



CITY COUNCIL AGENDA

SEPTEMBER 11, 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 8)**
 - * Pastor Ed Snyder, East Valley Pentecostal Church
- **Pledge of Allegiance**
- **Orders of the Day**
 - * Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.
 - Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.**
- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Martilou “Marti” Malloy, a San José State University graduate who won a bronze medal in judo in the 2012 Olympics. (Mayor)
- 1.2 Presentation of a commendation to the Association of Former Vietnamese Political Prisoners for its 25 years of support for the Vietnamese community members who are former prisoners of conscience. (Liccardo/Chu)

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. 29124 – Rezoning certain real property situated on the northwest corner of Oakland Road and Atteberry Lane comprising a 1.76 gross-acre site (2215 Oakland Road) to the CIC Combined Industrial/Commercial Zoning District. C12-013
- (b) ORD. NO. 29125 – Rezoning certain real property situated on the west side of North 13th Street, approximately 260 feet southerly of East Mission Street (APN: 249-11-033, -034, -035; 761 North 13th Street), to the A(PD) Planned Development Zoning District. PDC11-022
- (c) ORD. NO. 29126 – Rezoning certain real property situated at the southeast corner of Yerba Buena Road and Highway 101 comprising a 7.24 gross acre site (3800 Dove Hill Road) to the A(PD) Planned Development Zoning District. PDC11-003
- (d) ORD. NO. 29128 – Amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code, which lists all infractions, to update the list of infractions.
- (e) ORD. NO. 29137 – Amending various Sections of Chapters 3.48 and 3.50 of Title 3 of the San José Municipal Code, the San José Deferred Compensation Plan and PTC Plan, to comply with the Heroes Earnings Assistance Relief Act for the Deferred Compensation Plan and PTC Plan; incorporate the Roth 457 option in the Deferred Compensation Plan; and eliminate the 30-day election requirement and allow benefits to continue to be held in the Deferred Compensation Plan.

2. CONSENT CALENDAR

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

Recommendation: Final adoption of ordinances.

- (f) [ORD. NO. 29139](#) – Amend Chapters 3.28, the 1975 Federated Employees Retirement Plan, and 3.36, the 1961 Police and Fire Department Retirement Plan, of the San José Municipal Code to add Sections 3.28.115 and 3.36.325, respectively, regarding the role of the boards of administration in personnel matters.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Public Safety, Finance and Strategic Support Committee Report of August 16, 2012.](#) (Constant)

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) [Request for an excused absence for Councilmember Campos from the Regular Meeting of the Transportation and Environment Committee on August 13, 2012 due to illness.](#) (Campos)
(Rules Committee referral 8/29/12)

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 [2012-2013 Team San José Performance Measures.](#)

Recommendation:

- (a) Approve the Team San Jose performance measures for 2012 – 2013.
- (b) Adopt a resolution authorizing the City Manager to:
 - (1) Execute the Third Amendment to the Management Agreement between the City of San Jose and Team San Jose to reflect changes to calculations for Performance Measures related to Gross Operating Profit and Gross Operating Revenue, and to clarify which costs are the responsibility of the General Purpose Parking Fund and Convention and Cultural Affairs Fund; and
 - (2) Negotiate and execute an amendment to the Memorandum of Understanding regarding parking operations at the Convention Center garage.

CEQA: Not a Project, File No.PP10-066 (e), Agreements/Contracts. Council District 3. (Economic Development)

* **DEFERRED TO 9/18/12 PER RULES AND OPEN GOVERNMENT COMMITTEE**

2. CONSENT CALENDAR

2.8 Actions Related to the Cultural Affairs Special Projects.

Recommendation: Adopt the following:

- (a) Resolution:
 - (1) Authorizing the City Manager to accept a grant from ArtPlace for the “Illuminating Downtown” project in the amount of \$600,000;
 - (2) Ratifying execution of a grant agreement and any documents necessary to effectuate the grant; and
 - (3) Authorizing the City Manager to execute any subsequent amendments to the grant agreement subject to appropriation of funds.
- (b) Amendments to the 2012-2013 Appropriation Ordinance and Funding Sources Resolution for the General Fund to receive grant and private development funds to support cultural development activities:
 - (1) Increase the City-wide Cultural Affairs Special Project appropriation in the amount of \$642,500; and
 - (2) Increase the estimate for Revenue from Local Agencies by \$642,500.

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

2.9 City Pay Plan Amendments.

Recommendation: Adopt a resolution to:

- (a) Amend the City of San José Pay Plan effective September 11, 2012, to create the following classifications:
 - (1) Industrial Electrician (3661)
 - (2) Senior Industrial Electrician (3662)
 - (3) Industrial Electrician Supervisor (3663)
- (b) Amend the City of San José Pay Plan effective September 11, 2012, to delete the following obsolete classes:
 - (1) Custodial Supervisor (3216)
 - (2) Custodian PT (3212)
 - (3) Mechanical Parts Assistant (1531)
 - (4) Senior Custodian (3213)
 - (5) Senior Pump Maintenance Worker (3120)
 - (6) Supervisor, Administration (1138)

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

2.10 Vacation of a Public Utility Easement Located at 100 O’Connor Drive.

Recommendation: Adopt a resolution summarily vacating a Public Utility Easement within a private property located at 100 O’Connor Drive (APN 274-59-001). CEQA: Exempt, File No. H12-004. Council District 6. (Public Works)

2. CONSENT CALENDAR

2.11 [Vacation of a Portion of Cherry Avenue and Setting a Public Hearing.](#)

Recommendation: Adopt a [resolution](#) of intention to vacate a portion of Cherry Avenue, east of Almaden Expressway and set a public hearing on October 16, 2012 at 1:30 p.m. CEQA: Almaden Ranch Retail Center EIR (Resolution No. 76168). Council District 9. (Public Works)

