



# CITY COUNCIL AGENDA

**NOVEMBER 27, 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](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
  - 7:00 p.m. - EVENING SESSION CANCELLED
- **Invocation (District 10)**
  - San José Animal Care and Services
- **Pledge of Allegiance**
- **Orders of the Day**
- \* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.
- \* **SEE NEW ITEM 2.26, “Actions Related to Mayor Reed’s Travel to Washington, D.C.” TO BE ADDED UNDER ORDERS OF THE DAY**
- \* ADJOURNMENT: This meeting will be adjourned in memory of Judith Ann (Fieber) Henderson, a resident of San Jose for over 40 years, a former staff member for District 2 Councilwoman Judy Stabile from 1985 to 1993, and an avid supporter of preserving historic buildings throughout San Jose. (Pyle)

- **Orders of the Day (Cont'd.)**

**Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.**

**THE SAN JOSÉ FINANCING AUTHORITY WILL MEET IN A JOINT SESSION FOLLOWING THE AFTERNOON COUNCIL SESSION**

- **Closed Session Report**

## **1. CEREMONIAL ITEMS**

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**1.1** Presentation of a plaque to the Great American Litter Pick-Up 2012 winner. (Chu)  
**\* RECOMMEND DEFERRAL TO 12/4/12 PER DISTRICT 4**

**1.2** Presentation of a commendation to the Santa Clara Valley Science and Engineering Fair Association and the 2012 Winners from San José. (Kalra)  
**DEFER TO 12/4/12 PER RULES AND OPEN GOVERNMENT COMMITTEE**

**1.3** Presentation of a commendation to Isabel Allende in recognition of her support of women worldwide and for her influence as an artist and educator. (Mayor)

**1.4** Presentation of a proclamation declaring November 28, 2012 as “Albanian Independence Day” in the City of San José, in honor of the 100<sup>th</sup> Anniversary of Albanian Independence. (Kalra)  
(Rules Committee referral 11/14/12)

**1.5** Presentation of a commendation to the Bridges Academy AVID (Achievement Via Individual Determination) program and participants for their commitment to closing the achievement gap by preparing all students for college and their service to the community (Nguyen)  
(Rules Committee referral 11/14/12)

## **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. CONSENT CALENDAR

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### 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29174 – Amending various Sections of Chapter 3.28 of Title 3 of the San José Municipal Code to clarify the City Charter supersedes the Federated City Employees Retirement Plan in event of conflict, clarify the definition of Tier 2 Member, discontinue the Supplemental Retiree Benefit Reserve, clarify actuarial soundness is determined consistent with the California constitution, and make additional requirements for mandatory Medicare enrollment, to be effective January 1, 2013.

\* **RECOMMEND DEFERRAL TO 12/4/12 PER ADMINISTRATION**

- (b) ORD. NO. 29176 – Amending Title 20 of the San José Municipal Code by amending Section 20.20.200 of Chapter 20.20, Section 20.30.200 of Chapter 20.30, Section 20.40.200 of Chapter 20.40, Section 20.50.200 of Chapter 20.50, and Sections 20.85.010, 20.85.020 and 20.85.030 of Chapter 20.85, all to amend the height limitations in airport influence areas, to further implement the height policies set forth within the Envision San José 2040 General Plan, and to make other technical, nonsubstantive or formatting changes within those sections of Title 20.
- (c) ORD. NO. 29177 – Rezoning certain real property situated on the north side of Coleman Avenue, on a 1.04 gross-acre site, approximately 740 feet easterly of Brokaw Road (1190 Coleman Avenue) to the CIC Combined Industrial/Commercial Zoning District. C12-016

### 2.3 Approval of Council Committee Reports.

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

- (a) [Public Safety, Finance and Strategic Support Committee Report of October 18, 2012.](#) (Constant)
- (b) [Community and Economic Development Committee Report of October 22, 2012.](#) (Herrera)
- (c) [Ad Hoc Committee on Airport Competitiveness Report of September 28, 2012.](#) (Mayor)

