the north side of Tully Road on a 3.45 gross-acre site, approximately 1,200 feet easterly of Senter Road (705 Tully Road), to the LI Light Industrial Zoning District. C11-013  
**Ordinance No. 29041 adopted.**

*(Item continued on the next page)*

## **2. CONSENT CALENDAR**

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### **2.2 Final Adoption of Ordinances. (Cont'd.)**

**Recommendation:** Final adoption of ordinances.

- (c) ORD. NO. 29042 - Amending Section 20.40.100 of Chapter 20.40 (Commercial Zoning Districts) and Section 20.50.100 of Chapter 20.50 (Industrial Zoning Districts), all of Title 20 of the San José Municipal Code (the Zoning Code), to delete outdated references and to allow more flexibility for the development of specific commercial and industrial uses in certain industrial districts, including: deletion of medical clinic/out-patient facility as an enumerated use and deletion of an outdated reference to Part 13.6 of Chapter 20.80 related to leasing of passenger vehicles, and addition of public and private elementary and secondary schools as a conditional use in certain districts, addition of drinking establishments in conjunction with a winery or brewery as a conditional use in certain districts, the enumeration of wineries and breweries as a permitted use in certain districts, the addition of hospitals/in-patient facilities as a conditional use in certain districts, the addition of vehicle sales as a conditional use in certain districts, the addition of sale of vehicle parts conforming to specifically identified criteria as a permitted or special use in certain districts, and the addition of miniwarehouse/ ministorage as a permitted use in certain districts.

**Ordinance No. 29042 adopted.**

### **2.3 Approval of Council Committee Reports. None provided.**

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

### **2.5 City Council Travel Reports. None provided.**

### **2.6 Report from the Council Liaison to the Retirement Boards.** Mayor Reed outlined Rules and Open Government Committee direction to Staff to provide Retirement Board minutes and relevant links to Council to supplement the Council Liaison's verbal report. Council Member Constant reported out on the March 7, 2012 meeting of the Police and Fire Department Retirement Board.

## 2. CONSENT CALENDAR

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### 2.7 Amendment to the Environmental Enforcement Data Management System Agreement with enfoTech & Consulting, Inc.

**Recommendation:** Adopt a resolution authorizing the City Manager to:

- (a) Execute the Sixth Amendment to the Environmental Enforcement Data Management System Agreement with enfoTech & Consulting, Inc. to extend the term of the agreement by twelve months from January 31, 2012 to January 31, 2013, and increase the maximum compensation by \$45,025 for a revised not-to-exceed amount of \$1,426,623 in order to complete the upgrade of the existing Environmental Enforcement Data Management System to a web-based system and to add additional features and functionality.
- (b) Add \$6,754 to the previous contingency amount of \$72,750 for a total contingency amount not to exceed \$79,504 to cover any unanticipated changes to the system upgrade, report development, system maintenance and support.
- (c) Execute amendments to extend the term of the agreement beyond January 31, 2013, as required in the event that additional time is needed to complete the project.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)  
(Deferred from 2/14/12 – Item 2.8)

**Resolution No. 76161 adopted.**

### 2.8 Annual Progress Report on the Implementation of the San José 2007-14 Housing Element Update.

**Recommendation:** Accept the Calendar Year 2011 Annual Progress Report on the Implementation of the San José 2007-14 Housing Element Update. CEQA: Not a Project, File No. PP10-069 (a), Annual Report. (Planning, Building and Code Enforcement/Housing)

**Accepted.**

### 2.9 5<sup>th</sup> Annual Westfield Oakridge Winter Walk and Resource Fair.

**Recommendation:** As recommended by the Rules and Open Government Committee on March 7, 2012:

- (a) Approve the 5<sup>th</sup> Annual Westfield Oakridge Winter Walk and Resource Fair for seniors as a City Council Sponsored Special Event; and
- (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 3/7/12 – Item G(2)]

**Approved.**

## **2. CONSENT CALENDAR**

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### **2.10 District 4 First Aid and CPR Training.**

**Recommendation:** As recommended by the Rules and Open Government Committee on March 7, 2012:

- (a) Approve the District 4 First Aid and CPR Training as a City Sponsored Special Event; and
- (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 3/7/12 – Item G(3)]