2.12 [Non-Disturbance Agreement for the Boys and Girls Club of Silicon Valley.](#)

Recommendation: Adopt a resolution authorizing the Director of Housing to negotiate and execute a Non-Disturbance Agreement with Valentine Capital, LLC to allow the Boys and Girls Clubs of Silicon Valley (BGCSV) to enter into a Purchase and Sale Agreement to sell to Valentine Capital BGCSV's interest as Landlord in that certain PCS Site Agreement, which affects that certain real property located at 2195 Cunningham Avenue in East San Jose. CEQA: Not a Project, File No. PP10-066, Agreements for activities involving no physical changes to the environment. Council District 8. (Housing)

* (Rules Committee referral 9/5/12)

2.13 [District 4 City Sponsored Special Events.](#)

Recommendation: As recommended by the Rules and Open Government Committee on September 5, 2012:

- (a) Approve the Penitencia Creek Art Project Stakeholder Meeting, the 2nd Annual District 4 Safety Resource Fair and Movie Night, and the Public Safety Community Meeting as City-sponsored Special Events; and
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the events.

CEQA: Not a Project. (City Clerk)

* [Rules Committee referral 9/5/12 – Item G(3)]

2.14 [Mexican Independence Day Flag Raising and El Grito Events.](#)

[Supplemental Memo from the City Clerk](#)

Recommendation: As recommended by the Rules and Open Government Committee on September 5, 2012:

- (a) Approve the Mexican Independence Day Flag Raising on September 14, and the El Grito event as City Council sponsored Special Events; and
- (b) Approve expending funds and accept donations from various individuals, businesses, or community groups to support the events.

CEQA: Not a Project. (City Clerk)

* [Rules Committee referral 9/5/12 – 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 “San José’s City Hall – A Promise Kept or a Promise Broken?”](#)

Recommendation: Approve the response to the Santa Clara County Civil Grand Jury Report entitled “San José’s City Hall – A Promise Kept or a Promise Broken?” CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. (City Manager’s Office)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Outdoor Special Events Ordinance.](#)

[Attachment – Memorandum from Councilmember Liccardo](#)

Recommendation: Approve an [ordinance](#) to 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 comprehensive regulations pertaining to 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's Office)
(Deferred from 8/21/12 – Item 4.1)

DROP

4.2 [Rezoning Real Property Located on the South Side of Montecito Vista Drive.](#)

Recommendation: Consideration of an [ordinance](#) rezoning the real property located on the south side of Montecito Vista Drive, approximately 800 feet westerly of Monterey Road (80 Montecito Vista Drive) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to amend previously approved development standards to allow 106 multi-family attached units with an at grade parking configuration for the subject 1.73 gross acre site (City of San José Financing Authority, Owner). CEQA: Final EIR, Goble Lane Mixed Use Development, File No. PDC02-066, Resolution No. 72877.

[PDC12-011](#) – District 7

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Carshare Vehicle Parking Incentives.](#)

[Memo from Councilmember Liccardo](#)

- * **Recommendation:** Adopt a [resolution](#) to repeal Resolution No.76177 and set forth an updated Master Parking Rate Schedule to authorize the Director of Transportation to designate up to 20 on-street and off-street parking spaces for exclusive parking privilege for participants in a Carshare Pilot Parking Program in accordance with California Vehicle Code Section 22507.1 for an 18 month pilot period and set the parking permit fee of \$35 per vehicle and sign/marketing fee of \$225 per location, and authorize the Director of Transportation or designee to negotiate and execute parking agreements and amendments with car share service providers for participation in the pilot parking program. CEQA: Exempt, File No. PP12-074. Council District 3. (Transportation)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Actions Related to the Issuance of Commercial Solid Waste and Recyclables Collection Franchise Agreements.](#)

Recommendation: Conduct a public hearing on the applications of the following companies for Commercial Solid Waste and Recyclables Collection Franchises for the non-exclusive collection and transport of Residential Clean-Out Material and Construction and Demolition Debris; approve the [ordinances](#) granting the franchises; and approve the Commercial [Solid Waste and Recyclables Collection Franchise Agreements](#) for the non-exclusive collection and transport of Residential Clean-Out Material and Construction and Demolition Debris for a term from October 25, 2012 to June 30, 2014 with the option of three one-year extensions.

- (a) Pacific Coast Recycling, Inc.
- (b) Recycling & Waste Services, Inc.

CEQA: Exempt, File No. PP08-228. (Environmental Services)

7.2 [Municipal Water System Wholesale Water Costs.](#)

Recommendation:

- (a) Accept this report on the City's due diligence regarding escalating wholesale water costs.
- (b) Discuss proposed wholesale rate increases at the annual Joint Study Session between Council and the Santa Clara Valley Water District Board.

CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making. Council Districts 2, 4, 7 and 8. (Environmental Services)

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Recognized Obligation Payment Schedules.

* **Recommendation:** Adopt resolutions by the City Council acting in its capacity as the Successor Agency to the Redevelopment Agency Board approving:

- (a) The Recognized Obligation Payment Schedule for July 1 - December 31, 2012 (ROPS 2); and [Resolution](#)
- (b) The Recognized Obligation Payment Schedule for January 1 – June 30, 2013 (ROPS 3). [Resolution](#)

(Deferred from 8/21/12 – Item 9.2 and 8/28/12 – Item 9.1)

* **DEFERRED TO 9/18/12 PER RULES AND OPEN GOVERNMENT COMMITTEE**

- **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>
10107	Northeast corner of N. Capitol Avenue and Sierra Road	4	Capitol Berryessa LLC	23 Lots / 94 Units	Multi Family Attached	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**

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.