### 2.4 Mayor and Council Excused Absence Requests.

**Recommendation:**

- (a) [Request for an excused absence for Councilmember Chu from the Regular Meeting](#) of the Public Safety, Finance and Strategic Support Committee on November 15, 2012 due to Authorized City Business: League of California Cities Board of Directors Meeting in Sacramento, CA on November 14 – 16, 2012. (Chu) [Rules Committee referral 11/7/12 – Item G(4)]

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.4 Mayor and Council Excused Absence Requests. (Cont'd.)

#### **Recommendation:**

- \* (b) [Request for an excused absence for Councilmember Liccardo from the Closed Session, Regular Meeting and Evening Meeting of the City Council on November 27, 2012 due to Authorized City Business: Travel to Washington, D.C. for the Silicon Valley Leadership Group Advocacy Trip as the Metropolitan Transportation Commission's designated representative. \(Liccardo\)](#)  
[Rules Committee referral 11/7/12 – Item G(5)]
- (c) [Request for an excused absence for Councilmember Constant from the Regular Meeting of the City Council on October 30, 2012 due to Authorized City Business: Police and Fire Retirement Board Special Meeting on Disabilities. \(Constant\)](#)  
(Rules Committee referral 11/14/12)

### 2.5 City Council Travel Reports.

[Memo from Councilmember Chu](#)

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

### 2.7 [Ordinance to Amend Municipal Code Related to Discharging Firearms within the Perimeter of the Airport.](#)

**Recommendation:** Approve an [ordinance](#) amending Section 10.32.010 of Chapter 10.32 of Title 10 of the San José Municipal Code to exclude properly trained Airport employees and contract biologists discharging firearms within the perimeter of the airport as part of the Airport's Wildlife Hazard Management Program from the prohibition on discharging firearms within the limits of the City. CEQA: Resolution Nos. 67380 and 71451, File No. PP12-057. (Airport/Police)

### 2.8 [Actions Related to Foreign Trade Zone Alternative Site Framework Fees For Economic Development.](#)

**Recommendation:** Adopt a [resolution](#) amending the 2012-2013 Adopted Fees and Charges (Resolution No. 72737, as amended) to:

- (a) Establish an application fee of \$500 for a Foreign Trade Zone Alternative Site Framework Usage Driven Site;
- (b) Establish an operating agreement set-up fee of \$2,500 for a Foreign Trade Zone Alternative Site Framework Usage Driven Site; and
- (c) Establish an annual operating agreement maintenance fee of \$275 for a Foreign Trade Zone Alternative Site Framework Usage Driven Site.

CEQA: Not a Project, File No. PP10-067(a), Non-Project Specific Funding Mechanism. (Office of Economic Development/City Manager's Office)

## 2. CONSENT CALENDAR

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### 2.9 [Actions Related to Chapter 4.16 of Title 4 of the San José Municipal Code Related to Disposition of Surplus Property.](#)

**Recommendation:** Approve an [ordinance](#) amending Chapter 4.16 of Title 4 of the San José Municipal Code to allow the Director of Finance to determine the disposition of surplus City property of nominal value by any method which the Director determines to be most advantageous to the City; and to provide the Police Chief the authority to determine the disposition of surplus firearms and police service dogs. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)

### 2.10 [Funding for a Downtown Homeless Outreach and Engagement Program.](#)

**Recommendation:** Approve a Housing Trust Fund grant of up to \$260,000 to EHC LifeBuilders for the implementation of a San José Downtown Homeless Outreach and Engagement program. CEQA: Not a Project, File No. PP10-066 (e), Agreements/Contracts. (Housing)

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

### 2.11 [Funding for the Health Trust as the Fiscal Sponsor of Destination: Home For Activities Related to the Goal of Ending Homelessness.](#)

**Recommendation:**

- (a) Approve a [Housing Trust Fund grant](#) of up to \$410,000 to the Health Trust for the Destination: Home program to cover specified operating costs; and
- (b) Approve the following 2012-2013 Appropriation Ordinance amendments in the Housing Trust Fund:
  - (1) Increase the Destination: Home appropriation by \$10,000; and
  - (2) Decrease the Ending Fund Balance by \$10,000.