**Approved.**

### **2.11 2<sup>nd</sup> Annual District 4 Family Day.**

**Recommendation:** As recommended by the Rules and Open Government Committee on March 7, 2012:

- (a) Approve the 2<sup>nd</sup> Annual District 4 Family Day as a City Sponsored Special Event; and
- (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 3/7/12 – Item G(4)]

**Approved**

## **3. STRATEGIC SUPPORT SERVICES**

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

**City Manager Debra Figone reported on approval of the full funding grant agreement of BART and thanked Staff for their commitment to this project.**

### **3.2 Labor Negotiations Update**

**No report.**

### **3.3 FY 2012-2013 Mayor's March Budget Message.**

**Recommendation:** Review and discuss the FY 2012-2013 Mayor's March Budget Message. (Mayor)

**Mayor Reed provided a review of the March Budget Message.**

**No action required.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.4 Agreement with Team San José.

**Recommendation:** Adopt a resolution authorizing the City Manager execute a Convention and Visitors Bureau Services Agreement with Team San José for the period of January 1, 2012 through June 30, 2014, with two additional three-year options.  
CEQA: Not a Project, File No.PP10-066 (e), Agreements/Contracts. Council District 3. (Economic Development)  
**Resolution No. 76162 adopted.**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 Ordinance Amending Chapter 20.70 to Streamline the Permit Process for the Operation of Office and Financial Services Uses in the Downtown Area.

**Recommendation:** Consideration of an ordinance amending Section 20.70.100 of Chapter 20.70 (Downtown Zoning Districts) of Title 20 of the San José Municipal Code (the Zoning Code) to streamline the permit process for the operation of office and financial services uses within the DG Overlay Area (Downtown Ground-Floor Space) of the DC (Downtown Core) and DC-NT1 (Downtown Code – Neighborhood Transition 1) Zoning Districts. The proposed amendments affect the Downtown Area of the City.  
CEQA: Envision San José 2040 General Plan Environmental Impact Report, Resolution No. 70601. The Planning Commission voted 6-0-1 (Commissioner Kamkar absent) to recommend to the City Council the approval of the proposed ordinance change to amend Title 20 of the San José Municipal Code to provide greater flexibility and a streamlined permit process for specific uses within ground floor building locations within the DG Overlay area of the Downtown Area with direction to staff to evaluate the outcome of this change and report the findings from this analysis to the City Council in two years. (Planning, Building and Code Enforcement)  
(Deferred from 2/28/12 – Item 11.4)  
**Deferred to 3/20/12 per Orders of the Day.**



## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.2 Ordinance Amending Chapters 6.84 and 20.80 to Modify the General Process for Making a City-wide Determination of Public Convenience and Necessity and the Conditional Use Permit Process in Connection with the Off-Sale of Alcoholic Beverages.**

**Recommendation:** Consideration of an ordinance amending Chapter 6.84 of Title 6 of the San José Municipal Code to add a new Section 6.84.015 and to amend Section 6.84.030 and amendments to Chapters 20.80 and 20.100 of Title 20 of the San José Municipal Code to amend Sections 20.80.900 and 20.100.220, all to modify the general process for making a City-wide determination of public convenience and necessity and to modify the conditional use permit process in connection with the off-sale of alcoholic beverages. The proposed amendments have Citywide implications in all City Council Districts and in all Strong Neighborhoods Initiative areas. CEQA: Exempt, File No. PP12-016. The Planning Commission voted 6-0-1 (Commissioner Kamkar absent) to recommend the City Council approve the ordinance to amend Title 6 and Title 20 of the San José Municipal Code to streamline the City permit process for off-sale of alcoholic beverages. (Planning, Building and Code Enforcement)  
(Deferred from 2/28/12 – Item 11.6)

**Ordinance No. 29046 passed for publication.**

### **4.3 Fire Station No. 1 Candidate City Landmark.**

**Recommendation:** Conduct a public hearing and adopt a resolution designating "Former Fire Station No. 1", located on northwest corner of North Market and West St. James Streets (201 N. Market Street), as a landmark of special historic, architectural, cultural, or engineering interest, or value of a historic nature (City of San José as Successor Agency to Redevelopment Agency, Owner). CEQA: Exempt. The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation for Former Fire Station No. 1(6-0-1). (Planning, Building and Code Enforcement)  
HL08-169 – District 3

