



CITY COUNCIL AGENDA

MAY 24, 2011

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. 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 5)**
- **Pledge of Allegiance**
- **Orders of the Day**

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring the month of May 2011 as “Older Americans Month” in the City of San José. (Constant)
- 1.2 Presentation of a commendation to Raging Waters San José, the largest waterpark in Northern California, in recognition of their importance as a key employer, regional family destination, and their commitment to the community. (Herrera)

1. CEREMONIAL ITEMS

- 1.3 Presentation of a commendation to the Housing Trust of Santa Clara County for their commitment to providing affordable housing opportunities to the San Jose community. (Nguyen)

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.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Ad Hoc Committee on Airport Competitiveness Report of April 8, 2011](#). (Mayor)
- (b) [Transportation and Environment Committee Report of May 2, 2011](#). (Liccardo)
- (c) Rules and Open Government Committee Report of May 4, 2011. (Mayor)

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 [Agreement with LeighFisher, Inc. for Airport airspace and Airfield Analysis Services](#).

Recommendation: Approve a Fourth Amendment to the Consultant [Agreement](#) with LeighFisher Inc., formerly Jacobs Consultancy, Inc., for Airport airspace and airfield analysis services, extending the term of the Agreement from July 1, 2011 to June 30, 2014, increasing compensation by \$150,000, from \$500,000 to \$650,000, and consenting to the assignment to LeighFisher Inc. CEQA: Not a Project, File No. PP10-066(d), Consultant Services for Design/Study/Research/Inspection. (Airport)

2.8 [Agreement with David J. Powers & Associates, Inc for Airport airspace and Airfield Analysis Services](#).

Recommendation: Approve First Amendment to the Consultant [Agreement](#) with David J. Powers & Associates, Inc. for Airport environmental analysis services, extending the term of the Agreement from July 1, 2011 to June 30, 2014, and increasing compensation by \$100,000, from \$250,000 to \$350,000. CEQA: Not a Project, PP10-066(d), Consultant Services for Design/Study/Research/Inspection. (Airport)

2. CONSENT CALENDAR

2.9 [Contract Change Order to Install New Remote Control, Relay Protection and Monitoring Equipment.](#)

Recommendation: Adopt a resolution authorizing the Director of Environmental Services or his designee to negotiate and execute Contract Change Order No. 6 to install new remote control, relay protection and monitoring equipment as part of the Switchgears M1, M2 & M3 Replacement Design-Build Project, in an amount not to exceed \$400,000. CEQA: Exempt, File No. PP04-03-079. (Environmental Services/Public Works)

2.10 [Construction Contract for the San José/Santa Clara Water Pollution Control Plant, Filter Under-Drain System Renovation and Media Replacement Project.](#)

Recommendation:

- (a) Award the construction contract for the San José/Santa Clara Water Pollution Control Plant, Filter Under-Drain System Renovation and Media Replacement (A-4) Project to the sole bidder, ERS Industrial Services, Inc., in the amount of \$519,118.72.
- (b) Approve a contingency in the amount of \$51,900.
CEQA: Exempt, File No. PP11-024. (Environmental Services/Public Works)

2.11 [Summary Vacation of Old Taylor Street and Sanitary Sewer Easement.](#)

Recommendation: Adopt a [resolution](#) summarily vacating:

- (a) A portion of Old Taylor Street between San Pedro Street and Guadalupe Parkway and reserving a public service easement over a 15-foot wide strip adjacent to San Pedro Street; and
- (b) A sanitary sewer easement adjacent to San Pedro Street.
CEQA: Exempt, File No. PP10-041. Council District 3. (Public Works)

2.12 [Report on Bids and Award of Contract for the Newhall Park Project.](#)

Recommendation: Report on bids and award of contract for the Newhall Park Project No. 4650 to the low bidder, Blossom Valley Construction, Inc., in the amount of \$1,035,100, and approve a contingency in the amount of \$52,000. CEQA: Exempt, File No. PP10-110. Council District 3. (Public Works)

2.13 **Agreement for City Design Services with the Santa Clara Valley Transportation.**

Recommendation:

- (a) Adopt a resolution authorizing the Director of Public Works to negotiate and execute the following amendments to the Agreement for Design Services with the Santa Clara Valley Transportation Authority for the Capitol Expressway Light Rail Pedestrian Improvements (CELR) Project:

