

CITY COUNCIL AGENDA

MAY 15, 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.

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.sanjoec.ca.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@sanjoec.ca.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**
9:23 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Chu, Herrera, Liccardo, Oliverio, Pyle. (Excused)

1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.

7:05 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Herrera. (Excused)
- **Invocation (District 5)**
Reverend Jon Talbert, Beautiful Day presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed and the Third Graders from John Muir Elementary School led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of the accreditation plaque to Happy Hollow Park and Zoo by the Association of Zoos and Aquariums. (Mayor/Nguyen/Parks, Recreation and Neighborhood Services)
Executive Director Kris Vehrs, The Association of Zoos and Aquariums recognized and commended the City of San José Happy Hollow Park and Zoo for successfully achieving the national accreditation for the highest standards of animal care and management, conservation and research, education programs and the quality of Staff.
- 1.2 Presentation of a proclamation declaring the month of May 2012 as “Foster Care Month” in the City of San José. (Mayor)
Mayor Reed recognized the month of May 2012 as “Foster Care Month” in the City of San José.
- 1.3 Presentation of commendations to Daniel Sanchez and Corazon Tomalinas for being recognized as Champions of Change by the White House in honor of their work to prevent youth violence in San José. (Mayor)
Heard in the Evening.
Mayor Reed and Vice Mayor Nguyen recognized and commended Daniel Sanchez and Corazon Tomalinas for being recognized as Champions of Change by the White House in honor of their work to prevent youth violence in the City of San José.
- 1.4 Presentation of a commendation to Song That Radio for their advocacy and efforts to educate the community on issues related to the Vietnamese lesbian, gay, bisexual, and transgender community. (Nguyen/Herrera/Rocha/Oliverio)
Mayor Reed, Vice Mayor Nguyen and Council Members Herrera, Rocha and Oliverio recognized and commended to “Song That Radio” for their outstanding advocacy and exemplary efforts.
- 1.5 Presentation of a commendation to local businesses for their generous contributions towards Operation Prom Dress. (Nguyen)
Mayor Reed and Vice Mayor Nguyen recognized and commended local businesses for their generous contributions towards Operation Prom Dress.
- 1.6 Presentation of a commendation to the San José Chapter of Jack and Jill of America, Inc. for hosting an anti-bullying forum to not only bring awareness to the situation but also present strategies and solutions to stop the cycle of bullying. (Pyle)
(Rules Committee referral 5/9/12)
Heard in the Evening.
Mayor Reed and Council Member Pyle recognized and commended the San José Chapter of Jack and Jill of America, Inc. for its outstanding efforts to bring awareness, strategies and solutions to stop the cycle of bullying.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final Adoption of Ordinances.

There were none.

2.3 Approval of Council Committee Reports.

There were none.

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Council Member Liccardo from the Regular Meeting of the Community and Economic Development Committee on May 21, 2012 due to pre-arranged travel for nephew's graduation. (Liccardo)
(Rules Committee referral 5/9/12)

Excused.

2.5 City Council Travel Reports.

Vice Mayor Nguyen presented highlights of her trip to Washington D.C. last week.

2.6 Report from the Council Liaison to the Retirement Boards.

Council Member Constant reported on the Police and Fire Retirement Board Meeting of May 3, 2012.

2.7 Agreement with Ricondo & Associates, Inc. for Airport Financial Consultant Services.

Recommendation:

- (a) Approve an agreement with Ricondo & Associates, Inc. for airport financial consultant services for an initial three year term from July 1, 2012 to June 30, 2015, providing compensation not to exceed a maximum of \$500,000;

Approved.

- (b) Adopt a resolution authorizing the City Manager to exercise up to two one-year options to extend the agreement at the City's sole discretion.

CEQA: Not a Project, File No. PP10-066(d), Consultant Services for Design/Study/ Research/ Inspection. (Airport)

Resolution No. 76211 adopted.

