



CITY COUNCIL AGENDA

AUGUST 28, 2012

AMENDED AGENDA

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.

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. 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**
9:30 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 7)**
Reverend Steven Brown, St. Maria Goretti
- **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.

* 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 San José Fire Department Captain Jose Martinez, who passed away on August 10, 2012 at the age of 41. (Kalra/Pyle)

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Sparky Harlan, CEO of the Bill Wilson Center, for being recognized as a Champion of Change by the White House in honor of her work to address homelessness among children and youth. (Mayor)
(Deferred from 8/14/12 – Item 1.2)
- 1.2 Presentation of a commendation to South Valley YMCA for its commitment to providing continued summer programming emphasizing health, nutrition, and summer learning loss. (Pyle)
- 1.3 Presentation of a commendation to Yuliana Ruiz, a District 4 resident and Good Samaritan, for exemplary courage while performing CPR on a child prior to the arrival of Fire Department Personnel. (Chu)
* (Rules Committee referral 8/22/12)

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.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29120 – Amending various sections of Chapter 3.28 and 3.44 of Title 3 of the San José Municipal Code to implement a Tier 2 Pension Plan for new employees of the City of San José in the Federated Employees’ Retirement System. [Supplemental Memo](#)
- (b) ORD. NO. 29121 – Rezoning certain real property situated at the westerly terminus of Dixon Landing Road, approximately 3,000 feet west of I-880 and Dixon Landing Road from R-M Multiple Residence and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC07-071

(Item continued on the next page)

2. CONSENT CALENDAR

2.2 Final Adoption of Ordinances. (Cont'd.)

Recommendation: Final adoption of ordinances.

- (c) ORD. NO. 29122 – Amending Title 20 (The Zoning Code) of the San José Municipal Code by amending Section 20.30.100 of Chapter 20.30, Section 20.40.100 of Chapter 20.40, Section 20.50.100 of Chapter 20.50, and Section 20.70.100 of Chapter 20.70, adding a new Part 3.5 entitled “Certified Farmers’ Markets” to Chapter 20.80, and adding a new Section 20.200.185 to Chapter 20.200 and amending Section 20.200.410 of said Chapter 20.200, all to establish land use regulations for Certified Farmers’ Markets, to facilitate a more streamlined process for certain Certified Farmers’ Markets, and to make other technical, nonsubstantive, clarifying changes to said Title 20.

- * (d) ORD. NO. 29127 – Rezoning certain real property situated on an approximately 6.08-gross-acre site on the southeast corner of Airport Parkway and Matrix Boulevard (1887 Matrix Boulevard) to the IP(PD) Planned Development Zoning District. PDC12-019

2.3 Approval of Council Committee Reports.

Recommendation:

- * (a) [Transportation and Environment Committee Minutes of August 13, 2012.](#)
(Liccardo)

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 [Traffic and Criminal Bail Schedules.](#)

Recommendation:

- (a) Approve recommended changes to the [City of San José Traffic](#) and [Criminal Bail Schedules](#) and direct the City Attorney to submit the recommended changes in the Bail Schedules to the Superior Court Bail Committee.
- (b) Approve an [ordinance](#) amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code to update the list of infractions.

CEQA: Not a Project; PP10-069, Organizational & Administrative activities. (City Attorney's Office)

2. CONSENT CALENDAR

2.8 [Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in Various Funds to Rebudget Funds to 2012-2013 to Complete Projects.](#)

Recommendation:

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #1 (Fund 377):
 - (1) Increase the Beginning Fund Balance by \$497,000; and
 - (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$497,000.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4 (Fund 381):
 - (1) Increase the Beginning Fund Balance by \$526,000; and
 - (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$526,000.
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5 (Fund 382):
 - (1) Increase the Beginning Fund Balance by \$341,000; and
 - (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$341,000.
- (d) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #6 (Fund 384):
 - (1) Increase the Beginning Fund Balance by \$637,000; and
 - (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$637,000.
- (e) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #8 (Fund 386):
 - (1) Increase the Beginning Fund Balance by \$120,000; and
 - (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$120,000.
- (f) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #9 (Fund 388):
 - (1) Increase the Beginning Fund Balance by \$804,000; and

(Item continued on the next page)

2. CONSENT CALENDAR

2.8 Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in Various Funds to Rebudget Funds to 2012-2013 to Complete Projects. (Cont'd.)