(Item continued on the next page)

2. CONSENT CALENDAR

2.13 Agreement for City Design Services with the Santa Clara Valley Transportation. (Cont'd.)

Recommendation:

- (a) (1) A first amendment to add services, extend the term, and increase compensation in the amount of \$150,000 for a total contract amount not to exceed \$459,225, subject to the appropriation of funds; and
- (2) A subsequent amendment to adjust reimbursable hourly compensation rates upon adoption of the 2011-2012 Operating Budget.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in 2010-2011 in the Construction Excise Tax Fund:
 - (1) Increase the appropriation to the Department of Transportation for the Capitol Expressway Light Rail Pedestrian Improvements project by \$50,000.
 - (2) Increase the estimate for Earned Revenue by \$50,000.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. Council Districts: 5 & 8. SNI Areas: Five Wounds/Brookwood Terrace, Gateway East, Mayfair, East Valley/680 Communities. (Public Works/City Manager's Office)

3. STRATEGIC SUPPORT SERVICES

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

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

TO BE HEARD AT 9:00 A.M.

3.3 [Agreement with Team San José for Convention and Visitor Bureau Services.](#)

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

- (a) An amendment to the existing Second Amended and Restated [Agreement](#) with San Jose Convention & Visitors Bureau until June 30, 2011, with a compensation for the extension period in an amount not to exceed \$1,100,000; and
- (b) An additional amendment to the existing Second Amended and Restated Agreement with San Jose Convention & Visitors Bureau until December 31, 2011, without further Council action other than the appropriation of funds.

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

3. STRATEGIC SUPPORT SERVICES

3.4 [City Manager's Fiscal Reform Plan.](#)

[Attachment – Memo from the Mayor, Vice Mayor Nguyen, and Councilmembers Herrera and Liccardo](#)

[Memo from Councilmember Rocha](#)

Recommendation: Accept the City Manager's Fiscal Reform Plan and direct staff to proceed with the steps necessary to implement the plan, including meeting and conferring with the bargaining units, as applicable. (Mayor)

[Rules Committee referral 5/11/11 – Item E(1)]

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Public Hearing on the Annexation/Reorganization of Downer No. 11.](#)

[Attachment – Memo from Councilmember Pyle](#)

Recommendation: Conduct a Public Hearing and consider adoption of a [resolution](#) ordering the reorganization of territory designated as Downer No. 11 which involves the annexation to the City of San José of approximately 8.6 gross acres of land generally located west at the northwest corner of Blossom Hill Road and Southcrest Way, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: The environmental impacts of this project were addressed by an Initial Study (IS) and Mitigated Negative Declaration (MND) that were prepared by the Director of Planning, Building, and Code Enforcement for both the approved General Plan Amendment (File No. GP10-01-01) and the Planned Development Rezoning/Rezoning (File No. PDC10-007). The documents were circulated for public review between October 14, 2010 and November 3, 2010, and the City Council approved the IS/MND on December 7, 2010. Council District 10. (Planning, Building and Code Enforcement)

4.2 [Actions Related to Implementation of the School of Arts & Culture at the Mexican Heritage Plaza.](#)

Recommendation:

- (a) Accept the Mexican Heritage Plaza Steering Committee's Business Plan for the School of Arts & Culture at the Mexican Heritage Plaza ("Plaza"); and
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute an Interim Incubator Operator Agreement with 1stACT Silicon Valley, for the management and operation of the Plaza based on business terms and conditions described in staff's memorandum for a term not to exceed 3 years at a maximum total compensation not to exceed \$1,485,000, subject to the City Council's annual appropriation of funds for the operating payments.

CEQA: Exempt, File No. PP10-097. Council District 5. SNI: Mayfair. (Public Works/Office of Economic Development)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Airport Operations Program and Fee Adjustments.](#)

Recommendation:

- (a) Adopt a [resolution](#):
 - (1) Revising General Aviation Fees, Ground Transportation Fees and charges, and Badging fees, rates, and charges effective July 1, 2011;
 - (2) Revising Public Parking Fees and charges effective June 1, 2011;
 - (3) Re-adopting all other Airport Rates and Charges; and
 - (4) Repealing Resolution No. 74875.
- (b) Approve an [ordinance](#) amending Chapter 25.08 of Title 25 of the San José Municipal Code to require all providers of taxicab services at the Airport to obtain an Airport ground transportation permit and to require that parking shuttle operations be conducted in a separate vehicle from any other ground transportation services at the Airport.

CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273, Rates/Tolls/Fares/Charges. (Airport)

6.2 [Valley Transportation Plan 2040.](#)

Recommendation: As recommended by the Transportation and Environment Committee on May 2, 2011, accept the Valley Transportation Plan 2040 Report. (Transportation)

[Transportation and Environment Committee referral 5/2/11 – Item D(4)]

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [San José/Santa Clara Water Pollution Control Plant Odor Assessment.](#)

Recommendation:

- (a) Accept the Plant's odor assessment status report and direct staff to continue with the development of a regional odor assessment study and deliver a status report in Fall 2011.
- (b) Accept the analysis of the feasibility of implementing odor control projects in three to seven years and direct staff to continue to explore the possibility of accelerating biosolids projects and deliver a status report in fall 2011.

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

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 [Report on Bids and Award of Construction Contract for New Construction of Various Equipment 2010-2011 Project.](#)

Recommendation: Report on bids and award of construction contract for New Construction of Various Equipment 2010-2011 project to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$1,299,300, and approval of a 15 percent contingency in the amount of \$200,700. CEQA: Exempt, File No. PP08-202. (Environmental Services/Public Works)

7.3 [Actions Related to the San José Environmental Innovation Center Project.](#)

Recommendation:

- (a) Accept the report on bids and, subject to staff's evaluation of any protests and further report to City Council, award of contract for the San José Environmental Innovation Center (Project) ReBid to the lowest bidder, Applegate Johnston, Inc., to include the base bid of \$10,624,000 and Add Alternates #1, 2, 3, 5 and 6 in the amount of \$656,769.
- (b) Adopt a [resolution](#) authorizing the Director of Public Works to approve a contingency amount of \$1,130,000 for the Project, conditioned upon the necessary appropriation actions by City Council.
- (c) Approve the third amendment to the master [agreement](#) for consultant services with Group 4 Architecture Research + Planning, Inc. (Group 4) for the Project, to modify the scope of services and increase the amount of compensation by \$187,000 for a total agreement amount not to exceed \$2,980,000.
- (d) Adopt the following Appropriation Ordinance and Funding Source Resolution amendments in the Integrated Waste Management Fund:
 - (1) Increase the Estimate for Earned Revenue by \$2,209,000;
 - (2) Establish a Transfer from the Sewer Service and Use Charge Fund in the amount of \$1,539,454;
 - (3) Establish a Transfer from the Storm Sewer Operating Fund in the amount of \$200,000;
 - (4) Increase the appropriation for Household Hazardous Waste Las Plumas Facility by \$10,708,454;
 - (5) Decrease the appropriation to the Environmental Services Department for Non-Personal/Equipment by \$125,000; and
 - (6) Decrease the Reserve for the Environmental Innovation Center by \$6,635,000.
- (e) Adopt the following Appropriation Ordinance amendments in the Sewer Service and Use Charge Fund:
 - (1) Establish a transfer to the Integrated Waste Management Fund in the amount of \$1,539,454; and
 - (2) Decrease the Ending Fund Balance by \$1,539,454.

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.3 Actions Related to the San José Environmental Innovation Center Project. (Cont'd.)

Recommendation:

- (f) Adopt the following Appropriation Ordinance amendments in the Storm Sewer Operating Fund:
- (1) Establish a transfer to the Integrated Waste Management Fund in the amount of \$200,000;
 - (2) Decrease the Ending Fund Balance by \$100,000; and
 - (3) Decrease the Non-Personal/Equipment appropriation to the Environmental Services Department by \$100,000.

CEQA: Negative Declaration for the renovation for the EIC was adopted on December 1, 2009, File No. PP09-138. Council District 3. (Environmental Services/Public Works/City Manager's Office)

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **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 or Redevelopment Agency Board.
- **Continue RDA Board Meeting**
- **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, Redevelopment Agency Board, 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, Redevelopment Agency Board, 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.