2. CONSENT CALENDAR

2.8 Easement Agreement with Harjinder & Balwinder Mundh for the Installation and Usage of a Storm Drain on the Site of Fire Station No. 19.

Recommendation: Adopt a resolution to authorize the City Manager or her designee to execute the storm drain easement agreement with Harjinder & Balwinder Mundh for the installation and usage of a storm drain on the site of Fire Station No. 19 together with all other documents needed to conclude the transaction. CEQA: Exempt File No. PP 00-02-023. Council District 4. (Economic Development)

Resolution No. 76222 adopted.

2.9 Report on Bids and Award of Construction Contract for the Water Pollution Control Plant Administration Building Standby Generator Project.

Recommendation: Report on bids and award of construction contract for the Water Pollution Control Plant Administration Building Standby Generator project to the low bidder, Guerra Construction, Inc., in the amount of \$147,620, and approval of a contingency in the amount of \$14,800. CEQA: Exempt, File No. PP11-019. (Environmental Services/Public Works)

Approved.

2.10 Report on Bids and Award of Construction Contract for the Nortech – Zanker Service Lateral Project.

Recommendation: Report on bids and award of construction contract for the Nortech – Zanker Service Lateral Project to the low bidder, Platinum Pipelines, Inc., in the amount of \$578,960, and approval of a contingency in the amount of \$115,000. CEQA: Exempt, File No. PP11-054. (Environmental Services/Public Works)

Approved.

2.11 Amendment to the 911 Emergency Medical Services Agreement.

Recommendation: Adopt a resolution authorizing the City Manager to execute the First Amendment to the “911 Emergency Medical Services Agreement between the City of San José and the County of Santa Clara Emergency Medical Services Agency” to add Annex C, “Authorized Funding Provided to 911 Emergency Medical Services Provider Organizations.” CEQA: Not a Project, File No. PP10-066(e), Agreements and contracts. (Fire)

Resolution No. 76223 adopted.

2.12 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program.

Recommendation: Approval of the proposed Fiscal Year 2011/12- 2016/17 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program. CEQA: Exempt, File No. PP12-049. (Public Works)

Approved.

2. CONSENT CALENDAR

2.13 SB 1191 (Simitian) Foreclosure: Landlord-Tenant Relations.

Recommendation: As recommended by the Rules and Open Government Committee on May 5, 2012, approve a support position for SB 1191 (Simitian) Foreclosure: Landlord-Tenant Relations. (City Manager's Office)

[Rules Committee referral 5/2/12 – Item G(2)]

Dropped.

2.14 Appointment of a Police Department Employee Member to the Police and Fire Retirement Board.

Recommendation:

(a) The City Council accepts the certification of results of an election conducted among active sworn Police Department employees by the City Clerk for the nomination of a Police Department employee representative to fill an unscheduled vacancy on the Board of Administration of the Police and Fire Department Retirement Plan.

(b) Appoint James Mason, an active Police Department employee, to the Board of Administration of the Police and Fire Department Retirement Plan for the balance of an unexpired term ending November 30, 2013.

(Rules Committee referral 5/9/12)

Approved.

2.15 Actions Related to the Bascom Community Center and Fair Swim Center.

Recommendation: Approve the following amendments to the 2011-2012 Appropriation Ordinance and Funding Sources Resolution in the General Fund:

(a) Increase the Personal Services Appropriation for the Parks, Recreation and Neighborhood Services Department by \$58,600;

(b) Increase the Non-Personal/Equipment Appropriation for the Parks, Recreation and Neighborhood Services Department by \$7,500;

(c) Increase Departmental Charges Revenue for the Parks, Recreation and Neighborhood Services Department by \$9,000; and

(d) Decrease the City Manager's Office Personal Services appropriation by \$57,100.

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

(Rules Committee referral 5/9/12)

Ordinance No. 29067 adopted.

Resolution No. 76224 adopted.