Recommendation:

- (f) (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$804,000.
- (g) Adopt of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10 (Fund 389):
 - (1) Increase the Beginning Fund Balance by \$562,000; and
 - (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$562,000.
- (h) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Neighborhood Security Bond Act Fund:
 - (1) Increase the Beginning Fund Balance by \$315,000; and
 - (2) Increase the Fire Station – 24 Silver Creek/Yerba Buena appropriation to the Fire Department by \$315,000.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager's Office)

2.9 [Reconveyance on a Parcel to be Transferred to the Santa Clara Water District. Supplemental Memo](#)

Recommendation: Adopt a [resolution](#) approving the release of a parcel of unimproved riparian land known as Parcel 3 from the City's Paseo Senter I deeds of trust, affordability restrictions, and park fee agreement to facilitate the parcel's dedication to the Santa Clara Valley Water District and authorizing the City Manager to execute all necessary documents. CEQA: Mitigated Negative Declaration, File No. PDC03-057. Council District 7. (Housing)

2.10 [Amendments to the City's Deferred Compensation Plan and PTC Plan.](#)

Recommendation: Approve an [ordinance](#) to:

- (a) Amend Chapters 3.48 and 3.50 of Title 3 of the San José Municipal Code ("SJMC") to incorporate the federal Heroes Earnings Assistance Relief Tax Act ("HEART Act") provisions into the City's 457 Deferred Compensation Plan and PTC Plan ("Plans");
- (b) Amend Chapter 3.48 of Title 3 of the SJMC to incorporate the Roth 457 option into the City's 457 Deferred Compensation Plan ("Deferred Compensation Plan");
- (c) Amend Chapter 3.48 of Title 3 of the SJMC to eliminate the 30-day election requirement and allow benefits to continue to be held under the Deferred Compensation Plan after a severance event.

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

2. CONSENT CALENDAR

2.11 [Actions Related to the Safe Routes to School Grants - Bucknall Road and Downing Avenue.](#)

Recommendation: Adopt a [resolution](#) authorizing the City Manager to:

- (a) Execute and submit grant applications for two (2) projects under the Safe Routes to School grant program, in the total amount of \$742,992:
 - (1) The Bucknall Road Pedestrian and Bicycle Improvement Project in the amount of \$342,992 with no local match.
 - (2) The Downing Avenue Pedestrian and Bicycle Improvement Project in the amount of \$400,000 of which \$359,900 is reimbursable under the grant and \$40,100 is part of the required City local match.
- (b) Make the required assurances to comply with the project applications, deadlines to complete the projects, grant program requirements, and other assurances required by Caltrans as explained in this memorandum.
- (c) Accept any grant award(s) and negotiate and execute any documents to effectuate the grant(s), including the authority to negotiate and execute any documents that increase the amount of the grant awarded or local contribution from the City for the projects, subject to the appropriation of funds.

CEQA: Bucknall Road Sidewalk Improvements - Exempt, File No. PP11-092; Downing Avenue Sidewalk Improvements Project - Exempt, File No. PP12-069. Council Districts 1 and 6. (Transportation)

2.12 [Actions Related to the Diridon Station Area Plan.](#)

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute:
 - (1) A Third Amendment to the existing grant agreement between the City and the Metropolitan Transportation Commission (MTC) for the development of the Diridon Station Area Plan to continue and extend the term of the agreement from June 30, 2012 to June 30, 2013, amend the scope of services to eliminate zoning ordinance amendments deliverable, amend the schedule of performances and budget for the deliverables under the agreement, and to ratify prior amendments to the agreement.
 - (2) A Second Amendment to the existing agreement between the City and Field Paoli Architects to continue and extend the term from June 30, 2012 to June 30, 2013, increase the compensation by up to \$100,000 from \$1,109,000 to an amount not to exceed \$1,209,000, expand the scope of services to prepare the phasing analysis for near-term development in the Diridon Station Area, and amend the schedule of performance and budget for the deliverables under the agreement.

