



# CITY COUNCIL AGENDA

**MARCH 3, 2015**

**AMENDED AGENDA**

CHAPPIE JONES	DISTRICT 1	PIERLUIGI OLIVERIO	DISTRICT 6
ASH KALRA	DISTRICT 2	TAM NGUYEN	DISTRICT 7
RAUL PERALEZ	DISTRICT 3	ROSE HERRERA VICE MAYOR	DISTRICT 8
MARJORIE MATTHEWS	DISTRICT 4	DONALD ROCHA	DISTRICT 9
MAGDALENA CARRASCO	DISTRICT 5	JOHNNY KHAMIS	DISTRICT 10

SAM LICCARDO MAYOR

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

Welcome to the San José City Council meeting!

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

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

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency 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, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2<sup>nd</sup> Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

- 9:00 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 3)**

- \* Father Walter Suarez, Sacred Heart

- **Pledge of Allegiance**

- **Orders of the Day**

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

- \* ADJOURNMENT: This meeting will be adjourned in memory of Jessie Singh, beloved father, husband and community leader. (Kalra)

**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

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- 1.1 Presentation of a proclamation declaring the Month of March 2015 as “National Women’s History Month” in the City of San José. (Herrera)  
\* (Rules Committee referral 2/25/15)
- 1.2 Presentation of a proclamation declaring the Month of March 2015 as “Arts Education Month” in the City of San José. (Rocha)  
\* (Rules Committee referral 2/25/15)

# 2. CONSENT CALENDAR

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**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) [Rules and Open Government Committee Report of February 11, 2015.](#) (Mayor)  
(b) Neighborhood Services and Education Committee Report of February 12, 2015.  
(Rocha)

\* **DEFERRED TO 3/10/15 PER CITY CLERK**

- 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 **[Federated City Employees Retirement System Board Public Member Appointment.](#)**  
[Supplemental Code Review](#)  
[Application](#)  
[Conflict of Interest](#)
- \* **Recommendation:** Consider the appointment of one (1) member of the public to the Board of Administration for the Federated City Employees Retirement System to a term ending February 28, 2019. CEQA: Not a Project. (City Clerk)

## 2. CONSENT CALENDAR

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### 2.8 [Irish Flag Raising.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on February 25, 2015:

- (a) Approve the Irish Flag Raising as a City Council sponsored Special Event and approving expenditure of City funds; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (Mayor)

\* [Rules Committee referral 2/25/15 – G(1)(a)]

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Interim City Manager, Norberto Dueñas (Verbal Report).

### 3.2 Labor Negotiations Update.

**Recommendation:** Accept Labor Negotiations Update.

**TO BE HEARD AT 9:00 A.M.**

### 3.3 [Application for the 2014 Staffing for Adequate Fire and Emergency Response Grant.](#)

**Recommendation:** Adopt a [resolution](#) authorizing the City Manager to apply for the DHS/FEMA-administered, 2014 Staffing for Adequate Fire and Emergency Response Grant for funding to restore positions eliminated in prior years and vacated through attrition. CEQA: Not a Project, File No. PP10-068(a), Grant Application. (Fire)

\* (Rules Committee referral 2/25/15)

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 [Amendment to the Agreement with Turner Construction for the United States Patent and Trademark Office Project.](#)

**Recommendation:**

- (a) Approve the [First Amendment](#) to the Construction Contract for the United States Patent and Trademark Office (USPTO) Project between the City and Turner Construction, Inc. to do the following:
  - (1) Increase the amount of maximum compensation by \$3,965,110 for a total Maximum Contract Amount not to exceed \$13,601,474, subject to the appropriation of funds; and

*(Item continued on the next page)*

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 Amendment to the Agreement with Turner Construction for the United States Patent and Trademark Office Project. (Cont'd.)

**Recommendation:**

- (a) (2) Set forth a revised construction schedule.
- (b) Approve an increase in the amount of the City-controlled project contingency by \$385,081 for a total contingency amount of \$1,348,717, subject to the appropriation of funds.
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
  - (1) Increase the estimate for Revenue from Federal Government by \$3,102,735; and
  - (2) Increase the City-Wide appropriation to the Department of Public Works for the USPTO – Tenant Improvements project by \$3,102,735.