2. CONSENT CALENDAR

2.16 AB 1692 (Wieckowski) Municipal Bankruptcy.

Recommendation: As recommended by the Rules and Open Government Committee on May 9, 2012, approve an opposition position for AB 1692 (Wieckowski) Municipal Bankruptcy. (City Manager's Office)
[Rules Committee referral 5/9/12 – Item G(3)]

Oppose position approved.

Noes: Campos, Kalra.

2.17 Santos Family Car Show.

Recommendation: As recommended by the Rules and Open Government Committee on May 9, 2012:

- (a) Approve the Santos Family Car Show as a City Council sponsored Special Event.
- (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 5/9/12 – Item G(5)]

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that Governor Brown released the State budget on May 14, 2012, including a deficit of approximately \$16B.

Council Member Pyle suggested the City Manager issue a letter of concern to the State.

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

Heard at 9:30 a.m.

No Report.

3. STRATEGIC SUPPORT SERVICES

3.3 Public Hearing on the Proposed Operating and Capital Budgets for the Fiscal Year 2012-2013 Including the Proposed Departmental Fees and Charges for the City of San José.

Recommendation: Public Hearing on the City's Proposed Operating and Capital Budgets for the Fiscal Year 2012 -2013, the Proposed Five-Year Capital Improvement Program for 2013-2017, and the Proposed Fees and Charges Report for the Fiscal Year 2012-2013. (City Manager's Office)

Heard first in the evening.

The public hearing was held.

Eight speakers expressed comments and suggestions. The Public Hearing was continued to June 11, 2012. There was no Council action.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Actions Related to the County Children's Shelter.

Recommendation: Adopt a resolution authorizing the City Attorney to execute a settlement agreement with the County of Santa Clara releasing the City's claims and agreeing to remove the City's affordability restrictions from the County Children's Shelter property and authorizing the Director of Housing to negotiate and execute all agreements and documents needed to implement the settlement. CEQA: EIR Resolution No. 72767 and addendum thereto (File No. H09-004). (City Attorney's Office)

Resolution No. 76225 adopted.

4.2 Downtown High Rise Incentives.

Recommendation: Accept staff's recommended set of incentives to encourage high rise office and residential tower construction in the next two years including:

- (a) Direct the City Attorney to draft an ordinance to delete from the Municipal Code the requirements for breathing air tank replenishment systems.
- (b) Approve staff's proposed schedule of expedited processing of high rise development citywide.

CEQA: Use of the Downtown Strategy 2000 EIR, Resolution No. 72767. (Planning, Building and Code Enforcement)

- (1) **The memorandum from Mayor Reed and Council Member Liccardo was approved, accepting the Staff recommendations as outlined in the April 23, 2012 Staff report.**
- (2) **The following additional incentives for new construction of residential buildings of at least 12 stories in height for the next 1,000 residential units in the Downtown as defined by the Planned Growth Areas Diagram in the Envision San José 2040 General Plan:**

(Action continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Downtown High Rise Incentives. (Action Cont'd.)

