



CITY COUNCIL AGENDA

DECEMBER 4, 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. 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
- 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (Mayor)**

- * Pastor Richard Mock, Cathedral of Faith

- **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 Gunnery Sergeant Harold “Skip” Adams (United States Marine Corps, retired) who passed away on November 12, 2012 at 86 years of age. Skip served his country during World War II at the Battle of Iwo Jima, and later became an enthusiastic promoter of the Spirit of ’45 Campaign to preserve the memories of those who witnessed the end of that war and worked to create the era of peace that followed. (Herrera)

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

- Orders of the Day (Cont'd.)

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

- Closed Session Report

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to the Santa Clara Valley Science and Engineering Fair Association and the 2012 Winners from San José. (Kalra)
TO BE HEARD NO EARLIER THAN 7:00 P.M.
(Deferred from 11/27/12 – Item 1.2)
- 1.2** Presentation of a commendation to India Currents magazine in recognition of their 25 years commitment to the community. (Chu/Kalra)
- 1.3** Presentation of a plaque to the Great American Litter Pick-Up 2012 winner. (Chu)
* (Deferred from 11/27/12 – Item 1.1)

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.

Recommendation: Approval of minutes.

- (a) [Regular Minutes of February 14, 2012](#)
- (b) [Regular Minutes of February 28, 2012](#)
- (c) [Regular Minutes of March 06, 2012](#)
- (d) [Regular Minutes of March 13, 2012](#)
- (e) [Regular Minutes of March 20, 2012](#)
- (f) [San José Housing Authority Minutes of March 20, 2012](#)
- (g) [Regular Minutes of March 27, 2012](#)
- (h) [Study Session Minutes on Future Retirement Costs of March 29, 2012](#)
- (i) [Regular Minutes of April 03, 2012](#)
- (j) [Regular Minutes of April 10, 2012](#)
- (k) [Regular Minutes of April 17, 2012](#)
- (l) [Regular Minutes of April 24, 2012](#)

(Item continued on the next page)

2. CONSENT CALENDAR

2.1 Approval of Minutes. (Cont'd.)

Recommendation: Approval of minutes.

- (m) [Regular Minutes of May 1, 2012](#)
- (n) [Joint San José / Diridon Development Authority Minutes of May 1, 2012](#)
- (o) [Regular Minutes of May 8, 2012](#)
- (p) [2012-2013 Budget Session Minutes of May 9, 2012 through May 11, 2012](#)
- (q) [Regular Minutes of May 15, 2012](#)

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.

* [Deferred from 11/27/12 – Item 2.2(a)]

2.3 Approval of Council Committee Reports.

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) [Request for an excused absence for Councilmember Chu from the Regular Meeting of the City Council on November 27, 2012 due to Authorized City Business: National League of Cities – 2012 Congress of Cities & Exposition in Boston, MA. \(Chu\)](#)

* (Rules Committee referral 11/28/12)

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2. CONSENT CALENDAR

2.7 [Appointments to the Boards of Administration of the Police and Fire Department Retirement Plan and the Federated City Employees' Retirement System.](#)

[Supplemental Memo and Applications](#)

[Memo from the City Attorney](#)

[Memo from Code Enforcement](#)

Recommendation:

- (a) Accept the City Clerk's Certification of results of elections conducted among the Retired members of the Police and Fire Department Retirement Plan for the Police Retiree representative to the Police and Fire Retirement Board and among the Retired members of the Federated Retirement System for the Federated Retiree representative to the Federated Retirement Board;
- (b) Appoint one Retired member to the Board of Administration of the Federated City Employees Retirement System (FCERS) to a term expiring November 30, 2016;
- (c) Appoint one Police Department Retired member to the Board of Administration of the Police and Fire Department Retirement Plan to a term expiring November 30, 2016;
- (d) Appoint one Public member to the Board of Administration of the Federated City Employees' Retirement System (FCERS) to a term expiring November 30, 2016; and
- (e) Appoint one Public member to the Board of Administration of the Police and Fire Department Retirement Plan to a term expiring November 30, 2016.