CEQA: Exempt, File No. PP14-031. (Public Works/City Manager)

### 4.2 [Actions Related to the Real Property Located on the West Side of Hamilton Avenue, Approximately 100 Feet South of Hamilton Way.](#)

[Supplemental](#)

**\*\*NO ADDITIONAL PUBLIC COMMENT WILL BE TAKEN ON ITEM 4.2 UNLESS THE ITEM HAS BEEN SUBSTANTIALLY CHANGED SINCE THE COUNCIL HEARD THE ITEM ON FEBRUARY 24, 2015**

**Recommendation:**

- (a) Adopt a [resolution](#) adopting the Mitigated Negative Declaration for the Primrose Preschool Project and the related Mitigation Monitoring and Reporting Program;
- (b) Consider an [ordinance](#) rezoning the real property located on the west side of Hamilton Avenue, approximately 100 feet south of Hamilton Way (0 Hamilton Avenue) from R-1-8 Residential Zoning District to CN Commercial Neighborhood Zoning District; and
- (c) Consider a Conditional Use Permit to allow the operation of a two story, 13,545 square foot day care for up to 196 children; and continue this subsection (c) to the City Council meeting of March 10, 2015 for action following final action on the rezoning ordinance. [Resolution](#)

CEQA: Mitigated Negative Declaration. Planning Commission recommends approval (5-0-1). (Planning, Building and Code Enforcement)

[C14-036/CP14-039](#) – District 6

\* (Continued from 2/24/15 – Item 11.3)

\*\* *Public testimony was taken at the February 24, 2015 City Council meeting.*

## 5. NEIGHBORHOOD SERVICES

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## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 Actions Related to the Airport Disadvantaged Business Enterprise Program. - *DEFERRED*

**Recommendation:** Adopt a resolution:

- (a) Approving a proposed overall Disadvantaged Business Enterprise (DBE) participation race-neutral goal of 7.25% for the Norman Y. Mineta San José International Airport for Federal Fiscal Years 2014-2016;
  - (b) Authorizing the City Manager to submit the three-year DBE participation plan to the Federal Aviation Administration (FAA); and
  - (c) Authorizing the City Manager to make revisions as requested by the FAA.
- CEQA: Not a Project, File No. PP10-066(e), Services involving no physical change to the environment. (Public Works/Airport)  
(Deferred from 2/3/15 – Item 6.1)

**DEFERRED TO 3/24/15 PER ADMINISTRATION**

### 6.2 [Actions Related to the Airport Marketing Consultant Agreement to Provide for a Shared Marketing Program with Hainan Airlines.](#)

**Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute a Marketing Reimbursement Agreement with Hainan Airlines Co., Ltd. to provide for a shared marketing program to promote Hainan Airlines new passenger airline service between the Norman Y. Mineta San José International Airport and Beijing Capital International Airport in a total shared marketing expenditure amount of \$600,000, with dollar-for-dollar reimbursement from each party to the other for marketing expenditures made in an amount not to exceed \$300,000 from either party, for a period of two years from the date of Council approval.
- (b) Approve a [Second Amendment](#) to the Master Agreement for Airport marketing services with Civilian, Inc. (formerly AdEase, Inc.), to increase the compensation by \$600,000, for a total contract amount not to exceed \$8,220,000, to provide funds for a shared marketing program with Hainan Airlines.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)

### 6.3 Airport Ground Transportation Program. - *DROP*

**Recommendation:** As recommended by the Rules and Open Government Committee on December 10, 2014, modify RFP SJC131415 On-Demand Ground Transportation Management for the Norman Y. Mineta San José International Airport in order to comply with Council direction from March 4, 2014 to ensure the ability to work at the airport will be distributed equally among the companies as follows:

- (a) Delete the following language from the RFP: “It is not expected, nor would an option be reviewed and approved by the Airport that calls for an equal/identical number of drivers to be assigned to the Airport per company despite the size of the company.”