- (2) (a) ***Permit Expeditor and Streamlined Planning:*** The City Manager will identify a single point of contact to facilitate and coordinate permitting and resolve all issues that may arise in the permitting process. Upon filing of a completed application and with the applicant's full compliance of regulations relating to public outreach and architectural review, a decision will be reached at a Director's Hearing within 120 days.
- (b) ***50% Reduction of Bulding and Structure Construction Tax.***
- (c) ***50% of Commercial-Residential-Mobilehome Park Building Tax.***
- (d) ***Park Fees:*** Consistent with Section 2.B of Resolution 7587, as amended by Council action on May 8, 2012, all park fees for multifamily units will remain at 50% of the revised 2012 rates for Downtown development (\$7650/unit) for the remainder of the duration of the operation of this high rise incentive proposal.
- (e) ***Deferral of Fees:*** Fees will be paid at the time of issuance of the Certificate of Occupancy.
- (f) ***Inclusionary Requirements:*** None of the incentives included in this action are intended to constitute an "agree[ment] by contract with a public entity in consideration for a direct financial contribution or any other forms of assistance" for purposes of the Costa-Hawkins Rental Housing Act, California Civil Code, Section 1954.52(b). Accordingly, the City's inclusionary ordinance shall remain suspended for high rise rental residential development under *Palmer/ Sixth Street Properties v. City of Los Angeles*, (2009) 175 Cal.App.4th 1396.
- (g) ***Waiver of Parking Minimum Requirements:*** In consideration of a long term commitment by the developer to offer free participation in EcoPass, car sharing services and enhanced bike parking facilities to residential tenants, the City shall waive minimum parking requirements.
- (h) ***Occupancy of Lower Floors:*** Where Staff deems it safe, the City shall allow occupancy of lower floors (for lease up marketing of "model units") pending interior construction and furnishing of higher floors.
- (3) Incentive 2b will be provided to any building constructed within the Downtown of an employment-serving use (i.e. office, research and development or retail) regardless of height, until the deadline as described below.
- (4) To qualify for any of these incentives, the project must break ground by the end of 2013. The 1,000 residential units shall be counted against the 2,500 units under the preexisting "Downtown High Rise Incentive Program" enacted in 2006, to enable fees to return to normal upon any resurgence in the market.

Staff requested to explore the options of the Architectural Review Committee for achieving outstanding architecture and design excellence.

Noes: Kalra, Pyle.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Rezoning Real Property Located on the North Side of Story Road.

Recommendation: Consideration of an ordinance rezoning the real property located on the north side of Story Road, approximately 150 feet westerly of McCreery Avenue (1841 Story Road) from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District to allow commercial uses and facilitate the reconstruction of a fast food restaurant and drive-through use on a 0.73 gross acre site (Richard R. Anderson, Deborah M. Anderson, and Jeffery M. Filice, Sr., trustees, owners). SNI: East Valley/680 Communities. CEQA: EIR Resolution No. 76041. C12-008 – District 5

Continued to June 05, 2012 per Administration.

4.4 Actions Related to the Expansion and Renovation of Parque de los Pobladores by 1st ACT Silicon Valley.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with 1st ACT Silicon Valley to design and construct the expansion and renovation of Parque de los Pobladores with a City contribution of up to \$98,000.

Resolution No. 76226 adopted.

- (b) Adopt a resolution approving the closure of First Street between Williams Street and Reed Street in accordance with California Vehicle Code Section 21101(a)(1) on the ground that, that portion of First Street is no longer needed for vehicular traffic.

Resolution No. 76227 adopted.

- (c) Adopt Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 3 (Fund 380):

- (1) Establish the Parque de los Pobladores Pavement-to-Plaza project to the Parks, Recreation and Neighborhood Services Department for \$78,000.

- (2) Decrease the Ending Fund Balance by \$78,000.

CEQA: Exempt, File No. PP12-037. (Economic Development/Public Works/ Transportation/ Parks, Recreation and Neighborhood Services/City Manager's Office)

(Deferred from 5/8/12 – Item 4.1)

Ordinance No. 29068 adopted.

The amended memorandum from Council Member Liccardo, dated May 15, 2012, was approved:

- (1) **The City Manager was authorized to negotiate an agreement with 1st Act Silicon Valley to design and construct the expansion and renovation of Parque De Los Pobladores, but to return to Council no later than *June 12, 2012*, to seek final Council authorization on execution of that agreement.**

(Action continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Actions Related to the Expansion and Renovation of Parque de los Pobladores by 1st ACT Silicon Valley. (Action Cont'd.)

- (2) In the interim, the City Manager shall:
- (a) Convene a design charrette among *all* key stakeholders, consisting of tenant businesses, property owners and art groups along South First Street, including those occupying the blocks north of the project, to consider alternative configurations of the Parque de Los Pobladores expansion within the funding constraints and grant guidelines for the project.
 - (b) Consider and return to Council with a set of options to address concerns about loss of on-street parking South First Street businesses, including but not limited to:
 - (1) The conversion of the “South Hall Tent” to public parking immediately upon the completion of the Convention Center expansion.
 - (2) Installation of diagonal parking on adjacent streets where room allows and on South First Street south of the proposed street closure.
 - (3) Installation of parking meters along Market Street to expand on-street capacity there.
 - (4) Allowance of signage that clearly identifies any businesses, art institutions or other tenants whose access is in any way compromised by a potential street closure.