**Continued to 3/20/12 per Administration.**

## **5. NEIGHBORHOOD SERVICES**

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## **6. TRANSPORTATION & AVIATION SERVICES**

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### **6.1 Approval of Minimum Standards for Development of Lands on the West Side of the Airport and Acceptance of Terms and Conditions for a New Fixed Base Operator.**

**Recommendation:**

- (a) Adopt a resolution establishing Minimum Standards for general aviation facilities on the west side of the Norman Y. Mineta San José International Airport;
- (b) Accept the key terms and conditions to be used in the Request For Proposals process for a new fixed base operator leasehold to be developed on the west side of the Airport.
- (c) Adopt a RFP-first approach for West Side general aviation that would have a second, new full-service FBO operational in late 2014 (estimated).

CEQA: Resolution Nos. 67380 and 71451, File No. PP12-001. (Airport)

**Deferred to 3/20/12 per Administration.**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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### **7.1 Master Agreement with BLP Engineers, Inc. for the Digester Rehabilitation Program at the San José/Santa Clara Water Pollution Control Plant.**

**Recommendation:** Adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute a Master Service Agreement with BLP Engineers, Inc. for technical lead and quality assurance/control support for the Digester Rehabilitation Program at the San José/Santa Clara Water Pollution Control Plant for an amount not to exceed \$2,200,000 for an initial term commencing upon approval of the agreement and continuing through June 30, 2014;
- (b) Execute up to three additional one-year options and to increase the compensation in an amount not to exceed \$1,100,000 for each additional one-year term, subject to the annual appropriation of funds by Council.

CEQA: Statutorily Exempt, File No. PP10-066 (d), CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Environmental Services)

**Resolution No. 76163 adopted.**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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### **7.2 Actions Related to the Acceptance of Grant Funding under State Proposition 84 Bay Area Integrated Regional Water Management Program for South Bay Water Recycling Facility Improvements.**

#### **Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the Bay Area Clean Water Agencies to accept grant funding under State Proposition 84 Bay Area Integrated Regional Water Management Program in an amount up to \$2,485,000, for South Bay Water Recycling facility improvements, including a Bay Area recycled water outreach program component.
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the Santa Clara Valley Water District for the District to conduct the regional outreach program covered by the Proposition 84 grant at cost to the District of up to \$300,000, with a potential for reimbursement to the District of 45.2% of eligible project costs, up to a maximum amount of \$136,000 from the Proposition 84 grant funds District; and for the District to contribute funding up to \$400,000 for the South Bay Water Recycling Master Planning effort, with a reimbursement from the City of San José of up to \$200,000.
- (c) Adopt a resolution authorizing the City Manager to negotiate and execute the Ninth Amendment to the San José/Santa Clara Construction Services Agreement to revise the approved project list specified in the agreement, and extend the term of agreement by twenty-four months to December 31, 2014.
- (d) Adopt a resolution approving the Mitigated Negative Declaration and adopting the mitigation monitoring and reporting program prepared for the South Bay Water Recycling Northern Regional Connector Pipeline Project (File No. PP12-015) as having been completed in compliance with the California Environmental Quality Act and reflecting the City's independent judgment and analysis.

CEQA: Relevant environmental clearance completed by City of San José: Resolution No. 64667, Environmental Impact Report for the San José Nonpotable Reclamation Project, now known as the South Bay Water Recycling Program dated June 15, 1993; Resolution No. 67380 Reuse of the Airport Master Plan EIR/SEIR, PP08-071 dated June 17, 2008; Mitigated Negative Declaration for Potable Backup Supply, PP11-054; Mitigated Negative Declaration (pending) for Northern Regional Connector, PP12-015; and Relevant environmental clearance completed by City of Santa Clara: Santa Clara Industrial 3B: CEQ2010-01113. (Environmental Services)

**Deferred to 4/17/12 per Administration.**

## **8. PUBLIC SAFETY SERVICES**

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## **9. REDEVELOPMENT – SUCCESSOR AGENCY**

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- **Open Forum**  
**Larry Arzie expressed concern for small businesses in San José if conditional use permits as outlined in the proposed ordinance updating Title 20 of the Municipal Code is approved.**
- **Adjournment**  
**The Council of the City of San José adjourned at 3:33 p.m.**