CEQA: Not a project, File No. PP10-066(e), Agreements/Contracts. (Housing/City Manager's Office)

### 2.12 [Actions Related to 2012 State Internet Crimes Against Children Act.](#)

**Recommendation:** Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

- (a) Establish a city-wide appropriation to the Police Department for the Internet Crimes Against Children State Grant 2012-2013 in the amount of \$100,000; and
- (b) Increase the Earned Revenue Estimate from the State of California by \$100,000.

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

## 2. CONSENT CALENDAR

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### 2.13 [Actions Related to 2012 Federal Internet Crimes Against Children Act.](#)

**Recommendation:**

- (a) Adopt a [resolution](#) accepting the Fiscal Year 2012 Internet Crimes Against Children Continuation Grant in the amount of \$360,756 and authorize the City Manager to execute the [Grant Agreement](#) and all related documents.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
  - (1) Establish a city-wide appropriation to the Police Department for the Internet Crimes Against Children Continuation Grant 2012 in the amount of \$360,756; and
  - (2) Increase the Earned Revenue Estimate from the Federal Government by \$360,756.

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

### 2.14 [Master Agreement for Consultant Services with URS Corporation Americas for Various City Projects.](#)

**Recommendation:** Approve the [Second Amendment to the Master Agreement](#) with URS Corporation Americas extending the duration from December 31, 2012 to December 31, 2013 and increasing the amount of compensation by \$25,000, to a total agreement amount of \$525,000, in order for the consultant to complete work on the Watson Park Remediation Project and the Pools Chemical Containment Project. CEQA: Not a Project, File No. PP10-066(d), Consultant Services for Design, Study, Research, Inspection. (Public Works)

### 2.15 [Vacation of Chabolla Alley Between North San Pedro Street and Terraine Street.](#)

**Recommendation:** Adopt a [resolution](#) of intention to vacate Chabolla Alley between North San Pedro Street and Terraine Street and set a public hearing on December 18, 2012 at 1:30 p.m. CEQA: Exempt, File No. PP12-090. Council District 3. (Public Works)

### 2.16 [Agreement with Valley Transportation Agency Relating to the Public Art Component of the BART Extension to Berryessa.](#)

**Recommendation:** Approve [Cooperative Agreement No. 8](#) between the City and Santa Clara Valley Transportation Authority for the design, construction and reimbursement relating to the public art component of the BART extension to Berryessa, in an amount not to exceed \$480,000, for the term of November 27, 2012 to December 31, 2016. CEQA: EIR Resolution No. 76275. Council District 4. (Transportation)



## 2. CONSENT CALENDAR

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### 2.17 [2012 ADA Accessibility Ramps Project.](#)

**Recommendation:** Report on bids and award of contract for the 2012 ADA Accessibility Ramps Project to the low bidder SpenCon Construction, Inc. in the amount of \$1,510,315 and approval of a 5% contingency in the amount of \$75,516. CEQA: Exempt, File No. PP08-186. (Transportation)

### 2.18 [Mayor Reed's Travel to Des Moines, Iowa.](#)

**Recommendation:** Approve travel by Mayor Reed to Des Moines, Iowa on November 8 – 9, 2012 to meet with Governor Terry Branstad and the Taxpayers Association of Central Iowa. Source of Funds: Mayor's Office Fund (airfare to Iowa; return trip will be paid for with personal funds), Taxpayers Association of Central Iowa. (Mayor)  
[Rules Committee referral 11/7/12 – Item G(2)]