4.5 Public Hearing to Vacate a Portion of South Monroe Street.

Recommendation: Conduct a public hearing and adopt a resolution to vacate a portion of S. Monroe Street, 300 feet north of Tisch Way. CEQA: Mitigated Negative Declaration, File No. PDC10-018. Council District 6. (Public Works)
(Deferred from 5/1/12 – Item 4.3 and 5/8/12 – Item 4.2)

The public hearing was held.

Resolution No. 76228 adopted.

4.6 Sale of a Portion of City-Owned Property on South Monroe Street.

Recommendation: Adopt a resolution:

- (a) Declaring 4,313 square feet of vacated street on South Monroe, 300 feet north of Tisch Way surplus to the needs of the City;
- (b) Approving an agreement between the City and KB HOME South Bay, Inc., for sale of the property in the amount of \$300,000; and
- (c) Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction.

CEQA: Exempt, File No. PDC10-018. (Economic Development)

Resolution No. 76229 adopted.

5. NEIGHBORHOOD SERVICES

5.1 Agreement with the Roman Catholic Welfare Association of San José (Archbishop Mitty High School) for the Renovation, Operation, Maintenance and Joint Use of John Mise Park.

Recommendation: Approval of an agreement with the Roman Catholic Welfare Association of San José (Archbishop Mitty High School) for the funding, renovation, operation, maintenance, and joint use of John Mise Park with the following terms:

- (a) Term of thirteen years with an automatic extension of 12 years if Mitty complies with all terms of the agreement for a possible total term of twenty-five years;
- (b) Financial contribution in the amount of up to \$3,500,000 from City and up to \$375,000 from Archbishop Mitty High School for renovation of the sports field;
- (c) In-kind contribution from Archbishop Mitty High School for park maintenance in exchange for exclusive use of the sports field and parking spaces during certain hours;
- (d) Financial contribution of up to \$175,000 from Archbishop Mitty High School for replacement of the artificial turf for the sports field;
- (e) Exempt the agreement from the liquidated damages requirements of the City's Prevailing Wage Policy as set forth in Resolution No. 71584, adopted by the City Council on May 23, 2003.

CEQA: Categorically Exempt, File No, PP12-021. Council District 1. (Parks, Recreation and Neighborhood Services)

Deferred to May 22, 2012 per Administration.

5.2 Social Host Ordinance.

Recommendation: Approve an ordinance amending Title 10 of the San José Municipal Code to add a new chapter relating to social host responsibility to deter the service of alcoholic beverages to and consumption of alcoholic beverages by underage persons at certain gatherings. CEQA: Categorically Exempt, File No. PP12-010. (City Manager's Office)

Heard in the evening following Item 3.3.

Ordinance No. 29088 passed for publication.

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Commercial Solid Waste Fees and Maximum Customer Rates.

Recommendation:

- (a) Approve an ordinance to amend Chapter 9.10 of Title 9 of the San José Municipal Code to amend Section 9.10.1435 to require the exclusive solid waste franchisee to pay a Source Reduction and Recycling Fee (AB939 Fee).

Ordinance No. 29069 passed for publication.

- (b) Adopt a resolution to amend the Schedule of Fees and Charges (Resolution No. 72737 as amended) to revise the Source Reduction and Recycling Fee (AB939 Fee) for commercial solid waste collected city-wide for two exclusive franchise districts at \$3,800,000 per fiscal year to be paid by the exclusive franchisee.

Resolution No. 76230 adopted.

