



CITY COUNCIL AGENDA

MARCH 10, 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, 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**
9:06 a.m. - Closed Session, Call to Order in Council Chambers
Absent Councilmembers: All Present.

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent Councilmembers: All Present.
(Mayor Sam Liccardo not present between 3:30 p.m. and 5:10 p.m.)
- **Invocation (District 3)**
Calpulli Tonalehqueh provided a ceremonial performance for the Invocation.
- **Pledge of Allegiance**
Mayor Liccardo led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
None provided.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation recognizing the Week of March 9th as “Science Fair Week” in the City of San José. (Herrera)
Mayor Liccardo and Councilmember Herrera presented the proclamation to former Councilmember Forrest Williams, recognizing the Week of March 9th as “Science Fair Week” in the City of San José.
- 1.2 Presentation of a commendation to Tully Community Library for 10 years of exceptional service, outstanding leadership and commitment to excellence. (Nguyen)
Mayor Liccardo and Councilmember Nguyen commended Tully Community Library for 10 years of exceptional service, outstanding leadership and commitment to excellence for the residents of San José.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None provided.
- 2.2 **Final Adoption of Ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29539 – Rezoning certain real property of approximately 0.11 gross acre situated at the southerly side of San Salvador Street, approximately 175 feet easterly of South Fourth Street (168 & 170 East San Salvador Street) from the CG-Commercial General and R-M Multiple-Residence Zoning Districts to the R-M(PD) Planned Development Zoning District. PDC14-050
Ordinance No. 29539 passed for publication.
- (b) ORD. NO. 29540 - Pre-Rezoning certain real property of approximately 0.52 gross acre situated on the north side of East Hills Drive approximately 250 feet easterly of Dale Drive (3450 East Hills Drive) from unincorporated to the R-1-8 Single-Family Residence Zoning District. C14-028
Ordinance No. 29540 passed for publication.
- (c) ORD. NO. 29541 - Rezoning certain real property of approximately 0.92 acre situated on the west side of Hamilton Avenue, approximately 100 feet south of Hamilton Way from the R-1-8 Single Family Residence Zoning District to the CN Commercial Neighborhood Zoning District. C14-036
Ordinance No. 29541 passed for publication.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Neighborhood Services and Education Committee Report of February 12, 2015. (Rocha)
[Deferred from 3/3/10 – Item 2.3(b)]
- (b) Rules and Open Government Committee Report of February 18, 2015. (Mayor)
Approved.

2.4 Mayor and Council Excused Absence Requests.

Recommendation: Request for an excused absence for Councilmember Peralez from the Regular Meeting of the Public Safety, Finance, and Strategic Support Committee on February 19, 2015 due to the birth of his niece. (Peralez)
Approved.

2.5 City Council Travel Reports. None provided.

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

2.7 Actions Related to the Agreement with Santa Clara County for the Household Hazardous Waste Collection Program.

Recommendation: Approve the following Agreements with the County of Santa Clara:

- (a) Agreement for Household Hazardous Waste Collection Program for 2015-2016 through 2017-2018, for \$200,000 each year, subject to the appropriation of funds, contingent upon the County's extension of the current Sublease between the City of San José and the County of Santa Clara for use of City property for the Household Hazardous Waste Collection Program; and
- (b) Agreement for Countywide Assembly Bill (AB) 939 Implementation Fee for 2015-2016 through 2017-2018.

CEQA: Mitigated Negative Declaration, File No. PP09-138, San José Environmental Innovation Center, adopted December 1, 2009. (Environmental Services)

Approved.

