



# CITY COUNCIL AGENDA

**OCTOBER 30, 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.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any 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 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, 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](http://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, 2<sup>nd</sup> Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
9:30 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 9)**  
Jerry Snyder, Artistic Director, South Bay Guitar Society

- **Pledge of Allegiance**
- **Orders of the Day**

\* 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 Isaiah “Ike” White, Jr., retired Chief Master Sergeant, United States Air Force. Born on May 29, 1930, Ike died on October 13, 2012, after a lifetime of public service to the residents of Evergreen, the City of San José and the Nation. (Herrera)

**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

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- 1.1 Presentation of a commendation to Telemundo of Northern California for providing more than \$400,000 in scholarships to our youth for the past 17 years. (Campos)
- 1.2 Presentation of a proclamation recognizing November 11, 2012 as Veteran’s Day in the City of San José in honor of those who have served our nation in the United State Armed Forces. (Mayor/Herrera)
- \* **RECOMMEND DEFERRAL TO 11/6/12 PER MAYOR**
- 1.3 Presentation of a proclamation declaring October 30<sup>th</sup> as Los Lupeños Day in the City of San Jose. (Pyle/Liccardo/Campos)  
(Rules Committee referral 10/17/12)
- 1.4 Presentation of a proclamation declaring the Month of October as “Breast Cancer Awareness Month” in the City of San José. (Herrera)
- \* (Rules Committee referral 10/24/12)

# 2. CONSENT CALENDAR

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**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.

[Supplemental Memo from the City Attorney](#)

- (a) [ORD. NO. 29166](#) – To provide for a Business Tax Amnesty program which forgives taxpayers who pay certain past due business taxes from liability for remaining past due business taxes, interest, and civil and criminal penalties.
- (b) [ORD. NO. 29167](#) – To provide for a Business Improvement District Assessment Amnesty program which forgives businesses that pay certain past due assessments from liability for interest and penalties

## 2.3 Approval of Council Committee Reports.

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

- (a) [Public Safety, Finance and Strategic Support Report of September 20, 2012.](#) (Constant)
- (b) [Community and Economic Development Committee of September 24, 2012.](#) (Herrera)
- (c) [Transportation and Environment Committee of October 1, 2012.](#) (Liccardo)
- (d) [Neighborhood Services and Education Committee of October 11, 2012.](#) (Pyle)

## 2. CONSENT CALENDAR

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### 2.4 Mayor and Council Excused Absence Requests.

**Recommendation:**

- (a) [Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on October 24, 2012 due to Authorized City Business: 2012 San José/Silicon Valley Chamber of Commerce City-to-City Trip and Study Mission to San Diego, California.](#) (Mayor)  
\* (Rules Committee referral 10/24/12)

### 2.5 City Council Travel Reports.

### 2.6 Report from the Council Liaison to the Retirement Boards.

### 2.7 [Settlement in Guerrero, et al. v. City of San Jose, et al.](#)

**Recommendation:** Approve [settlement](#) and authorize the City Attorney to execute a Settlement Agreement and Release with Gesel Guerrero, Mayra Guerrero, Ysenia Guerrero and Juan Quezada (Plaintiffs), providing for payment to Plaintiffs and their attorneys in the amount of \$150,000, as considered by the City Council during Closed Session held on October 2, 2012. CEQA: Not a Project, File No. PP10-066(h), Settlement Agreements. (City Attorney's Office)

### 2.8 [Amendment to the Agreement with HDR Engineering, Inc. for Consultant Services.](#)

**Recommendation:** Adopt a resolution authorizing the City Manager to execute the [Third Amendment to the Agreement](#) for Consultant Services between the City of San José and HDR Engineering, Inc. to extend the term from December 31, 2012, to December 31, 2013, and to increase the maximum compensation from \$250,000 to \$400,000. CEQA: Construction and Demonstration Phase – Categorical Exemption, File No. PP10-130; CEQA Guidelines Section 15303(d), New Construction and Conversion of Small Structures. (Environmental Services)

### 2.9 [Increase in Funding for EHC LifeBuilders' Downtown Homeless Outreach and Engagement Program.](#)

**Recommendation:** Approve an [amendment to the grant agreement](#) with EHC LifeBuilders for the Downtown Homeless Outreach and Engagement program, extending the term of the agreement through November 30, 2012, and increasing the compensation by \$40,000, to a total amount not to exceed \$210,000. CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts. (Housing)

## 2. CONSENT CALENDAR

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### 2.10 Samsung Dinner Event.

**Recommendation:** Approve the receipt of gifts received in official capacity in accordance with San José Municipal Code Section 12.08.040. (Mayor)

\* (Rules Committee referral 10/24/12)

### 2.11 Actions Related to the Neighborhoods Commission.

**Recommendation:** Approve an ordinance amending Ordinance No. 28178, as amended, to adjust the dates of the two-year pilot for the Neighborhoods Commission to reflect an extension of the Commission to June 30, 2013. CEQA: Not a Project, File No. PP10-069. (City Manager's Office)

\* (Rules Committee referral 10/24/12)

### 2.12 Council District 4 Community Activities.

**Recommendation:** As recommended by the Rules and Open Government Committee on October 18, 2012,

- (a) Approve various community events sponsored by Council District 4 as City-sponsored Special Events:
- (1) Public Safety Community Meeting held on Thursday, October 11, 2012;
  - (2) First Aid & CPR Training on Saturday, November 3, 2012;
  - (3) 2<sup>nd</sup> Annual "Let's Give" Donation Drive on November 10, 2012; and
  - (4) 4<sup>th</sup> Annual Breakfast with Santa on Saturday, December 10, 2012
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (City Clerk)

\* [Rules Committee referral 10/24/12 – Item G(2)]

## 3. STRATEGIC SUPPORT SERVICES

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### 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. STRATEGIC SUPPORT SERVICES

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#### 3.3 Workers' Compensation – Alternative Service Delivery Evaluation Analysis.