(Item continued on the next page)

2. CONSENT CALENDAR

2.12 Actions Related to the Diridon Station Area Plan. (Cont'd.)

Recommendation:

- (a) (3) Any future amendments deemed necessary by the City Manager to extend the term of the MTC or Field Paoli agreements or revise the scope of services, schedule of performances, or budget for each deliverables to complete the tasks required under the MTC grant agreement and the Diridon Station Area Plan, provided that the amendments do not exceed the maximum compensation approved by the City Council for the agreements.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax Fund:
 - (1) Increase the appropriation to the Department of Transportations for the Diridon Station Planning Project by \$100,000;
 - (2) Decrease the Ending Fund Balance by \$100,000.

CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. Council Districts 3 and 6. (Transportation/City Manager's Office)

2.13 [Certification and Submittal of 2011-2012 Stormwater Permit Annual Report. Supplemental Memo from the Office of Environmental Services Annual Report "Draft"](#)

Recommendation: Authorize certification and submit the 2011-2012 Stormwater Permit Annual Report to the San Francisco Bay Regional Water Quality Control Board in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit requirements, pursuant to the Federal Clean Water Act. (Environmental Services)

[Transportation and Environment Committee referral 8/13/12 – Item D(2)]

2.14 [Fourth Quarter Financial Reports for Fiscal Year 2011-2012.](#)

Recommendation: As referred by the Public Safety, Finance and Strategic Support Committee on August 16, 2012, accept the Fourth Quarter Financial Reports for Fiscal Year 2011 – 2012. (Finance)

* [Public Safety, Finance and Strategic Support Committee referral 8/16/12 – Item D(5)]

2.15 [Annual Review and Proposed Amendments to the City's Investment Policy.](#)

Recommendation: As referred by the Public Safety, Finance and Strategic Support Committee on August 16, 2012, accept the Annual Review and adopt a [resolution](#) approving the proposed amendments to the City Council Policy 1-12, the City's Investment Policy, to reflect recent changes to the Federal Reserve Bank's Primary Dealer List. (Finance)

* [Public Safety, Finance and Strategic Support Committee referral 8/16/12 – Item D(6)]

2. CONSENT CALENDAR

2.16 [Team San José Quarterly Performance and Incentive Measure Report.](#)

Recommendation: As referred by the Public Safety, Finance and Strategic Support Committee on August 16, 2012, accept the Team San José Quarterly Performance and Incentive Measure Report. (Team San José)

* [Public Safety, Finance and Strategic Support Committee referral 8/16/12 – Item D(10)]

2.17 [Silicon Valley Workforce Investment Network Board of Directors Appointment.](#)

Recommendation: As recommended by the Rules and Open Government Committee on August 22, 2012, appoint Fabiola Czech, Market Human Resources Manager of Walmart Stores Incorporated in San Jose, California, to serve as a private-sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law. (Mayor)

* [Rules Committee referral 8/22/12 – Item F(1)(a)]

2.18 [2012 League of California Cities Resolutions.](#)

Recommendation: As recommended by the Rules and Open Government Committee on August 22, 2012, approve the recommended City positions for five resolutions to be considered at the Annual League of California Cities (LOCC) Conference to be held in San Diego, California on September 5 – 7, 2012. (City Manager’s Office)

* [Rules Committee referral 8/22/12 – Item G(2)]

2.19 [Cap-and-Trade Program Guiding Principles.](#)

Recommendation: As recommended by the Rules and Open Government Committee on August 22, 2012, approve the guiding principles for legislative advocacy and investment strategies on the State’s forthcoming Cap-and-Trade program. (City Manager’s Office)

* [Rules Committee referral 8/22/12 – Item G(3)]

2.20 [District 6 Outside Movie Night.](#)

Recommendation: As recommended by the Rules and Open Government Committee on August 22, 2012:

(a) Approve the District 6 Outside Movie Night 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. (City Manager’s Office)

* [Rules Committee referral 8/22/12 – Item G(4)]

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 9:30 A.M.