*(Item continued on the next page)*

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.3 Airport Ground Transportation Program. (Cont'd.)

**Recommendation:**

- (b) Add the following language to the RFP: “Qualified cab companies will be required to provide an equal number of taxi cabs at the Airport to meet the demand from first to last flight, or from 5:00 a.m. to 12:00 midnight. The cab companies can schedule their drivers by 8 hours or more per day shift to give all of their drivers a chance to work at the Airport.”

(Herrera/Khamis)

[Rules and Open Government Committee 12/10/14 – Item G(5)]

(Deferred from 1/27/15 – Item 6.1, 2/10/15 – Item 6.1 and 2/24/15 – Item 6.1)

\* **DROP**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 [Sanitary Sewer Flow Study.](#) [Supplemental](#)

**Recommendation:** As recommended by the Transportation and Environment Committee on November 3, 2014:

- (a) Accept the updated staff report regarding the attached Sanitary Sewer Flow; and  
(b) Approve the proposed changes and policy recommendations for future updates to the revenue program for the San José-Santa Clara Regional Wastewater Facility.

CEQA: Not a Project, File No PP10-067(a), Increase or Adjustments to Fees, Rates and Fares. (Environmental Services)

[Transportation and Environment Committee referral 11/3/14 – Item D(3)]

(Deferred from 12/2/14 – Item 7.4 and from 1/27/15 – Item 7.1)

### 7.2 [Actions Related to the Emergency Replacement of Pond A18’s Northern Gate Structure at the San José/Santa Clara Regional Wastewater Facility.](#)

**Recommendation:**

- (a) Accept the staff report detailing the current status of the San José/Santa Clara Regional Wastewater Facility’s Pond A18’s northern gate structure, the likelihood for failure, the consequences of failure, and the plan for immediate action to remove and replace the structure.
- (b) Adopt a [resolution](#) by four-fifths of the City Council:
- (1) Declaring and finding that, based on substantial evidence, public interest and necessity demand the immediate procurement and award of engineering and construction contracts to perform emergency replacement of the San José/Santa Clara Regional Wastewater Facility’s Pond A18’s northern gate structure without competitive bidding and that the emergency replacement will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency; and

*(Item continued on the next page)*

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.2 Actions Related to the Emergency Replacement of Pond A18's Northern Gate Structure at the San José/Santa Clara Regional Wastewater Facility. (Cont'd.)

**Recommendation:**

- (b) (2) Delegating authority to the Directors of Environmental Services and Public Works to negotiate and award the engineering and construction contracts necessary to replace the northern gate structure in order to protect Pond A18 and levees in an amount not to exceed \$1,000,000.

CEQA: Exempt, File No. PP15-015, Section 15302, Replacement or Reconstruction. (Environmental Services/Public Works)

\* (Rules Committee referral 2/25/15)

## 8. PUBLIC SAFETY SERVICES

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## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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### 9.1 [Amendment to the Agreement with Farmers Union LLC, for the Vendome Building.](#)

**Recommendation:** Approve an [Amendment](#) to the Owner Participation and Loan Agreement, Memorandum of Agreement, Declaration of Operation and Maintenance Covenants, and Affordability Restrictions by and between the Successor Agency to the Redevelopment Agency of the City of San José and the Farmers Union LLC, to amend the legal description for the Vendome Building located at 151 West Santa Clara Street in San José. CEQA: Not a Project, File No. PP10-066, Agreements/Contracts. Council District 3. (Successor Agency to the Redevelopment Agency)

### ● Notice of City Engineer's Pending Decision on Final Maps

\* In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10295 Communications Hill Blvd	7	KB Home, Inc.	85 Lots	Finance

### ● Open Forum

*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.*

### ● Adjournment

\* This meeting will be adjourned in memory of Jessie Singh, beloved father, husband and community leader. (Kalra)

## **CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

### **1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

### **2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN  
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.