### 2.19 [Councilmember Liccardo's Travel to Washington, D.C.](#)

- \* **Recommendation:** Approve travel by Councilmember Liccardo to Washington, D.C. on November 27 – 29, 2012 to participate in the Silicon Valley Leadership Group Washington, D.C. Advocacy Trip as Metropolitan Transportation Commission's designated representative. Source of Funds: Metropolitan Transportation Commission. (Liccardo)  
[Rules Committee referral 11/7/12 – Item G(3)]

### 2.20 [Operation Prom Dress.](#)

- \* **Recommendation:** As recommended by the Rules and Open Government Committee on November 7, 2012:
  - (a) Approve Operation Prom Dress as a City Council sponsored Special Event; and
  - (b) Approve and accept donations from various individuals, businesses, or community groups to support Operation Prom Dress.CEQA: Not a Project, File No. PP10-066. (City Clerk)  
[Rules Committee referral 11/7/12 – Item G(6)]

### 2.21 [Neighborhoods Commission 2012-2013.](#)

- \* **Recommendation:** As recommended by the Neighborhood Services and Education Committee on November 8, 2012, approve the 2012-2013 Neighborhoods Commission Pilot Work Plan. CEQA: Not a Project, File No. PP10-069. (City Manager's Office)  
[Neighborhood Services and Education Committee referral 11/8/12 – Item D(7)]

### 2.22 [2013-2014 City Budget Calendar and Budget Study Session Schedule.](#)

- \* **Recommendation:** As recommended by the Rules and Open Government Committee on November 14, 2012, approve the Proposed 2013-2014 City Budget Calendar the Budget Study Session Schedule. CEQA: Not a Project, File No. PP10-069. (City Manager's Office)  
[Rules Committee referral 11/14/12 – Item D(1)]

## 2. CONSENT CALENDAR

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### 2.23 Sikh Awareness Month Reception.

- \* **Recommendation:** As recommended by the Rules and Open Government Committee on November 14, 2012:
- (a) Approve the Sikh Awareness Month Reception as a City Council sponsored Special Event; and
  - (b) Approve expending funds and accept donations from various individuals, businesses, or community groups to support Operation Prom Dress.
- CEQA: Not a Project, File No. PP10-066. (Kalra)  
[Rules Committee referral 11/14/12 – Item G(2)]

### 2.24 Coyote Valley Celebration Event.

- \* **Recommendation:** As recommended by the Rules and Open Government Committee on November 14, 2012:
- (a) Approve the Coyote Valley Celebration Event as a City Council sponsored Special Event; and
  - (b) Approve expending funds and accept donations from various individuals, businesses, or community groups to support Operation Prom Dress.
- CEQA: Not a Project, File No. PP10-066. (Kalra)  
[Rules Committee referral 11/14/12 – Item G(3)]

### 2.25 Authorization to Pay Reward.

**Recommendation:** As recommended by the Rules and Open Government Committee on November 14, 2012, authorize the City Clerk to expend \$10,000 in payment of a reward for assistance in the arrest and conviction of the perpetrator of a violent crime. CEQA: Not a Project, File No. PP10-069, City organizational and administrative activities. (City Clerk)  
[Rules Committee referral 11/14/12 – Item G(6)]

### 2.26 Actions Related to Mayor Reed’s Travel to Washington, D.C.

**Recommendation:**

- (a) Approve travel by Mayor Reed to Washington, D.C. on November 28, 2012 to participate in the Silicon Valley Leadership Group’s Annual Washington, D.C. Advocacy Trip. Source of Funds: Mayor’s Office Funds. (Mayor)
  - (b) Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on November 28, 2012 due to Authorized City Business: Silicon Valley Leadership Group Annual Washington, D.C. Advocacy Trip. (Mayor)
- \* (Orders of the Day)