3.3 [Response to Santa Clara County Civil Grand Jury Report Entitled “An Analysis of Pension and Other Post Employment Benefits.”](#)

Recommendation: Approve the response to the Santa Clara County Civil Grand Jury Report entitled “An Analysis of Pension and Other Post Employment Benefits.” CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. (City Manager’s Office)

3.4 [Special Operations Premium Pay Pilot Program for San José Fire Fighters, IAFF Local 230.](#)

* **Recommendation:** Adopt a [resolution](#) to approve an agreement between the City and the San José Fire Fighters, IAFF Local 230, for the period of August 28, 2012 to June 30, 2013, regarding a Pilot Program for Special Operations Premium Pay for secondary Hazardous Incident Team and Urban Search and Rescue Company. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager’s Office)

3.5 [Approval of Conduit Financing for Rocketship Seven Alma Academy Elementary School TEFRA Hearing.](#)

Recommendation:

- (a) Hold a Tax Equity and Fiscal Responsibility Act (“TEFRA”) Hearing for the issuance of \$12,000,000 of tax-exempt 501(c)(3) revenue bonds by California Municipal Finance Authority (“CMFA”) for the Rocketship Seven – Alma Academy Elementary School Project located 198 West Alma Avenue, San José, California.
- (b) Adopt a [resolution](#) approving the issuance of tax-exempt revenue bonds by CMFA in an aggregate principal amount not to exceed \$12,000,000 to (1) finance and refinance the acquisition, construction, improvements and equipping of certain charter school educational facilities to be known as Rocketship Seven – Alma Academy Elementary School; (2) pay certain expenses incurred in connection with the issuance of the bonds; and (3) fund all or a portion of a reserve fund deposit and capitalized interest.

CEQA: Not a Project. File No. PP10-069(a), Organizational and administrative activities. Council District 7. (Finance)

3. STRATEGIC SUPPORT SERVICES

3.6 [Ordinance Regarding the Role of the Federated and Police and Fire Retirement Boards in Personnel Matters.](#)

Recommendation: Approve an [ordinance](#) to amend Chapters 3.28 of Title 3 of the San Jose Municipal Code, the 1975 Federated Employees Retirement Plan, and 3.36 of Title 3, the 1961 Police and Fire Department Retirement Plan, to add Sections 3.28.115 and 3.66.325, respectively, regarding the role of the Boards of Administration in personnel matters. CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Manager's Office/City Attorney's Office)

* (Rules Committee referral 8/22/12)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Response to Santa Clara County Civil Grand Jury Report entitled "Veterans Memorial Restoration: Preserving History and Restoring Pride."](#)

Recommendation: Approve the response to the Santa Clara County Civil Grand Jury Report entitled "Veterans Memorial Restoration: Preserving History and Restoring Pride." CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. (Economic Development)

4.2 [Actions Related to the Issuance of Tax-Exempt Multifamily Housing Revenue Bonds for the La Moraga Apartments.](#) [Supplemental Memo](#)

* **Recommendation:** Adopt a [resolution](#) of the City Council in connection with the issuance of multifamily housing revenue bonds:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds, Series 2012E (La Moraga Apartments)" in an aggregate principal amount not to exceed \$52,440,000 (the "Bonds");
- (b) Approving a loan of bond proceeds to La Moraga San José, L.P, a California limited partnership created by St. Anton Capital to finance the construction of the La Moraga Apartments located at the corner of Charlotte Drive and Raleigh Road in San José (the "Project");
- (c) Approving in substantially final form an [Indenture of Trust](#), a [Loan Agreement](#) and Regulatory Agreement and [Declaration of Restrictive Covenants](#) (the "Documents"); and
- (d) Authorizing and directing the City Manager, Acting Director of Finance, Acting Assistant Director of Finance, Acting Treasury Division Manager, Acting Debt Administrator, and Director of Housing, or their designees, to execute and, deliver these Documents and other related Bond documents as necessary;
- (e) Approving an exception to the bond monitoring fees to be charged under the Policy for the Issuance of the Multifamily Housing Revenue Bonds.