2. CONSENT CALENDAR

2.8 Amendment to the City Pay Plan for Various Classifications.

Recommendation: Adopt a resolution to:

- (a) Amend the City of San José Pay Plan effective March 10, 2015, to create the following classifications:
 - (1) Industrial Process Control Specialist III (1364)
 - (2) Industrial Process Control Senior Specialist II (1368)
- (b) Amend the City of San José Pay Plan effective March 10, 2015, to change the salary range and title for the following classifications:
 - (1) Industrial Process Control Supervisor (1365) (formerly Systems Control Supervisor)
 - (2) Industrial Process Control Senior Specialist I (1367) (formerly Senior Process & Systems Specialist)
- (c) Amend the City of San José Pay Plan effective March 10, 2015, to change the title for the following classification:
 - (1) Industrial Process Control Specialist I/II (1361/1363) (formerly Process & Systems Specialist I/II)
- (d) Amend the City of San José Pay Plan effective March 10, 2015, to change the salary range for the following classification:
 - (1) Amusement Park Supervisor (7121)
- (e) Amend the City of San José Pay Plan effective March 10, 2015, to delete the following obsolete classifications:
 - (1) Section Manager, CAE (1641)
 - (2) Deputy Director, Aviation (3547)

CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)

Resolution No. 77298 adopted.

2.9 Amendment to the Agreement with Alum Rock Union School District for the Development and Operation of a Soccer Field and Running Track at Sheppard Middle School.

Recommendation: Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Second Amendment to the Agreement with Alum Rock Union School District for the development and operation of a soccer field and running track at Sheppard Middle School, increasing the City of San José's contribution to the project by \$53,000 for a total contribution of \$2,053,000, and updating the insurance requirements.

CEQA: Exempt, File No. PP15-023. (Parks, Recreation and Neighborhood Services)

Resolution No. 77299 adopted.

2. CONSENT CALENDAR

2.10 Amendment to the Agreement with MRF Geosystems Corporation for the Storm GIS Data Improvement Project.

Recommendation: Approve the Fifth Amendment to the Agreement with MRF Geosystems Corporation of Calgary, Alberta, Canada, for GIS consultant services for the Storm GIS Data Improvement Project to extend the term of the agreement to March 31, 2016, at no cost to the City. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works)

Approved.

2.11 District 9's Celebrate Cambrian Festival.

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

- (a) Approve the Celebrate Cambrian Festival scheduled on August 23, 2015 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (Rocha)

[Rules Committee referral 2/25/15 – Item G(1)(b)]

Approved.

2.12 Agreement with Adhara Systems, Inc. for Pavement Condition Assessments.

Recommendation: Approve an agreement with Adhara Systems, Inc. for engineering consultant services to perform pavement condition assessments on the City's street network, for a one-year term in an amount not to exceed \$300,000, and three one-year options to extend in a total contract amount not to exceed \$1,000,000. CEQA: Exempt, File No. PP14-069. (Transportation)

Approved.

2.13 Conditional Use Permit for Operation of a Daycare on the West Side of Hamilton Avenue near Hamilton Way.

Recommendation: Consideration of adoption of a resolution approving a Conditional Use Permit to allow the operation of a two story, 13,545 square foot day care for up to 196 children on a 0.92 acre site on the west side of Hamilton Avenue approximately 100 feet south of Hamilton Way. Council District 6. CEQA: Mitigated Negative Declaration, Resolution No. 77294, on March 3, 2015. (Planning, Building and Code Enforcement)

Note: Renumbered from Item 4.2

Resolution No. 77300 adopted.

2. CONSENT CALENDAR

2.14 District 10's Assyrian Flag Raising.

Recommendation: As recommended by the Rules and Open Government Committee on March 4, 2015:

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

CEQA: Not a Project. (Khamis)

[Rules Committee referral 3/4/15 – Item G(1)(b)]

Approved.

2.15 District 10's Annual Greek Flag Raising.

Recommendation: As recommended by the Rules and Open Government Committee on March 4, 2015:

- (a) Approve Annual Greek Raising as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (Khamis)

[Rules Committee referral 3/4/15 – Item G(1)(c)]

Approved.

2.16 District 6's Shakespeare in the Park.

Recommendation: As recommended by the Rules and Open Government Committee on March 4, 2015:

- (a) Approve Shakespeare in the Park as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (Oliverio)

[Rules Committee referral 3/4/15 – Item G(1)(d)]

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Interim City Manager, Norberto Dueñas (Verbal Report). No report provided.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

Note: heard at 9:00 a.m.

Public comments were provided.

3. STRATEGIC SUPPORT SERVICES

3.3 Interview for Public Member Appointment on the Board of Administration for the Federated City Employees' Retirement System.

