



# CITY COUNCIL AGENDA

**FEBRUARY 3, 2015**

## **SYNOPSIS**

CHAPPIE JONES  
ASH KALRA  
RAUL PERALEZ  
MARJORIE MATTHEWS  
MAGDALENA CARRASCO

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

SAM LICCARDO MAYOR

PIERLUIGI OLIVERIO  
TAM NGUYEN  
ROSE HERRERA VICE MAYOR  
DONALD ROCHA  
JOHNNY KHAMIS

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 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**  
9:32 a.m. - Closed Session, Call to Order in Council Chambers  
**Absent Councilmembers: All Present.**  
1:32 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Councilmembers: All Present.**
- **Invocation (District 2)**  
Helen Kassa, Junior at Prospect High School and CEO and Founder of "Giving Hope to Kids Like Me," presented the Invocation.
- **Pledge of Allegiance**  
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day and the Amended Agenda were approved, with Item 3.5, General Fund Structural Budget Deficit History and Service Restoration Priorities and Strategies (a continuation of the Study Session of January 20, 2015) to be heard last on the agenda.

- **Closed Session Report**

City Attorney Doyle disclosed the following Closed Session action of February 3, 2015:

A. Authority to Seek Review by the U.S. Supreme Court in a Litigation

|                           |  |
|---------------------------|--|
| Case Name:                | City of San José, et al. v. Office of the Commissioner of Baseball, et al.   |
| Adverse Party or Parties: | Office of the Commissioner of Baseball, an unincorporated association, DBA Major League Baseball; and Allan Huber “Bud” Selig. |
| Substance of Litigation:  | Challenge to antitrust exemption for baseball.   |
| Council Vote:             |  |
| Ayes:                     | Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Oliverio, Peralez, Rocha; Liccardo.                                 |
| Noes:                     | None.  |
| Abstain:                  | None.  |
| Absent:                   | None.  |

## **1. CEREMONIAL ITEMS**

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## **2. CONSENT CALENDAR**

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### **2.1 Approval of Minutes.**

**Recommendation:** Approval of minutes.

- (a) Regular Minutes of November 4, 2014.
- (b) Special Council Meeting Minutes of November 7, 2014.
- (c) Regular Minutes of November 18, 2014.

**Approved.**

### **2.2 Final Adoption of Ordinances.**

**None provided.**

### **2.3 Approval of Council Committee Reports.**

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

- (a) Rules and Open Government Committee Report of January 14, 2015. (Mayor)

**Approved.**

## 2. CONSENT CALENDAR

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

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

2.6 **Report from the Council Liaison to the Retirement Boards.**  
None provided.

2.7 **Amendment to the Agreement with Resource Development Associates for the Evaluation of the Mayor's Gang Prevention Task Force.**

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

- (a) Execute the First Amendment to Agreement with Resource Development Associates, Inc. for a Comprehensive Retrospective and Prospective Evaluation of the Mayor's Gang Prevention Task Force to modify the scope of services, extend the term by one year to December 31, 2016, and update the schedules of performance and compensation, at no additional cost to the City; and
- (b) Negotiate and execute future amendments to the Agreement with Resource Development Associates to modify the scope of services, extend the term and update the schedules of performance and compensation, as necessary to produce a final Comprehensive Retrospective and Prospective Evaluation of the Mayor's Gang Prevention Task Force for submittal to the Department of Justice, at no additional cost to the City.

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

(Deferred from 1/27/15 – Item 2.8)

**Resolution No. 77273 adopted.**

2.8 **Board and Commission Appointments.**

**Recommendation:**

- (a) Approve the following Council Appointment Advisory Commission appointments:
  - (1) Appoint to the District 1 Seat to a term ending 12/13/18;
  - (2) Appoint to the District 3 Seat to a term ending 12/13/18;
  - (3) Appoint to the District 8 Seat to a term ending 12/13/18;
  - (4) Appoint to the District 10 Seat to a term ending 12/13/18; and
  - (5) Appoint to the Citywide Seat to a term ending 12/13/18.
- (b) Approve the following Housing and Community Development Commission appointments:
  - (1) Appoint to the District 4 Seat to a term ending 6/30/15; and
  - (2) Appoint to the District 7 Seat to a term ending 12/31/18.

*(Item Continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.8 Board and Commission Appointments (Cont'd.)

- (c) Appoint the following Human Services Commission appointments:
- (1) Appoint to the District 2 Seat to a term ending 12/13/18;
  - (2) Appoint to the District 4 Seat to a term ending 12/13/18;
  - (3) Appoint to the District 5 Seat to a term ending 12/13/18;
  - (4) Appoint to the District 8 Seat to a term ending 12/13/18; and
  - (5) Appoint to Seat reserved for a disable person to a term ending 12/31/18.

