

# CITY COUNCIL AGENDA

**FEBRUARY 14, 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 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**  
8:45 a.m. - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: Herrera, Liccardo, Nguyen, Oliverio. (Excused)**  
  
1:33 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Nguyen. (Excused)**
- **Invocation (District 2)**  
Parveen Kaur Dhillon, Director of the Lohgarh Sikh Educational Foundation, provided the Invocation.
- **Pledge of Allegiance**  
Mayor Reed, accompanied by the Third Graders from Lynhaven 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

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- 1.1 Presentation of a commendation to Neeraj Baid and Neel Bhoopalam for promoting youth entrepreneurship by organizing a TEDx Conference and mentorship sessions that brought together more than 200 Bay Area students and over 20 business leaders on October 22, 2011. (Herrera)  
**Mayor Reed and Council Member Herrera recognized and commended Neeraj Baid and Neel Bhoopalam.**
- 1.2 Presentation of a proclamation declaring the month of February 2012 as “American Heart Month” in the City of San José. (Kalra)  
**Mayor Reed and Council Member Kalra recognized the month of February 2012 as “American Heart Month” in San José.**
- 1.3 Presentation of a commendation to the Berryessa Business Association for their efforts to strengthen the small businesses of the Berryessa Community. (Chu)  
**Mayor Reed and Council Member Chu recognized and commended the Berryessa Business Association.**

# 2. CONSENT CALENDAR

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## 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes.

- (a) Regular Minutes of October 4, 2011.
- (b) Regular Redevelopment Agency Minutes of October 4, 2011.
- (c) Special Minutes of October 17, 2011.
- (d) Regular Minutes of October 18, 2011.
- (e) Regular Minutes of October 25, 2011.
- (f) Joint City/County Minutes of October 28, 2011.

**Approved.**

## 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29031 – Amending Sections 15.08.060, 15.08.070, 15.08.670, 15.08.790, 15.08.1120, 15.08.1140, 15.08.1160, and 15.08.1230 of Chapter 15.08 of Title 15 of the San José Municipal Code to reflect the current organization of City’s Municipal Water System within the Department of Environmental Services, and authorizing the Director of Environmental Services to allow modifications to customer responsibilities for connection of private fire protection pumps to municipal water distribution system in certain specified circumstances.

**Ordinance No. 29031 adopted.**

## 2. CONSENT CALENDAR

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

- (b) ORD. NO. 29032 – Amending Chapter 4.46 of Title 4 of the San José Municipal Code and Chapter 4.47 of Title 4 to add sections to partially suspend the collection of the Building and Structure Construction Tax and to suspend the Commercial-Residential-Mobilehome Park Building Tax for office, research and development uses, data center uses and installation of solar photovoltaic systems.  
**Ordinance No. 29032 adopted.**
- (c) ORD. NO. 29033 – Amending Section 14.29.040 of Chapter 14.29 of Title 14 of the San José Municipal Code to provide that the traffic impact fee shall be paid prior to issuance of a building permit or in accordance with the schedule specified in an agreement with the City of San José.  
**Ordinance No. 29033 adopted.**
- (d) ORD. NO. 29021 – Amending various sections of Chapter 2.04 of Title 2 of the San José Municipal Code, amending Section 13.23.210 of Chapter 13.23 of Title 13, and amending Section 14.04.141 of Chapter 14.04 of Title 14, to reflect the reorganization of city services within city departments; and repealing and modifying various sections of Part 2 and Chapter 11.36 of Title 11 relating to parking and traffic control within the old City Hall property due to the transfer of the property.  
**Ordinance No. 29021 adopted.**
- (e) ORD. NO. 29030 – Rezoning certain real property situated on the east side of Quimby Road, approximately 440 feet east of Murillo Road (3770 Quimby Road), from Unincorporated County to A(PD) Planned Development Zoning District to allow up to seven single-family detached residences on a 2.8 gross acre site. PDC10-002  
**Ordinance No. 29030 adopted.**

### 2.3 Approval of Council Committee Reports.

#### **Recommendation:** Approval of Council Committee Reports

- (a) Rules and Open Government Committee Report of January 11, 2012. (Mayor)
- (b) Rules and Open Government Committee Report of January 18, 2012. (Mayor)
- (c) Community and Economic Development Committee Report of January 23, 2012. (Herrera)
- (d) Public Safety, Finance and Strategic Support Committee Report of January 23, 2012. (Constant)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.4 Mayor and Council Excused Absence Requests.