### 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.**

#### 3.3 Defined Contribution Option Plan for New Employees in Unit 99.

**Recommendation:** Approve an Ordinance amending Title 3 of the San José Municipal Code to amend various sections of Chapter 3.28 and to add a new Chapter 3.49 for the purposed of establishing an option between the Tier 2 Defined Benefit plan and a Defined Contribution 401(a) Plan that excludes participation in retiree healthcare, for Unclassified Executive Management and Professional Employees (Unit 99) who are hired on or after January 20, 2013. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager’s Office)

\* **RECOMMEND DEFERRAL TO 12/4/12 PER ADMINISTRATION**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 [TEFRA Hearings for the Issuance of Tax-Exempt Multifamily Revenue Bonds to Construct the Seventh and Taylor Ajisai Apartments and Orvieto B Apartments.](#)

\* **Recommendation:**

- (a) Hold a Tax Equity and Fiscal Responsibility Act public hearing for the issuance of up to \$27,000,000 in tax-exempt private-activity bonds by the California Statewide Communities Development Authority (“CSCDA”) for the new construction of ROEM Development Corporation’s proposed 103 unit Ajisai Apartments located at Seventh and Taylor Streets by ROEM Development Corporation;
- (b) Hold a Tax Equity and Fiscal Responsibility Act public hearing for the issuance of up to \$24,000,000 of tax-exempt private-activity bonds by CSCDA for the new construction of ROEM Development Corporation’s proposed 106 unit Orvieto B Apartments located at the corner of Montecito Vista Drive and Montecito Vista Way by ROEM Development Corporation; and
- (c) Adopt a resolution approving the issuance of Tax-Exempt Revenue Bonds by CSCDA in a principal amount not to exceed \$27,000,000 to be used by ROEM Development Corporation to finance the [Ajisai Apartments](#) and pay certain expenses incurred in connection with the issuance of the bonds.
- (d) Adopt a resolution approving the issuance of Tax-Exempt Revenue Bonds by CSCDA in a principal amount not to exceed \$24,000,000 to be used to finance the [Orvieto B Apartments](#) and pay certain expenses incurred in connection with the issuance of funds.

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. Council Districts 3 and 7. (Finance/Housing)

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.2 [Historic Landmark Nomination and Mills Act Historical Property Contract for the “Burns House”.](#)

**Recommendation:** Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Burns House” located at 255 North 5<sup>th</sup> Street (City Landmark No. HL12-204 and California Mills Act No. MA12-004).

- (a) Conduct a public hearing and adopt a [resolution](#) designating the “Burns House” as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
- (b) Conduct a public hearing on the Historical Property [Contract](#) between the City of San José and the owners of the “Burns House” (Steve Cohen, dba Mojmir Properties, LLC, owner) and adopt a [resolution](#) approving the contract.

The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation and Historic Property Contract for the “Burns House” at 255 North 5<sup>th</sup> Street (3-0-1-1, Abatecola absent and Cohen recused). SNI: 13<sup>th</sup> Street. CEQA: Exempt. (Planning, Building and Code Enforcement)

[HL12-204/MA12-004](#) – District 3

### 4.3 [Historic Landmark Nomination and Mills Act Historical Property Contract for the “Caputo House”.](#)

**Recommendation:** Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Caputo House” located at 494 South Cypress Avenue (City Landmark No. HL12-205 and California Mills Act No. MA12-005).

- (a) Conduct a public hearing and adopt a [resolution](#) designating the “Caputo House” as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
- (b) Conduct a public hearing on the [Historical Property Contract](#) between the City of San José and the owners of the “Caputo House” (Krista Van Laan, Owner) and adopt a [resolution](#) approving the contract.

The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation and Historic Property Contract for the “Caputo House” at 494 S. Cypress Avenue (5-0). CEQA: Exempt. (Planning, Building and Code Enforcement)

[HL12-205/MA12-005](#) – District 1

### 4.4 [Historic Landmark Nomination and Mills Act Historical Property Contract for the “Croft House”.](#)

**Recommendation:** Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Croft House” located at 1305 Martin Avenue (City Landmark No. HL12-206 and California Mills Act No. MA12-006).