Recommendation: Interview and select a candidate for the public member vacancy on the Board of Administration for the Federated City Employees' Retirement System Retirement Board to a term ending November 30, 2016. (City Clerk)
Bettina Rounds was selected to fill the position for a term ending November 30, 2016.

3.4 SB 3 (Leno) - Minimum Wage Fairness Act.

Recommendation: Accept the staff background and analysis regarding SB 3 (Leno) Minimum Wage: Adjustment. CEQA: Not a Project, File No. PP10-069(a), Staff Report. (City Manager)
Accepted, with the City to add this item to its list of Key Legislative Items for 2015, and with Staff to provide an information memorandum providing quarterly updates on implementation and enforcement.
Noes: Khamis.

3.5 TEFRA Hearing and Consideration of the Approval of Conduit Financing for KJH Properties, LLC, to Acquire and Rehabilitate the Real Property at 1291 Oakland Road.

Recommendation:

(a) Hold a Tax Equity and Fiscal Responsibility Act (TEFRA) Public Hearing for the issuance of up to \$4,605,000 of tax-exempt 501(c)(3) revenue bonds by the California Enterprise Development Authority (CEDA) for the acquisition, rehabilitation and equipping of the real property located at 1291 Oakland Road in San José by KJH Properties, a California Limited Liability Corporation.

Hearing held.

(b) Consider a resolution approving the issuance of revenue bonds, by CEDA, on behalf of KJH Properties, in a principal amount not to exceed \$4,605,000, to finance the acquisition, rehabilitation and equipping of the facility located at 1291 Oakland Road in San José; pay certain expenses incurred in connection with the issuance of the Bonds; and fund all or a portion of a reserve fund deposit and capitalized interest.

CEQA: Not a Project, File No. PP10-069(c), Organizational and Administrative Activities. Council District 3. (Finance/Economic Development)

Resolution No. 77301 adopted.

3. STRATEGIC SUPPORT SERVICES

3.6 Amicus Brief in Support of Executive Action.

Recommendation: As recommended by the Rules and Open Government Committee on February 25, 2015, direct the City Attorney to join the efforts of the National League of Cities and the U.S. Conference of Mayors in filing an amicus brief in the appeal of the *Texas vs. United States* lawsuit, to support President Obama's recent executive action on immigration. CEQA: Not a Project, File No. PP10-069, City Organization & Administrative Activities. (Mayor/Peralez)
[Rules Committee referral 2/25/15 – Item G(2)]

Accepted.

Noes: Khamis.

3.7 Second Quarter Financial Reports for Fiscal Year 2014 – 2015.

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on February 19, 2015, accept the following Second Quarter Financial Reports for Fiscal Year 2014-2015 for the following programs:

- (a) Debt Management Report;
- (b) Investment Report; and
- (c) Revenue Collection Report.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Finance)

[Public Safety, Finance, and Strategic Support Committee 2/19/15 – Item D(7)]

Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Rezoning the Real Property Located at the Southwest Corner of West San Carlos Street and Sunol Street. - *DEFERRED*

Recommendation: Consideration of an ordinance rezoning the real property located at the southwest corner of West San Carlos Street and Sunol Street (860 West San Carlos Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow for specific changes to previously approved Development Standards, most notably: eliminating the minimum building height, lowering the minimum amount of commercial square footage from 24,000 to 14,000, and requiring standard conformance with the City's parkland dedication requirements, for the subject 8.0 gross acre site (Santa Clara County Transit District, Owner). CEQA: Ohlone Mixed Use EIR Resolution No. 09064, File No. PDC08-061. Planning Commission recommends approval (5-0-1). (Planning, Building and Code Enforcement)

PDC13-004 – District 6

(Deferred from 2/24/15 – Item 11.5)

Deferred to 3/17/15 per Administration

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Conditional Use Permit for Operation of a Daycare on the West Side of Hamilton Avenue near Hamilton Way.