**Recommendation:**

- (a) Request for an excused absence for Council Member Chu from the Regular Meeting of the Neighborhood Services and Education Committee on February 9, 2012 due to Authorized City Business: League of California Cities Board of Directors Meeting in Palo Alto, CA. (Chu)

**Excused.**

### 2.5 City Council Travel Reports.

**There were none.**

### 2.6 Report from the Council Liaison to the Retirement Boards.

**There were none.**

### 2.7 Report on Bids and Award of Contract for Installation of Potable and Non-Potable Water Services and Mains.

**Recommendation:** Report on bids and award of contract for Installation of Potable and Non-Potable Water Services and Mains: 2012-2013 to the lowest responsive bidder, San Jose Water Company, for the estimated term of April 2012 through June 2013, in an amount not to exceed \$645,955.64. CEQA: Exempt, File No. PP10-163. (Environmental Services/Public Works)

**Approved.**

### 2.8 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 (EEDMS) 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 \$86,300 for a revised not-to-exceed amount of \$1,467,898 in order to complete the upgrade of the existing EEDMS to a web-based system and to add additional features and functionality.
- (b) Add \$17,260 to the previous contingency amount of \$72,750, for a total contingency amount not to exceed \$90,010, 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 to March 13, 2012 per Administration.**

## 2. CONSENT CALENDAR

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### 2.9 Ordinance to Amend Sections 3.36.080 and 3.28.1030 of the San José Municipal Code – Non Assignment of Retiree Association Dues.

**Recommendation:** Approve an Ordinance to amend Section 3.36.080 of Chapter 3.36 and Section 3.28.1030 of Chapter 3.28 of Title 3 of the San José Municipal Code regarding Non-Assignment for the purposes of Retiree Association Dues and other organizations as approved by the Retirement Boards. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy (new or revised). (Retirement)

**The memorandum from Council Member Pyle, dated February 14, 2012, was approved: approving the Staff recommendations and Staff to provide this additional information to the Boards of Administration for the Police and Fire Department Retirement Plan and the Federated City Employees' Retirement System:**

- (1) Council strongly encourages the above mentioned Boards to allow at least 3 months for Retirees to return the new authorization due agreement before they become non-dues paying retirees.
- (2) Limit changes in contributions to any of the approved organizations to one time per year.

**Ordinance No. 29035 passed for publication, as amended.**

**Noes: Oliverio.**

### 2.10 Cooperative Agreement with the Santa Clara Valley Transportation Authority for the Proposed San Carlos Multimodal Streetscape Improvement Phase II Project.

**Recommendation:** Approve a Cooperative Agreement with the Santa Clara Valley Transportation Authority (VTA) for the relocation of existing VTA utilities, cabinets, and other utility related equipment in the City public right-of-way in conflict with the proposed San Carlos Multimodal Streetscape Improvement Phase II project, for the approximate amount of \$800,000. CEQA: Downtown Strategy SEIR/SEIR, Resolution No. 68839, File No. PP03-254. (Transportation)

**Approved.**

### 2.11 District 1 Annual Greek Flag Raising Event.

**Recommendation:** As recommended by the Rules and Open Government Committee on January 25, 2012:

- (a) Approve the District 1 Annual Flag Raising Event 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)

**Approved.**

## **2. CONSENT CALENDAR**

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### **2.12 Mobile Home Advisory Commission Appointment.**

**Recommendation:** As recommended by the Rules and Open Government Committee on February 1, 2012, reappoint Mike Graves to the Mobile Home Advisory Commission.  
(Nguyen)

**Approved.**

### **2.13 2012 Council Appointments and Reappointments.**

**Recommendation:** As recommended by the Rules and Open Government Committee on February 1, 2012:

- (a) Appoint Council Member Pyle to the Santa Clara Valley Transportation Authority Board of Directors.
- (b) Appoint Council Member Oliverio to the Santa Clara Valley Transportation Authority Policy Advisory Board – El Camino Real Rapid Transit.
- (c) Appoint Acting Director Kerrie Romanow as the Alternate to the Santa Clara Valley Water District – Water Commission.
- (d) Reappoint Council Member Campos and Council Member Liccardo to the Santa Clara Valley Transportation Authority’s Downtown/East Valley Policy Advisory Board.