- (a) Conduct a public hearing and adopt a [resolution](#) designating the “Croft House” as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.

*(Item continued on the next page)*

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.4 Historic Landmark Nomination and Mills Act Historical Property Contract for the “Croft House”. (Cont’d.)

**Recommendation:**

- (b) Conduct a public hearing on the [Historical Property Contract](#) between the City of San José and the owners of the “Croft House” (Michael Brandeberry, Owner) and adopt a [resolution](#) approving the contract.

The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation and Historic Property Contract for the “Croft House” at 1305 Martin Avenue (5-0). CEQA: Exempt. (Planning, Building and Code Enforcement)  
HL12-206/MA12-006 – District 6

### 4.5 [Historic Landmark Nomination and Mills Act Historical Property Contract for the “Ruddick Triplex”.](#)

**Recommendation:** Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Ruddick Triplex” located at 499 East Reed Street (City Landmark No. HL12-207 and California Mills Act No. MA12-007).

- (a) Conduct a public hearing and adopt a [resolution](#) designating the “Ruddick Triplex” as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
- (b) Conduct a public hearing on the [Historical Property Contract](#) between the City of San José and the owners of the “Ruddick Triplex” (Carol Cobb, Owner) and adopt a [resolution](#) approving the contract.

The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation and Historic Property Contract for the “Ruddick Triplex” at 499 E. Reed Street (5-0). SNI: University. CEQA: Exempt. (Planning, Building and Code Enforcement)  
HL12-207/MA12-007 – District 3

### 4.6 [Historic Landmark Nomination and Mills Act Historical Property Contract for the “Pomeroy House”.](#)

**Recommendation:** Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Pomeroy House” located at 225 Sequoia Avenue (City Landmark No. HL12-208 and California Mills Act No. MA12-008).

- (a) Conduct a public hearing and adopt a [resolution](#) designating the “Pomeroy House” as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
- (b) Conduct a public hearing on the [Historical Property Contract](#) between the City of San José and the owners of the “Pomeroy House” (Deborah Arant and Richard Nieset, Owners) and adopt a [resolution](#) approving the contract.

The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation and Historic Property Contract for the “Pomeroy House” at 225 Sequoia Avenue (5-0). CEQA: Exempt. (Planning, Building and Code Enforcement)  
HL12-208/MA12-008 – District 6

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.7 Rezoning Real Property Located at/on the Southwest Corner of Saratoga Avenue and Kiely Boulevard.

**Recommendation:** Consideration of an [ordinance](#) rezoning the real property located at/on the southwest corner of Saratoga Avenue and Kiely Boulevard (403 Saratoga Avenue) from CG Commercial General Zoning District to the CN Commercial Neighborhood Zoning District (Lopina Michael A Trustees et al, Owner). CEQA: Envision San José 2040 General Plan EIR Resolution No. 76041. (Planning, Building and Code Enforcement)  
C12-021 – District 1

### 4.8 Naming Rights and Sponsorship for San José Civic Auditorium and Center for the Performing Arts.

**Recommendation:** As recommended by the Rules and Open Government Committee on November 14, 2012:

- (a) Conduct a public hearing in accordance with City Council Policy 7-2 on the renaming of the San José Civic Auditorium in exchange for a five-year sponsorship and naming rights agreement with City National Bank in the net amount of \$870,000 to the City of San José.