- (c) Adopt a resolution fixing and determining Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchise Agreements between the City of San José and Allied Waste Services of North America, LLC dba Allied Waste Services of Santa Clara County, including the total processing costs for organic processing services.

CEQA: Not a Project, File No. PP10-067 (a), Increase or Adjustment to Fees, Rates & Fares. (Environmental Services/City Manager's Office)

Resolution No. 76231 adopted.

7.2 Amendments to Municipal Code, Administrative Schedule of Fines and Commercial Franchise Fee.

Recommendation:

- (a) Approve an ordinance amending Chapter 9.10 of Title 9, and Sections 4.80.3070 and 4.80.3080 of Title 4 of the San José Municipal Code to conform the Code to modifications associated with the new commercial solid waste system, and to existing practice for the use ratepayer revenue in the Integrated Waste Management Fund, effective July 1, 2012.

Ordinance No. 29070 passed for publication.

- (b) Adopt a resolution amending the Administrative Citation Schedule of Fines to escalate fines for the unauthorized collection of garbage and rubbish.

Resolution No. 76232 adopted.

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 Amendments to Municipal Code, Administrative Schedule of Fines and Commercial Franchise Fee. (Cont'd.)

Recommendation:

- (c) Adopt a resolution amending the Commercial Franchise Fee (Resolution No. 75601) to establish an annual supplemental franchise fee in the amount of \$1,000,000 for any franchisee granted both geographic collection districts, and to set the franchise fee at \$0 for construction and demolition debris and residential clean-out material collected by non-exclusive commercial solid waste haulers
CEQA: Negative Declaration, Resolution No. 75916, File No. PP10-157. (Environmental Services)

Resolution No. 76233 adopted.

7.3 Actions Related to the Issuance of Commercial Solid Waste and Recyclables Collection Franchise Agreements for the Non-Exclusive Collection and Transport of Residential Clean-Out Material and Construction and Demolition Debris.

Recommendation: Conduct a public hearing on the applications of the following companies for Commercial Solid Waste and Recyclables Collection Franchises for the non-exclusive collection and transport of Residential Clean-Out Material and Construction and Demolition Debris; approve the ordinances granting the franchises; and approve the Commercial Solid Waste and Recyclables Collection Franchise Agreements for the non-exclusive collection and transport of Residential Clean-Out Material and Construction and Demolition Debris for a term from July 1, 2012 to June 30, 2014 with the option of three one-year extensions.

The public hearing was held.

- (a) All Points Roll Off, Inc.
Ordinance No. 29071 passed for publication. Noes: Nguyen.
- (b) Environmental Resource Recovery, Inc. dba Valley Recycling
Ordinance No. 29072 passed for publication. Noes: Nguyen.
- (c) Ferma Corporation
Ordinance No. 29073 passed for publication. Noes: Nguyen.
- (d) GreenWaste Recovery Inc.
Ordinance No. 29074 passed for publication. Noes: Nguyen.
- (e) GreenWaste Recovery Inc. dba \$99.00 Debris Box Service
Ordinance No. 29075 passed for publication. Noes: Nguyen.
- (f) Guadalupe Rubbish Disposal Co., Inc. dba Guadalupe Recycling and Disposal
Ordinance No. 29076 passed for publication. Noes: Nguyen.

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.3 Actions Related to the Issuance of Commercial Solid Waste and Recyclables Collection Franchise Agreements for the Non-Exclusive Collection and Transport of Residential Clean-Out Material and Construction and Demolition Debris. (Cont'd.)