(Mayor)

**Approved.**

**Abstain: Pyle.**

## **3. STRATEGIC SUPPORT SERVICES**

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

**City Manager Debra Figone reported that Assistant City Manager Edward K. Shikada was presented with the League of California Cities’ prestigious John H. Nail Memorial Award.**

### **3.2 Labor Negotiations Update**

**Recommendation:** Accept Labor Negotiations Update.

**There was no presentation.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 Approval of the 2011-2012 Mid-Year Budget Actions.

**Recommendation:**

- (a) Approve the 2011-2012 Mid-Year Budget Review Report.

**Approved.**

**Noes: Kalra.**

- (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) in the 2011-2012 Mid-Year Budget Review.

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

**Ordinance No. 29036 adopted.**

**Resolution No. 76141 adopted.**

**Noes: Kalra.**

**City Manager was requested to circulate to Council an accounting of \$250,000 or less expenditures being made with regard to Employee Negotiations, i.e. attorney fees.**

#### 3.4 Marijuana Business Tax.

**Recommendation:**

- (a) Consider increasing the Marijuana Business Tax rate from 7% of gross receipts to 10% of gross receipts, as allowed under Measure U; and
- (b) Direct staff to prepare an ordinance to implement the increased Marijuana Business tax rate for Council consideration at a public hearing originally scheduled for January 24, 2012, to take place no later than March 6, 2012.

CEQA: Not a Project, File No. PP10-067(a), Increase to rate without changes to, or expansion of services. (Finance)

**Item 3.4 was continued.**

#### 3.5 Actions Related to Medical Marijuana.

**Recommendation:** As recommended by the Rules and Open Government Committee on February 1, 2012:

- (a) Consistent with California Elections Code Section 9241, approve an ordinance entirely repealing Ordinance No. 28960 (Chapter 6.88 of the San Jose Municipal Code), which establishes regulations pertaining to medical marijuana collectives and to individual cultivation and use of medical marijuana.

**Ordinance No. 29037 passed for publication.**

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.5 Actions Related to Medical Marijuana. (Cont'd.)

- (b) Establish enforcement priorities for city actions against medical marijuana collectives to guide staff until the Council adopts a regulatory ordinance or the State of California establishes a regulatory system.
- (c) Direct staff to produce quarterly report on tax compliance and complaint data by locations.
- (d) Continue consideration of a marijuana business tax increase at a meeting and at a public hearing to be set at a later date.

(Mayor)

**Approved.**

**The memorandum from Mayor Reed and Council Members Liccardo, Oliverio and Herrera, dated February 3, 2012, was approved, with Staff directed to deploy City enforcement resources on the highest priorities, which are:**

- (1) Dispensaries that are creating nuisance activity for their neighbors including, but not limited to, conduct regulated by Municipal Code Chapter 1.13 Administrative Nuisance Abatement and Chapter 9.44 Regulation of Smoking.**
- (2) Dispensaries that are not paying taxes.**
- (3) Dispensaries too close to schools under state law.**

**If current City efforts and funding are not sufficient to address the problems associated with medical marijuana dispensaries, bring a recommendation to add funding to the City Council during the budget process with a modification of Manager's Budget Addendum (MBA) 30.**

- (e) If (a) is not approved, adopt a resolution calling a special municipal election to be held on June 5, 2012, for the purpose of submitting to the electors of the City of San José, a measure seeking approval of Ordinance No. 28960. (City Clerk)  
**No Action Required.**

#### 3.6 Audit of Office Supply Purchases.

**Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on January 26, 2012, accept the City's Auditor's Report on Office Supply Purchases. (City Auditor)