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**DROP – THIS ACTION WAS CONDUCTED AT THE RULES AND OPEN GOVERNMENT COMMITTEE MEETING OF 11/14/12**

- (b) Adopt a [resolution](#):
- (1) Authorizing the City Manager to negotiate and execute any required agreements or amendments to existing agreements with City National Bank, Team San José, Front Row Marketing Services, L.P., or Nederlander Concerts San José, LLC, for naming rights at the San José Civic Auditorium and sponsorship rights at the Center for the Performing Arts, for a period of five years and total fee of \$1.2 million with a net amount of \$870,000 to the City of San José, with these funds specifically dedicated to the San José Civic Auditorium and Center for the Performing Arts marketing and capital needs to support the activation and long-term use of these venues; and
  - (2) Delegating the authority to approve the renaming of the San José Civic Auditorium to the City Manager.

CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts. (Economic Development)  
[Rules Committee referral 11/14/12 – Item G(4)]

## 5. NEIGHBORHOOD SERVICES

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### 5.1 [Agreement with San José Unified School District for the Construction and Joint Use of Soccer Fields at Steinbeck Middle School.](#)

**Recommendation:** Adopt a resolution that authorizes the City Manager to negotiate and execute an agreement with the San José Unified School District that provides for the City to access District property for the design, construction, operation, maintenance and joint use of an artificial turf soccer field and support amenities including parking, restroom and storage, lighting, fencing, and an optional second artificial turf sports field with lighting and fencing at Allen at Steinbeck Middle School. The term of the Agreement is for a period of 25 years from the date of full execution plus the number of months necessary for the term to end on the following June 30th. CEQA: Exempt, File No. PP12-088. Council District 10. (Parks, Recreation and Neighborhood Services)

### 5.2 [Community Center Reuse Update.](#) [Memo from Councilmember Campos](#)

**Recommendation:** As recommended by the Neighborhood Services and Education Committee on November 8, 2012:

- (a) Accept the Community Center Reuse Update Report: and
- (b) Adopt a [resolution](#) adding the Capitol Park Neighborhood Center and Spartan Keyes Neighborhood Center to the Community Center Reuse list and revising Council Policy 7-12 to extend the temporary suspension of the competitive solicitation process for unique services through Fiscal Year 2012-2013.

CEQA: Not a Project, File No. PP10-068. (Parks, Recreation and Neighborhood Services)

[Neighborhood Services and Education Committee referral 11/8/12 – Item D(2)]

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 [Automated Transit Network Feasibility Study.](#)

**Recommendation:** As recommended by the Transportation and Environment Committee on November 5, 2012, accept the staff report and presentation on the Automated Transit Network (ATN) Feasibility Study. (Transportation)

[Transportation and Environment Committee referral 11/5/12 – Item D(5)]

**DEFER TO 12/4/12 PER RULES AND OPEN GOVERNMENT COMMITTEE**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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## 8. PUBLIC SAFETY SERVICES

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## **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.*

- **Evening Session Cancelled**



## 10. GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearing at this time.

## 11. PUBLIC HEARINGS

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(To be heard by the City Council at 7:00 p.m.)

### ***PLEASE NOTE: EVENING SESSION CANCELLED***

**Notice to the public:** There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) 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 will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

### **11.1 Public Hearings on Consent Calendar.**

#### **Recommendation:**

- \* (a) [Consideration of an ordinance rezoning the real property located at/on the east side of Monterey Road, approximately 300 feet southerly of East Alma Avenue on Monterey Road, to allow a third drive through use for a previously approved shopping center \(carwash for gas station\). CEQA: FEIR for Sun Garden Project, Resolution No. 75929.](#)  
[PDC12-023 – District 7](#)  
**DEFER TO 12/4/12 PER RULES AND OPEN GOVERNMENT COMMITTEE**

### **11.2 [Rezoning Real Property Located at 6782 and 6790 San Felipe Road.](#)**

- \* **Recommendation:** Consideration of an ordinance rezoning the real property located at 6782 and 6790 San Felipe Road from the R-1-1 Single-Family Residence District to the A(PD) Planned Development Zoning District to allow for the development of up to 4 single-family detached residential units on a 2.14 gross acre site (DAL Properties LLC/Mark Lazzarini, Owner). CEQA: Mitigated Negative Declaration, Resolution to be adopted.  
[PDC11-012 – District 8](#)  
(Deferred from 10/23/12 – Item 11.2)  
**DEFER TO 12/4/12 PER RULES AND OPEN GOVERNMENT COMMITTEE**

# 11. PUBLIC HEARINGS

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## 11.3 Conduct ADMINISTRATIVE HEARINGS and Consider an Appeal of the Planning Director's Adoption of the Mitigated Negative Declaration for the Harker School and an Appeal of the Planning Director's Approval of the Planned Development Permit, File No. PD12-027.

