



CITY COUNCIL AGENDA

APRIL 22, 2014

SYNOPSIS

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
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. 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 <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**
9:08 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Herrera. (Excused)

1:36 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All present.
- **Invocation (District 4)**
Sierramont Middle School Orchestra performed a musical piece by Karl Jenkins.
- **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.
- **Closed Session Report**
Assistant City Manager Ed Shikada announced the selection of Harry Freitas as Director, San José Planning, Building and Code Enforcement Department.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring April 22, 2014 as “Earth Day” in the City of San José. (Chu)
Mayor Reed, Council Members Liccardo, Kalra and Chu proclaimed April 22, 2014 as “Earth Day” in the City of San José.
- 1.2 Presentation of a proclamation to Parents Helping Parents, recognizing the month of April as “Autism Awareness Month” in the City of San José. (Rocha)
(Rules Committee referral 4/16/14)
Mayor Reed, Council Member Rocha presented a proclamation to Parents Helping Parents, and recognized the month of April as “Autism Awareness Month” in the City of San José.

2. CONSENT CALENDAR

- 2.1 Approval of Minutes.
- 2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29396 – Amending Part 3 of Chapter 3.04 of Title 3 of the San José Municipal Code to add Section 3.04.490 in order to allow the City of San José to offer a position to a sworn employee in the police and fire department retirement plan who, under the revised definition of disability in the city charter, does not qualify for a disability retirement.
Ordinance No. 29396 adopted.
(First Reading: 7-4. Noes: Campos, Chu, Kalra, Rocha.)
- (b) ORD. NO. 29397 – Rezoning certain real property situated at the southeast corner of Almaden Expressway and Chynoweth Avenue, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.
Ordinance No. 29397 adopted.

- 2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of April 2, 2014. (Mayor)
Approved, with recommendations for Item G11, the Fireworks Policy Review, to return to the Rules and Open Government Committee in September 2014 with an evaluation on the outcomes of the coordinated 4th of July events as well as an evaluation of the 4th of July holiday as a whole, with Staff directed to include: (1) the number of complaints about illegal fireworks; (2) the number of reported fires caused by illegal fireworks; (3)

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2. CONSENT CALENDAR

2.3 (a) Approval of Committee Reports (Cont'd.)

the number of reported injuries caused by illegal fireworks; (4) enforcement efforts, including citations issued; and general observations of coordinated 4th of July events; and that Council receive this evaluation in September 2014 to allow sufficient time to determine any necessary action before July 4th 2015, as outlined in Council Member Rocha's memorandum dated April 21, 2014. (11-0.)

Staff directed to agendaize Item G10 from the April 2, 2014 Rules and Open Government Committee meeting regarding the Firefighter Air Replenishment System to return to full Council in 2-3 weeks for further review and action.

(8-3.) Noes: Herrera, Liccardo; Reed.

- (b) Rules and Open Government Committee Report of March 26, 2014. (Mayor)
[Deferred from 4/15/14 – Item 2.3(b)]

Approved.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Report on Bids and Award of Contract for 7407 – BNR-2 Clarifiers Guardrail Replacement.

Recommendation:

- (a) Award of a construction contract for the 7407 - BNR-2 Clarifiers Guardrail Replacement to the low bidder, Tucker Construction, Inc., in the amount of \$320,793; and

- (b) Approve a contingency in the amount of \$32,100.

CEQA: Exempt, File No. PP13-039. (Environmental Services)

(Deferred from 4/15/14 – Item 2.9)

Approved.

2. CONSENT CALENDAR

2.8 Report on Bids and Award of Construction Contract for 7157 – Digester Gas Storage Replacement Project.

Recommendation: Report on bids and award of a construction contract for 7157 – Digester Gas Storage Replacement Project to the low bidder, Anderson Pacific Engineering Construction Inc., for the base bid and Add Alternate No. 1 in the amount of \$1,825,100, and approval of a ten percent contingency in the amount of \$182,510.

CEQA: Exempt, File No. PP13-086. (Environmental Services)

(Deferred from 4/15/14 – Item 2.10)

Accepted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Edward Shikada (Verbal Report). Assistant City Manager Ed Shikada recognized the excellent interdepartmental efforts of all involved in protecting community and property during the 5 alarm fire at the old KNTV building this weekend.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

None provided.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Community Special Events Ordinance.

Recommendation: As recommended by the Community and Economic Development Committee on February 24, 2014, consider approval of the one of two alternative community special events ordinances that would add Chapter 13.14, repeal Chapters 13.12, 13.16 and 13.22, and amend Chapter 13.44 of Title 13 of the San José Municipal Code in order to establish a comprehensive permit process for outdoor special events on or at City streets, parks, paseos and plazas. CEQA: Not a Project, File No. PP10-068(c), Municipal Code amendments involving no changes to the physical environment. (City Attorney) [Community and Economic Development Committee referral 2/24/14 – Item D(4)]

(Deferred from 3/11/14 – Item 4.1, 3/18/14 – Item 4.2 and 4/8/14 – Item 4.1)

Dropped and referred to the Community and Economic Development Committee.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Rezoning the Real Property Located on the Northwesterly Corner of Tully Road and Capitol Expressway.

Recommendation: Consideration of an ordinance rezoning the real property located on the northwesterly corner of Tully Road and Capitol Expressway from IP Industrial Park Zoning to CG Commercial General Zoning District on a 13.52 gross acre site. CEQA: Envision San José 2040 General Plan EIR Resolution No. 76041. (Planning, Building and Code Enforcement)

C14-006 – District 5

Ordinance No. 29404 passed for publication.