(City Clerk)

**Deferred to 2/10/15 per City Clerk.**

### 2.9 Contract Approval for Public Opinion Survey Consultant Services.

**Recommendation:** Approve contract with Fairbank, Maslin, Maullin, Metz & Associates, Inc. (FM3) for consultant survey services for a four-year term from time of execution, with option for renewal, in an amount not to exceed \$610,500. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (City Manager)

**Deferred to 2/10/15 per Administration.**

### 2.10 Actions Related to a Settlement for the San Jose Environmental Innovation Center.

**Recommendation:**

- (a) Adopt a resolution authorizing the City Attorney to negotiate and execute a final settlement agreement in an amount not to exceed \$200,000 with Liberty Mutual Insurance Company, the surety that completed construction of the San Jose Environmental Innovation Center.

**Resolution No. 77274 adopted.**

- (b) Adopt the following 2014-2015 Appropriation Ordinance Amendments in the Integrated Waste Management Fund:
- (1) Decrease the Unrestricted Ending Fund Balance in the amount of \$200,000;
  - (2) Increase the EIC (Miscellaneous Funding Sources) appropriation to the Environmental Services Department in the amount of \$200,000.

CEQA: Negative Declaration for the renovation of the SJEIC, adopted December 1, 2009, File No. PP09-138. (City Attorney/Public Works/City Manager)

**Ordinance No. 29530 adopted.**

## 2. CONSENT CALENDAR

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### 2.11 District 10's July 4<sup>th</sup> Fun Festival.

**Recommendation:** As recommended by the Rules and Open Government Committee on January 28, 2015:

- (a) Approve the July 4<sup>th</sup> Fun Festival as a City Council sponsored Special Event and approving the expenditure of finds; and
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (Khamis)

[Rules and Open Government Committee referral 1/28/15 – Item G(1)(a)(1)]

**Approved.**

### 2.12 2015 State of the City.

**Recommendation:** As recommended by the Rules and Open Government Committee on January 28, 2015:

- (a) Approve the 2015 State of the City event as a City Council sponsored Special Event; and
- (b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (Mayor)

[Rules and Open Government Committee referral 1/28/15 – Item G(1)(a)(2)]

**Approved.**

### 2.13 District 10 SAP Grant to Kiwanis Club of Almaden.

**Recommendation:** As recommended by the Rules and Open Government Committee on January 28, 2015, approve a grant of \$1000 to the Almaden Kiwanis TAS Scholarship Fund to be paid from the budgeted District 10 SAP Center at San José allocation, which is funded by the Arena Community Fund City-Wide appropriation. CEQA: Not a Project. (Khamis)

[Rules and Open Government Committee 1/28/15 – Item G(3)]

**Approved.**

## 3. STRATEGIC SUPPORT SERVICES

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

**Interim City Manager Norberto Dueñas announced that the San José Public Library was awarded a \$35,000 grant from the Knight News Challenge under the Prototype Fund Category for its Privacy Literacy Project. He also recognized the City's effective role and recognition received for protecting the burrowing owl habitat near the Regional Wastewater Facility.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Labor Negotiations Update.

**Recommendation:** Accept Labor Negotiations Update.  
**No update provided.**

#### 3.3 2014 Service Efforts and Accomplishments Report.

**Recommendation:** Discuss the 2014 Service Efforts and Accomplishments Report.  
(City Auditor)  
**Report accepted.**

#### 3.4 Amendment to the Agreement with Graffiti Protective Coatings, Inc. for Graffiti Abatement Services.

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

- (a) Execute the First Amendment to the Graffiti Abatement Services Agreement with Graffiti Protective Coatings, Inc. (Los Angeles, CA) to increase the maximum compensation by \$999,797 for the initial five-year term from June 27, 2011, to June 26, 2016, for a revised maximum compensation of \$4,166,300.

**Resolution No. 77275 adopted**

- (b) Negotiate and execute subsequent amendments to the Agreement to increase the maximum compensation as required to meet the demand for graffiti abatement services for the remaining term of the Agreement including option terms through June 26, 2020, subject to the appropriation of funds.

CEQA: Exempt, File No. PP11-046. (Finance)

**Not approved.**

**Councilmember Rocha's memorandum of February 3, 2015 was approved to exclude recommendation (b) in the staff's memorandum, and added further direction to return the Anti-Graffiti Program Annual Report, which is to be heard by the Public Safety, Finance and Strategic Support Committee (PSFSS) at its April 16, 2015 meeting, to City Council and seek Council direction at that time as to whether the Council desires to continue with the current model past the expiration of the initial contract term in June 2016, explore another service provision model, or go out for an RFP.**

#### 3.5 General Fund Structural Budget Deficit History and Service Restoration Priorities and Strategies.

**Recommendation:** Discussion continued from the General Fund Structural Budget Deficit History and Service Restoration Priorities and Strategies City Council Study Session on January 20, 2015. (City Manager)  
(Continued from 1/27/15 – Item 3.5)

**Discussion continued from the City Council Study Session of January 20, 2015.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.6 Interim City Manager Compensation.