\* **Recommendation:**

- (a) Conduct an ADMINISTRATIVE HEARING and consider an Appeal of the Planning Director's adoption of the Mitigated Negative Declaration (MND) for the proposed project, The Harker School, File No. PD12-027, a Planned Development Permit to allow redevelopment of the existing 7.7 acre former Santa Clara County Children's Shelter campus including demolition of two existing 4,800 square foot buildings, construction of a new 17,500 square foot multi-purpose building, a 2,500 square foot accessory structure, and other site improvements for a private elementary school for up to 600 pre-Kindergarten through fifth grade students. In addition, consider adoption of a resolution to uphold the Planning Director's adoption of the Mitigated Negative Declaration and certify that:
- (1) The City Council has read and considered the Mitigated Negative Declaration;
  - (2) The Mitigated Negative Declaration has been completed in compliance with the California Environmental Quality Act (CEQA);
  - (3) On the basis of the whole of the administrative record that there is no substantial evidence that the project will have a significant effect on the environment;
  - (4) The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of San José; and
  - (5) The Director of Planning, Building and Code Enforcement shall transmit copies of the Mitigated Negative Declaration to any other decision-making body of the City of San José for the project.
- (b) Conduct an ADMINISTRATIVE HEARING and consider an Appeal of the Planning Director's decision to approve a Planned Development Permit for The Harker School project, File No. PD12-027, and consider adoption of a resolution approving this Planned Development Permit.

CEQA: Mitigated Negative Declaration, Resolution to be adopted..

PD12-027 – District 9

**DEFER TO 12/4/12 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>
9951	South side of Paula Street, approximately 200 feet west of Race Street	6	Rockwell Homes, Inc	8 Lots / 8 Units	SFD	Approve
10028	East side of Boynton Avenue, approximately 150 feet North of Underwood Drive	1	Hammond and Sophia Ku	5 Lots / 4 Units	SFA	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9951	South side of Paula Street, approximately 200 feet west of Race Street	6	Rockwell Homes, Inc	8 Lots / 8 Units	SFD

- **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 Judith Ann (Fieber) Henderson, a resident of San Jose for over 40 years, a former staff member for District 2 Councilwoman Judy Stabile from 1985 to 1993, and an avid supporter of preserving historic buildings throughout San Jose. (Pyle)

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

**1:30 P.M.**

**TUESDAY, NOVEMBER 27, 2012**

**CHAMBERS**

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- 1. Call to Order and Roll Call**
- 2. [Actions Related to the City of San José Financing Authority's Commercial Paper Program.](#)**

**Recommendation:**

- (a) It is recommended that the City Council adopt a [resolution](#) to:
  - (1) Authorize the negotiation, execution, and delivery of an [Amended and Restated Letter of Credit and Reimbursement Agreement](#) for the City of San José Financing Authority's Lease Revenue Commercial Paper Notes Program for an alternate credit facility and to authorize other related actions.
- (b) It is recommended that the City of San José Financing Authority Board adopt a [resolution](#) to:
  - (1) Authorize the negotiation, execution, and delivery of an Amended and Restated Letter of Credit and Reimbursement Agreement for the City of San José Financing Authority's Lease Revenue Commercial Paper Notes Program for an alternate credit facility and to authorize other related actions.

CEQA: Not a project, PP10-069, City organizational and administrative activities.  
(Finance)

- 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.