**Accepted.**

#### 3.7 Audit of Team San José and Convention and Visitors Bureau Performance 2010-11.

**Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on January 26, 2012, accept the City's Auditor's Report on Team San José and Convention and Visitors Bureau Performance for 2010-11. (City Auditor)

**Accepted.**

### **3. STRATEGIC SUPPORT SERVICES**

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#### **3.8 Audit of Information Technology General Controls.**

**Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on January 26, 2012, accept the City's Auditor's Report on Information Technology General Controls. (City Auditor)

**Accepted.**

#### **3.9 Fiscal Year 2011-2012 Priority Policies and Ordinances.**

**Recommendation:** Establish a future list of priority policies and ordinances, with items on this list to be moved to the Top Ten list as top priorities are completed between now and August 2012. CEQA: Not a Project, File No. PP10-069(a), staff reports. (City Manager's Office)

**Deferred to February 28, 2012.**

#### **3.10 2012 Community Budget Survey.**

**Recommendation:** As recommended by the Rules and Open Government Committee on February 8, 2012, accept the report on the results of the 2012 Community Budget Survey. (Mayor)

**Accepted.**

#### **3.11 Discussion Regarding June/November 2012 Tax Measures.**

**Recommendation:** As recommended by the Rules and Open Government Committee on January 25, 2012, discuss the following regarding June or November Tax Measures:

- (a) Information about anticipated revenue generated by a  $\frac{1}{4}$  and  $\frac{1}{2}$  percent Sale Tax increase, a Business Tax adjustment that will keep up with inflation, a Modernization of the Business Tax as presented in Council Member Pyle's memorandum dated May 23, 2011.
- (b) Evaluation of the advantages/disadvantages of tax increase ballot measures in a June or November election with information about the June 2010 and November 2010 revenue measure results.
- (c) List of other potential revenue ballot measures for June and November including those under consideration by the State.

(Pyle)

**Discussion Continued to February 28, 2012.**

**City Attorney was directed to take a look at the bond measure (street repair and maintenance) that passed in San Francisco and to explore options to consider a special election specifically for one item.**

**(6-3-2. Noes: Liccardo, Oliverio; Reed. Absent: Constant, Nguyen.)**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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## 5. NEIGHBORHOOD SERVICES

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### 5.1 Deferred Payment of Parkland Fees for High-rise Multi-Family Residential Projects Located in the Downtown Core Area.

**Recommendation:** Adopt a resolution to amend the Schedule of Parkland Fees and Credits (Council Resolution No. 73587, as amended) authorizing the City Manager to negotiate and execute an amendment to agreements with developers of high-rise multi-family residential projects located in the Downtown Core Area who previously executed a deferment agreement with City to provide up to an additional 12 months for payment of parkland in-lieu fees and accrued interest owed to City. CEQA: Mitigated Negative Declaration; File No. H06-017. Council District 3. (Parks, Recreation and Neighborhood Services)

**Resolution No. 76142 adopted.**

## 6. TRANSPORTATION & AVIATION SERVICES

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## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 Master Agreement with Cameron International for Electrical Generator Engine Parts and Related Services.

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

- (a) Execute a Master Service Agreement with Cameron International Corporation, dba Process & Compression Systems (Cameron) located in Houston, Texas for the sole source purchase of Electrical Generator Engines (EGE or “Generator”) catalogue parts, repair, refurbishment of engine components and related services as may be required, for a not-to-exceed amount of \$3,000,000 over a three year period from January 2012 to January 2015.
- (b) Execute one-year options to extend the agreement to provide ongoing maintenance and support after the initial three year term, subject to the annual appropriation of funds.
- (c) Execute open purchase orders as required under the terms and conditions of the Master Agreement, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)

**Resolution No. 76143 adopted.**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.2 Biosolids Transition – Timeline and CIP Delivery Approach.

**Recommendation:** As recommended by the Transportation and Environment Committee on February 6, 2012:

- (a) Accept the report on the capital project delivery approach for implementing the Plan CIP.
- (b) Direct staff to proceed with a Request for Information solicitation to determine market interest in Design Build, Design Build Operate, and Design Build Own Operate project delivery options for capital improvements using technology new to the City.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Environmental Services/Public Works)

**Approved.**

### 7.3 San José/Santa Clara Water Pollution Control Plant’s Pretreatment Program and Revisions to Sewer Use Ordinance.

**Recommendation:** As recommended by the Transportation and Environment Committee on February 6, 2012:

- (a) Accept the updated on the San José/Santa Clara Water Pollution Control Plant’s Pretreatment Program.