CEQA: EIR resolution 72768 adopted June 21, 2005, File No. PDC07-101. Council District 2. (Housing/Finance)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 [Predevelopment Loan for the Donner Lofts Apartments Project.](#)

- * **Recommendation:** Adopt a [resolution](#) approving a funding commitment of up to \$300,000 to MidPen Donner Associates, L.P. for a predevelopment loan for the planned 102-unit Donner Lofts Apartments, an affordable rental project to be located at 156 E. St. John Street, to be made available to extremely low-income (“ELI”), and very low-income (“VLI”) households. CEQA: Resolution No. 68839. Council District 3. (Housing)

4.4 [ADMINISTRATIVE HEARING and Consideration of an APPEAL of the Planning Commission’s Decision to Deny a Conditional Use Permit to Allow the Off-Sale of Alcohol and 24-Hour Use for an Existing Gas Station.](#)

Recommendation: Conduct an ADMINISTRATIVE HEARING and consider an APPEAL of the Planning Commission’s decision to deny a Conditional Use Permit to allow the off-sale of alcohol and 24-hour use for an existing gas station and approve the conversion of 938 square feet of vending use to a retail mini-market on a .39-gross-acre site, in the CP Commercial Pedestrian Zoning District. Located at the southwest corner of Woodard Road and Union Avenue (3707 Union Avenue) (BMZ Investment, Owner). CEQA: Exempt.

[CP11-059](#) – District 9

- * (Continued from 6/19/12 – Item 11.5 and 8/21/12 – Item 11.2)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Actions Related to the 2012 Street Resurfacing Project.](#) [Supplemental Memo from Public Works and Department of Transportation](#) [Supplemental Memo from Public Works and Department of Transportation](#)

Recommendation: Report on bids and take appropriate action based on the evaluation of bids for the 2012 Street Resurfacing Project. CEQA: Exempt, File No. PP11-035. (Transportation)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Environmental Services Department Audit.](#)

Recommendation: As referred by the Public Safety, Finance and Strategic Support Committee on August 16, 2012, accept the Environmental Services Department Audit. (City Auditor)

- * [Public Safety, Finance and Strategic Support Committee referral 8/16/12 – Item D(8)]
TO BE HEARD LAST

8. PUBLIC SAFETY SERVICES

8.1 [Response to Santa Clara County Civil Grand Jury Report Entitled “Continuity in Fire Service Delivery.”](#)

Recommendation: Approve the response to the Santa Clara County Civil Grand Jury Report entitled “Continuity in Fire Service Delivery.” CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/ Information Memos. (City Manager’s Office)

* (Rules Committee referral 8/22/12)

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Recognized Obligation Payment Schedules.

Recommendation: Adopt a resolution by the City Council acting in its capacity as the Successor Agency to the Redevelopment Agency Board approving the Recognized Obligation Payment Schedules (ROPS) for July 1 - December 31, 2012 (ROPS 2) and January 1 – June 31, 2013 (ROPS 3).

(Deferred from 8/21/12 – Item 9.2)

* **RECOMMEND DEFERRAL TO 9/11/12 PER ADMINISTRATION**

● 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 pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10122	N side of Camden Avenue, approx. 300 Feet E of Pas Los Cerritos	10	Edenbridge Capital Partners, LP	10 Lots / 8 Units	SFD	Approve

● 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 San José Fire Department Captain Jose Martinez, who passed away on August 10, 2012 at the age of 41. (Kalra/Pyle)

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
FINANCING AUTHORITY AGENDA**

1:30 P.M.

TUESDAY, AUGUST 28, 2012

CHAMBERS

- 1. Call to Order and Roll Call**
- 2. [Authorization of Investment of Monies in Local Agency Investment Fund.](#)**
- * Recommendation:** It is recommended that the San José Financing Authority Board adopt a [resolution](#) by the City of San José Financing Authority Board authorizing the Director of Finance and other authorized officers of the City, who routinely conduct investment management activity on behalf of the Authority, to order the deposit or withdrawal of monies in the Local Agency Investment Fund on behalf of the Authority and repealing Resolution No.SJFA-62. CEQA: Not a Project, File No. PP10-069(a), City organizational and administrative activities. (Finance/Housing)
- 3. Open Forum**
- 4. Adjourn the San José Financing Authority.**

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.