4.3 Agreement with Union Pacific Railroad for the Relocation of Railroad Crossing Gates and Signal at Alma Avenue.

Recommendation: Adopt a resolution authorizing the Director of Public Works to:

- (a) Negotiate and execute an agreement between the City of San José and Union Pacific Railroad for the relocation of the existing railroad crossing gates and signal at Alma Avenue, approximately 750' east of Monterey Road; and
- (b) Execute an agreement between the City of San José and SDS Nexgen for SDS Nexgen to reimburse the City for the full costs associated with the proposed railroad gate relocation.

CEQA: Sun Gardens Redevelopment Project EIR, File No. PDC10-026 (Resolution No. 75929, adopted 6/21/2011). Council District 7. (Public Works)

Resolution No. 76957 adopted.

5. NEIGHBORHOOD SERVICES

5.1 Actions Related to the Agnews Property Acquisition.

Recommendation:

- (a) Adopt a resolution:
 - (1) Authorizing the City Manager or his designee to i) negotiate and execute a Purchase and Sale Agreement ("PSA") with the State of California Department of General Services ("DGS"), in the amount not-to-exceed \$16,000,000 for the purchase of approximately 21.6 gross acres of the former Agnews Developmental Center Property, together with all buildings and site improvements located thereon, located at 3500 Zanker Road in San José, CA, (a portion of APN No. 097-04-028 and 097-04-040) for future public park development, of which \$12,000,000 shall be provided to DGS upon the close of escrow and \$4,000,000 shall be retained by the City for future site demolition and environmental remediation and ii) negotiate and execute all other documents and take such further actions as are necessary to complete the transaction;

(Item Continued on the next page)

5. NEIGHBORHOOD SERVICES

5.1 Actions Related to the Agnews Property Acquisition (Cont'd.)

- (a) (2) Authorizing the City Manager or his designee to execute an amendment to the brokerage services agreement with Arthur J. Gallagher & Co. in an amount not-to-exceed \$19,250, to i) assist in the negotiating and procurement of an environmental liability insurance policy and ii) perform claims-related management services if subsequently required;
- (3) Authorizing the City Manager or his designee to purchase the aforementioned environmental liability insurance policy totaling approximately one-time premium payment of \$110,000 to cover liability arising from unknown conditions on the site. The policy shall be for up to a 10-year term with \$10,000,000 aggregated coverage with a \$100,000 policy deductible;

Resolution No. 76958 adopted.

- (b) Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund:

- (1) Decrease the Future PDO / PIO Projects Reserve by \$14,879,000; and
- (2) Increase the Agnews Property Acquisition appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$14,879,000;

Ordinance No. 29405 adopted.

- (c) Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 4 Fund:

- (1) Decrease the Ending Fund Balance by \$1,291,000; and
- (2) Establish an appropriation for the Agnews Property Acquisition project to the Parks, Recreation and Neighborhood Services Department in the amount of \$1,291,000.

CEQA: North San José Development Policies Update EIR, Resolution No. 72768, adopted 6/21/2005, as addended by File No. PP14-032. Council District 4. (Parks, Recreation and Neighborhood Services/Economic Development/City Manager)

Ordinance No. 29406 adopted.

Actions related to the Agnew's Property Acquisition were approved, with direction to Staff to include some recognition and display of Agnew's history on the park grounds.

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Report on Bids and Award of Contract for 6998 – Fire Main Replacement – Phase III Project.

Recommendation:

(a) Report on bids and award of construction contract for 6998 – Fire Main Replacement – Phase III Project to the lowest responsive bidder, Stoloski & Gonzalez, Inc., for the base bid in the amount of \$1,572,870, and approval of a 10 percent contingency in the amount of \$157,290;

Approved.

(b) Adopt the following 2013-2014 Appropriation Ordinance Amendments in the San José-Santa Clara Treatment Plant Capital Fund:

(1) Decrease the Plant Infrastructure Improvements appropriation to the Environmental Services Department in the amount of \$400,000; and

(2) Increase the Treatment Plant Fire Main Replacement appropriation to the Environmental Services Department in the amount of \$400,000.

CEQA: Exempt, File No. PP13-098. (Environmental Services/Public Works/City Manager)

(Deferred from 4/15/14 – Item 7.1)

Ordinance No. 29407 adopted.

8. PUBLIC SAFETY SERVICES

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 notification that the City Engineer has received the following Final Maps and is reviewing them for final approval:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10226	South corner of Pierce Ave. and South Market St.	3	Pierce Reed Associates, LLC	1 Lot/232 units	MFA
10206	South of Santa Clara St. between Market St. and San Pedro St.	3	Essex OSM Reit, LLC	1 Lot/ 312 units	MFA
10103	East side of San Felipe Rd. approx. 700 ft north of Silver Creek Rd.	8	DAL Properties	6 Lots/ 6 units	SFD
10104	East side of San Felipe Rd. approx. 700 ft north of Silver Creek Rd.	8	DAL Properties	17 Lots/14 units	SFD

- **Open Forum**

- (1) **Ross Signorino suggested a contest for school children to guess the ‘mystery’ company that is locating to North First Street and Brokaw Road in North San José.**
- (2) **Michelle Detloff brought attention to the plight of homeless veterans and women.**

- **Adjournment**

The Council of the City of San José adjourned at 2:33 p.m.