- (g) Haul Away Today
Ordinance No. 29077 passed for publication. Noes: Nguyen.
- (h) Lam Hauling, Inc. dba 7 Days Box
Ordinance No. 29078 passed for publication. Noes: Nguyen.
- (i) Mission Trail Waste Systems, Inc. dba Recycle West
Ordinance No. 29079 passed for publication. Noes: Nguyen.
- (j) Jonna Corporation, Inc. dba Premier Recycle Company
Ordinance No. 29080 passed for publication. Noes: Nguyen.
- (k) R & D Mendes Enterprises, Inc. dba Accurate Cleaning Systems
Ordinance No. 29081 passed for publication. Noes: Nguyen.
- (l) Recology South Bay
Ordinance No. 29082 passed for publication. Noes: Nguyen.
- (m) Republic Services, Inc.
Ordinance No. 29083 passed for publication. Noes: Nguyen.
- (n) Revolution Resource Recovery, LLC
Ordinance No. 29084 passed for publication. Noes: Nguyen.
- (o) San José Conservation Corps and Charter School dba San José Conservation Corps
Ordinance No. 29085 passed for publication. Noes: Nguyen.
- (p) Universal Recycling Solutions, Inc.
Ordinance No. 29086 passed for publication. Noes: Nguyen.
- (q) Waste Connections of California, Inc. dba GreenTeam of San José
Ordinance No. 29087 passed for publication. Noes: Nguyen.

CEQA: Exempt; File No. PP08-228. (Environmental Services)

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

- **Open Forum**
There were none.

- **Adjournment**
The Council of the City of San José adjourned the afternoon session at 5:13 p.m.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

No General Plan Public Hearings at this time.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar at this time.

11.2 Rezoning Real Property Located on the Northwest Corner of Curtner Avenue and Union Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the northwest corner of Curtner and Union Avenue (2073 Curtner Avenue), from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow for commercial uses including a restaurant with a drive-through on the 1.34 gross acres site (Lamb Desert Rose LLC, Owner). CEQA: Mitigated Negative Declaration.

PDC12-001 – District 9

Continued to June 19, 2012 per Administration.

11.3 Establishing Land Use Regulations Pertaining to Payday Lending Establishments.

Recommendation: Consideration of an ordinance amending Section 20.40.100 of Chapter 20.40 (Commercial Zoning Districts), Section 20.70.100 of Chapter 20.70 (Downtown Zoning Districts), to add a new Part 12.5 of Chapter 20.80 (Specific Use Regulations), to add a new section 20.200.875 to Chapter 20.200 (Definitions), and rescinding the suspension of the effectiveness of Sections 20.100.1500, 20.100.1510, 20.100.1520, 20.100.1525 and 20.100.220 of Chapter 20.100 (Part 13, Zoning Code Verification Certificate), all of Title 20 of the San Jose Municipal Code (the Zoning Code) to establish land use regulations pertaining to Payday Lending establishments. CEQA: EIR Resolution No. 76041. Director of Planning, Building and Code Enforcement recommends approval and Planning Commission recommends approval (6-0-1; Commissioner Platten absent)

Citywide

The amended memorandum from Council Member Kalra, Liccardo, Rocha and Campos, dated May 11, 2012, was accepted, approving the ordinance as accepted by Staff with the following modifications:

- (1) **Adopt the modifications recommended by the Planning Commission.**
- (2) **Limit the number of payday lenders permitted to operate in the City of San José at 39, the current number of existing establishments.**

Ordinance No. 29089 passed for publication, as amended.

Noes: Constant.

- **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 pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10102	West side of Guadalupe Mines Rd, approximately 1,130 feet southerly of Via Campagna	10	Brookfield Brookside, LLC	97 Lots / 89 Units	Single Family Detached	Approve
10100	West side of Monroe Street north of Tisch Way	6	KB Home South Bay Inc.	38 Lots / 104 Units	Multi-Family Attached	Approve

- **Open Forum**

- (1) **Tom Linebarger presented suggestions on how local government can investigate and prevent foreclosures.**
- (2) **Shaunn Cartwright urged the Council to investigate fraud with regard to the foreclosures in the City of San José.**
- (3) **Joseph Rosa provided his views on the issues of homelessness.**
- (4) **Jon Max Reger suggested the Council vigorously pursue revenue generation.**

- **Adjournment**

The Council of the City of San José was adjourned at 9:50 p.m. in memory of Randy Ritchie, who served as a waiter at Original Joe's for 30 years. (Oliverio)