**Recommendation:** Approve staff's proposed strategy to re-evaluate the current in-house service delivery model for the Workers' Compensation program and pursue a two year pilot program using a third party administrator (TPA) to handle a portion of claims administration and handle bill review, utilization review and medical case management for all claims as is currently done. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities. (City Manager's Office)

#### 3.4 Audit of Fire Department Injuries.

**Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on October 18, 2012, accept the Audit of Fire Department Injuries. (City Auditor)

\* [Public Safety, Finance and Strategic Support Committee referral 10/18/12 – Item D(8)]  
**TO BE HEARD IMMEDIATELY BEFORE ITEM 3.3**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 Public Hearing and Election on the Maintenance District 15 (Silver Creek Valley) Annexation.

**Recommendation:**

- (a) Conduct a public hearing regarding the proposed annexation of Annexation Area No. 1 and formation of Zone I to Maintenance District 15 and at the close of the public hearing, direct the City Clerk to tabulate the property owner ballots and report the results.
- (b) If the majority of the votes tabulated are weighted in favor of the proposal:
  - (1) Adopt a resolution:
    - (a) Declaring the ballot tabulation results;
    - (b) Approving the engineer's report, base assessment and annual adjustments and annexing territory and forming Zone I in Maintenance District 15; and
    - (c) Imposing the assessments on those properties within the district as proposed in the engineer's report.
  - (2) Adopt the following 2012-2013 Appropriation Ordinance and Funding Source Resolution Amendments in the Maintenance District No. 15 (Silver Creek Valley) Fund:
    - (a) Increase the estimate for Earned Revenue by \$53,650;
    - (b) Establish an estimate for Transfers from Other Funds in the amount of \$22,118;
    - (c) Increase the Personal Services appropriation for the Transportation Department by \$2,540;

*(Item continued on the next page)*

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 Public Hearing and Election on the Maintenance District 15 (Silver Creek Valley) Annexation. (Cont'd.)

**Recommendation:**

- (b) (2) (d) Increase the Non-Personal/Equipment appropriation for the Transportation Department by \$63,650;
- (e) Increase the overhead appropriation by \$760; and
- (f) Increase the Ending Fund Balance by \$8,818.
- (3) Adopt the following 2012-2013 Appropriation Ordinance Amendments in the Storm Sewer Operating Fund:
  - (a) Establish a Transfer to the Maintenance District No. 15 (Silver Creek Valley) Fund in the amount of \$22,118; and
  - (b) Decrease the Ending Fund Balance by \$22,118.

CEQA: Mitigated Negative Declaration, File No. PDC09-010. Council District 8. (Public Works/City Manager's Office)

### 4.2 Public Hearing and Election on the Maintenance District 19 (River Oaks Area Landscaping) Annexation.

**Recommendation:**

- (a) Conduct a public hearing regarding the proposed annexation to Maintenance District 19 (River Oaks Area Landscaping) and at the close of the public hearing, direct the City Clerk to tabulate the property owner ballots and report the results.
- (b) If the majority of the votes tabulated are weighted in favor of the proposal, adopt a resolution:
  - (1) Declaring the ballot tabulation results;
  - (2) Approving the engineer's report, base assessment and annual adjustments and annexing territory in Maintenance District 19 (River Oaks Area Landscaping); and
  - (3) Imposing the assessments on those properties within the district as proposed in the engineer's report

CEQA: North San José Development Policy Update EIR, Resolution No. 72768. Council District 4. (Public Works)

## 5. NEIGHBORHOOD SERVICES

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### 5.1 San Jose Family Camp Master Plan Approval.

**Recommendation:**

- (a) Adopt a resolution adopting the Mitigated Negative Declaration and the associated Mitigation Monitoring Plan and Report Program prepared for the San José Family Camp (at Yosemite) Master Development Plan (File No. PP11-057) as having been completed in compliance with the California Environmental Quality Act reflecting the City's independent judgment and analysis.

*(Item continued on the next page)*



## 5. NEIGHBORHOOD SERVICES

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### 5.1 San Jose Family Camp Master Plan Approval. (Cont'd.)

**Recommendation:**

- (b) Approve the San José Family Camp (at Yosemite) Master Plan regarding possible repairs and/or enhancement/improvement projects to this City facility located on Federal land in the Stanislaus National Forest and authorize its submission to the U.S. Forest Service with Alternative Two being the preferred option of the City.

CEQA: The Director of Planning recommends that the City Council adopt a resolution adopting the Mitigated Negative Declaration prepared for the San José Family Camp (at Yosemite) Master Development Plan (File No. PP11-057) as having been completed in compliance with the California Environmental Quality Act (CEQA) reflecting the City's independent judgment and analysis. (Parks, Recreation and Neighborhood Services/Planning, Building and Code Enforcement)

## 6. TRANSPORTATION & AVIATION SERVICES

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## 7. ENVIRONMENTAL & UTILITY SERVICES

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## 8. PUBLIC SAFETY SERVICES

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### 8.1 [Status Report on the San José Police Department's Secondary Employment Unit.](#)

**Recommendation:** Accept this six-month status report on the San José Police Department's Secondary Employment Unit. CEQA: Not a Project, File No. PP10-069(a), Staff report. (Police)

## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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- **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 Isaiah, "Ike" White Jr., retired Chief Master Sergeant, United States Air Force. Born on May 29, 1930, Ike died on October 13, 2012, after a lifetime of public service to the residents of Evergreen, the City of San José and the Nation. (Herrera)

## **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.