Recommendation: Consideration of adoption of a resolution approving a Conditional Use Permit to allow the operation of a two story, 13,545 square foot day care for up to 196 children on a 0.92 acre site on the west side of Hamilton Avenue approximately 100 feet south of Hamilton Way. Council District 6. CEQA: Mitigated Negative Declaration, Resolution No. 77294, on March 3, 2015. (Planning, Building and Code Enforcement)

Note: Renumbered to Item 2.13

4.3 Actions Related to the Metropolitan Apartments North Phase for the Reallocation of Existing Debt.

Recommendation: Adopt a resolution:

- (a) Approving an increase to the construction/permanent loan commitment of up to \$2,164,000, to a total of up to \$15,045,000 during construction and up to \$15,145,000 during permanent, to reflect both the reallocation of existing debt between phases and up to \$100,000 in capitalized construction period interest if needed, to 2112 Monterey Road Apartments, L.P., a legal entity related to Charities Housing Development Corporation, for the development of the North Phase of the Metropolitan Apartments (“Development”) located at 2112 Monterey Road.
- (b) Authorizing the Director of Housing to negotiate and execute all necessary loan- and subdivision-related documents for the Development, including all documents necessary to reallocate the existing debt between the new North and South Phase parcels and to effectuate the North Phase transaction and the transfer of the South Phase parcel to 2112 Monterey Road South, L.P. as described in the staff report including any loan and subdivision-related documents and any subordinations, amendments, reconveyances, and consents; and
- (c) Authorizing a Loan to Value amount in excess of 100%.

CEQA: Mitigated Negative Declaration, File Nos. GP08-07-04 and PDC09-015.

Council District 7. (Housing)

Resolution No. 77302 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Amendment to the Agreement with Turner Construction for the United States Patent and Trademark Office Project.

Recommendation:

- (a) Approve and provide direction on an alternative for addressing the request to increase by \$919,482 the City's contribution for improvements being made to the City Hall Tower and Wing to accommodate City employees being displaced by the tenant improvements being made to accommodate the United States Patent and Trademark Office.

Approved.

- (b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute a First Amendment to the contract between the City and Turner Construction for the design and construction of the United States Patent and Trademark Office Project as necessary to implement the entire project not to exceed the following amounts:
- (1) \$3,045,628 for construction needed to accommodate the United States Patent and Trademark Office; and
 - (2) The amount set forth in the direction provided by the City Council in Recommendation A for construction needed to accommodate relocated City employees.

Resolution No. 77303 adopted, with the First Amendment to specifically indicate the City's commitment to completing construction and delivering facilities to the United States Patent and Trademark Office based on the schedule outlined in the February 20, 2015 staff report, and direct staff to look at ways to cut expenditures during construction.

- (c) Approve an increase in the City-controlled project contingency, which is currently \$1,267,926 by 10% of the amount set forth in the direction provided by the City Council in Recommendation A for construction needed to accommodate relocated City employees.

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

(Continued from 3/3/15 – Item 4.1)

Approved.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Cardroom Compliance with Title 16 of the San José Municipal Code Report.

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on February 19, 2015, accept the report on cardroom compliance with Title 16 of the San José Municipal Code (Gaming Control Regulatory Program). CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Police)
[Public Safety, Finance, and Strategic Support Committee referral 2/19/15 – Item D(2)]
Accepted.
Noes: Matthews.

9. REDEVELOPMENT – SUCCESSOR 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>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10297	Southside of Great Oaks Boulevard. North of Route 85.	2	FWSH Partners II, LLC	11 Lots	Mixed Use
10249	Southside of St. James Street. West of Terraine Street.	3	Full Power Properties, LLC	1 Condo Lot / 643 MFA Units	MFA

- **Open Forum**
 1. **Blair Beekman advised open, public discussion on the issue of government surveillance.**
 2. **Matt Lucero, representing Buddy’s Cannabis, urged extension of implementation of the Operational Regulations Ordinance, Title 6, for Medical Cannabis.**
 3. **David Wall expressed concerns regarding the City’s ‘revolving door policy’.**
- **Adjournment**

The Council of the City of San José adjourned at 5:38 p.m. in memory of Kiran Pabla, who passed away on January 26, 2015 at the age of 24. She was a graduate of Silver Creek High School, a former Page at San José Public Library, and an avid jogger who was deeply dedicated to her family and community. (Herrera)