**Accepted.**

- (b) Approve a Director initiated ordinance amending Sections 15.14.270, 15.14.405, 15.14.465, 15.14.545, 15.14.575, 15.14.590, 15.14.695, and 15.14.745 of Chapter 15.14 of Title 15 of the San José Municipal Code to (1) update definitions for ‘diluting waters,’ ‘significant change,’ and ‘zero discharger categorical user;’ (2) allow issuance of permits to discharge stormwater to the sanitary sewer system; and (3) clarify requirements for reports submitted to the City from regulated facilities, as described in Title 40 of the Code of Federal Regulations (40 CFR).

CEQA: Resolution No. 76041, November 1, 2011, “Envision San José 2040 General Plan.” (Environmental Services)

**Ordinance No. 29038 passed for publication.**

## 8. PUBLIC SAFETY SERVICES

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### 8.1 Actions Related to Title 16 Amendments (Gaming Control).

**Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on January 26, 2012:

- (a) Accept the report on Title 16 Amendments.

**Accepted.**

- (b) Approve an ordinance amending Chapters 16.06, 16.30, 16.32 and 16.33 of Title 16 of the San José Municipal Code relating to administrative regulations, Key Employee Licenses, renaming the Cardroom Table Fee the Cardroom Regulation Fee, procedures regarding investigations for Cardroom License application, Temporary Key Employee Licenses, Administrative Review Hearings for Temporary Key Employee Licenses, and making conforming and technical amendments.

CEQA: Not a Project; File No. PP10-068(c), Municipal Code or Policy. (City Attorney's Office)

**The revised memorandum from Mayor Reed, Vice Mayor Nguyen and Council Member Constant, dated February 10, 2012, was approved:**

- (1) **The amendments to Title 16 as recommended by Staff were approved, with the following modifications.**

- (a) **As previously recommended by the City Auditor, transfer the permitting process for Non-Key Employees to the State, mirroring the actions previously approved by Council for Key Employees.**

- (b) **Revise the Provisional Rule-Making Procedure:**

- (i) **Revise Section C to read: All provisional Regulations promulgated by the Administrator shall sunset *nine months* after they take effect if the provisional Regulation has not been enacted as a final Regulation pursuant to the procedures set out in this Chapter.**

- (ii) **Add Section E: Approval of final Regulations may be appealed for review pursuant to the alternate dispute resolution process. *City Attorney directed to look at the alternate dispute resolution process and determine how to efficiently move it forward.***

- (2) **City Manager directed to develop a process by which the card clubs can formally request clarification of Title 16 regulations and definitions.**

- (3) **City Manager directed to meet with both card clubs to develop an agreed upon plan for a timely, cost efficient process to appeal disputes arising from the provisions of, or enforcement of, Title 16. The City Manager should return to the Rules and Open Government Committee with 60 days to present the plan.**

- (4) **City Manager directed to return to the City Council, through the budget process, alternative staffing models and separation of duties in the Division of Gaming Control as recommended by the City Auditor and the independent consultant, WhiteSand Gaming.**

- (5) ***City Attorney directed to return to Council in 60 days with options tying the Non-Key Employees moving to the State.***

**Ordinance No. 29039 passed for publication, as amended.**

## **8. PUBLIC SAFETY SERVICES**

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### **8.2 Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) 2011 Staffing for Adequate Fire and Emergency Response Grant Application.**

**Recommendation:** Adopt a resolution authorizing the City Manager to apply for the DHS/FEMA-administered, 2011 Staffing for Adequate Fire and Emergency Response Grant (SAFER) for funding to restore positions lost through attrition. (Fire)

**Resolution No. 76144 adopted.**

## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

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- **Open Forum**  
There were none presented.
  
- **Adjournment**  
The Council of the City of San José was adjourned at 6:19 p.m.