**Recommendation:** As recommended by the Rules and Open Government Committee on January 28, 2015:

- (a) Adopt a resolution approving compensation and benefits for Interim City Manager Norberto Dueñas, effective January 1, 2015, as outlined in the letter from Mayor Liccardo; and

**Resolution No. 77276 adopted.**

- (b) Authorize the City Clerk to execute an agreement between the City of San José and Mr. Dueñas for services as Interim City Manager.

(Mayor) [Rules Committee referral 1/28/15 – Item G(4)]

**Authorized.**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 Rezoning of the Real Property Located on the North Side of Thornwood Drive, East of Winfield Boulevard.

**Recommendation:** Consideration of an ordinance rezoning the real property located on the north side of Thornwood Drive, east of Winfield Boulevard (5340 and 5406 Thornwood Drive) from A(PD) Zoning District to the Combined Industrial/Commercial Zoning District on two adjacent properties totaling approximately 2.37 gross acres (Rena Solomon Family Trust and California State Auto Association, Owners). CEQA: Exempt. (Planning, Building and Code Enforcement)

C14-066 – District 10

**Ordinance No. 29531 passed for publication.**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Actions Related to the Boys and Girls Club of Silicon Valley's Clubhouse Property.

**Recommendation:** Adopt a resolution authorizing the Director of Housing to:

- (a) Negotiate and execute a partial reconveyance of the City's deed of trust on the Boys and Girls Club (BGC) of Silicon Valley's clubhouse property located at 2293 Cunningham Avenue, reducing the amount of debt secured from \$875,000 to \$80,380.
- (b) Negotiate and execute a public use easement for the BGC clubhouse property to allow public access to outdoor spaces after hours and on weekends.
- (c) Subordinate the City's deed of trust to commercial lenders from whom BGC may borrow funds in the future.
- (d) Remove the City's deed of trust and public use easement from the City-owned soccer field parcel located behind 2293 Cunningham Avenue.
- (e) Record a covenant on the title to the City's soccer field located behind the clubhouse property to document the Community Development Block Grant (CDBG) requirement that a CDBG-eligible use of the site be maintained until 2021.

CEQA: Exempt, File No. PP14-089. Council District 8. (Economic Development/Housing/Parks, Recreation and Neighborhood Services)

**Resolution No. 77277 adopted.**

### 5.2 Actions Related to the 2014 State of California for Grant Funding for the Housing-Related Parks Program.

**Recommendation:** Adopt a resolution:

- (a) Authorizing the Director of Housing, or designee, to submit grant applications in an aggregate amount up to \$2,600,000 to the California Department of Housing and Community Development under the Housing-Related Parks Program (HRPP) for the development of parkland in the Tamien area and on the Alum Rock & 31st Street property.
- (b) Authorizing the Director of Housing, or designee, to accept HRPP grant awards and conduct all negotiations, execute and submit all documents, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary in connection with these grants, provided that the Director is not authorized to expend funds on these projects prior to receiving specific California Environmental Quality Act approval for each project.

CEQA: Not a Project, File No. PP10-068(a), Grant Application. Council Districts 2 and 5. (Housing/Parks, Recreation and Neighborhood Services)

**Resolution No. 77278 adopted.**

### 5.3 Destination: Home Community Plan to End Homelessness 2015-2020.

**Recommendation:** Adopt a resolution to endorse and support the Destination: Home Community Plan to End Homelessness 2015-2020. CEQA: Not a Project, File No. PP10-068, policy making. (Housing)

**Resolution No. 77279 adopted.**

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 Actions Related to the Airport Disadvantage Business Enterprise Program.

**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 to 3/3/15 per Administration.**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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## 8. PUBLIC SAFETY SERVICES

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## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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- 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>Location</u>  | <u>Council District</u> | <u>Developer</u>              | <u>Lots/Units</u>   | <u>Type</u> |
|--------------|--|-------------------------|-------------------------------|---------------------|-------------|
| 10287        | S/S of Balbach Street,<br>100' East of Almaden Ave                       | 3                       | SiliconSage Builders          | 1 Lot/ 101<br>Units | MFA         |
| 10249        | S/S of W. St. James St.,<br>between Terraine St. and<br>N. San Pedro St. | 3                       | Full Power Properties,<br>LLC | 1 Lot/643<br>Units  | MFA         |

- **Open Forum**
  - (1) **Ross Signorino advocated bicyclists wearing reflective safety gear and expressed his vision that San José may become the United States' safest big city for bicycling.**
  - (2) **David Wall referenced Item 8 on the Public Record of the Rules and Open Government Meeting Agenda for February 5, 2015, indicating his opinion that the staff's report is flawed.**

- **Adjournment**

**The Council of the City of San José adjourned at 4:27 p.m. in memory of Nguyen Xuan Hoang, community activist and Editor in Chief of Van Magazine, Nguoi Viet, San José Viet Mercury News, and Viet Tribune, who passed away on September 13, 2014. (Nguyen)**