(City Clerk)

2.8 [Actions Related to Public Records Policy and Protocol.](#)

Recommendation: Adopt a [resolution](#) approving the provisions in Council Policy 0-33, "Public Records Policy and Protocol," related to the treatment of certain communications of the Mayor, Councilmembers and their staff made through non-City devices as public records, previously approved as a one-year pilot program retroactive to the expiration of the pilot program. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy. (City Manager's Office)

2.9 [Joint Use Agreement with the Santa Clara Valley Water District for the Los Alamitos/Calero Creek Trail.](#)

Recommendation: Approve a [Joint Use Agreement](#) with the Santa Clara Valley Water District for continued operation and maintenance of recreational facilities along Los Alamitos Creek Trail, Calero Creek Trail and Pfeiffer Park on Santa Clara Valley Water District property for a term of 25 years, with City option to renew for another 25 years. CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding. (Parks, Recreation and Neighborhood Services)

2.10 [First Quarter Financial Reports for Fiscal Year 2012-2013.](#)

- * **Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on November 15, 2012, accept the First Quarter Financial Reports for Fiscal Year 2012-2013. CEQA: Exempt. (Finance)
[Public Safety, Finance and Strategic Support Committee referral 11/15/12 – Item D(5)]

2. CONSENT CALENDAR

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

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)

* (Deferred from 11/27/12 – Item 2.7)

2.12 [Councilmember Herrera's Travel to Sacramento, CA.](#)

Recommendation: Approve travel by Councilmember Herrera to Sacramento, CA on November 15 – 16, 2012 to attend the CA League of Cities to attend the Transportation, Communication & Public Works Committee Meeting/Women's Caucus. Source of Funds: League of California Cities. (Herrera)

* (Rules Committee referral 11/28/12)

2.13 [Council District 10 Farewell Community Appreciation Reception.](#)

Recommendation:

- (a) Approve Councilmember Nancy Pyle's Farewell Community Appreciation Reception as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (City Clerk)

* (Rules Committee referral 11/28/12)

2.14 [Board and Commission Appointments.](#)
[Memo from Councilmember Campos](#)

Recommendation: As recommended by the Rules and Open Government Committee on November 28, 2012:

- (a) Appoint Matthew Domenici to the Airport Commission for the balance of an unexpired term ending June 30, 2014;
- (b) Appoint Linda Sending and Mita Mistry to the Early Care and Education Commission for the balance of two vacant seats with unexpired terms ending June 30, 2013;
- (c) Appoint Marilyn Messina to the Historic Landmarks Commission for an unexpired term ending June 30, 2014;
- (d) Reappoint Tim Tom and appoint Samuel Duval, Ralph McLaughlin, and Patrick Ngo to the Housing and Community Development Commission to terms expiring December 31, 2013;

(Item continued on the next page)

2. CONSENT CALENDAR

2.14 Board and Commission Appointments. (Cont'd.)

Recommendation:

- (e) Appoint Chris Roth to the Library Commission for a term expiring June 30, 2013; and
 - (f) Reappoint Monna Lang, neutral representation, to the Mobilehome Advisory Commission for a short-term expiring December 31, 2013.
- (City Clerk)

* [Rules Committee referral 11/28/12 – Item F(1)(a)]

2.15 Exemption to Parks, Recreation and Neighborhood Services Donated Bench Recognition Program Administrative Policy.

Recommendation: As recommended by the Rules and Open Government Committee on November 28, 2012, approve an exemption to Item 4 (standard text for recognition plaque language) of the Parks, Recreation and Neighborhood Services Donated Bench Recognition Program Administrative Policy for the proposed donated park bench at Pfeiffer Park in recognition of Bev Head due to the tragic matter of her death on the Los Alamitos Creek Trail in 2009. (Pyle)

* [Rules Committee referral 11/28/12 – Item G(3)]

2.16 Councilmember Rocha's Travel to Washington, D.C.

Recommendation: As recommended by the Rules and Open Government Committee on November 28, 2012, approve travel by Councilmember Rocha to Washington, D.C. on November 27 – 29, 2012 to participate in the Silicon Valley Leadership Group Washington, D.C. Advocacy Trip as one of the City's designated representative. Source of Funds: Mayor/Council Travel Fund. (Rocha)

* [Rules Committee referral 11/28/12 – Item G(6)]

2.17 District 2 Holiday Appreciation Event.

Recommendation: As recommended by the Rules and Open Government Committee on November 28, 2012:

- (a) Approve the District 2 Holiday Appreciation 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 the event.

CEQA: Not a Project. (City Clerk)

* [Rules Committee referral 11/28/12 – Item G(7)]

2. CONSENT CALENDAR

2.18 Vietnamese New Year Flag Raising Ceremony.

Recommendation: As recommended by the Rules and Open Government Committee on November 28, 2012:

- (a) Approve the Vietnamese New Year Flag Raising Ceremony as a City Council sponsored Special Event; and
- (b) Approve expending funds and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (City Clerk)

* [Rules Committee referral 11/28/12 – Item G(8)]

2.19 BART to Berryessa Extension Project Community Meeting and District 4 Community Recognition Event.

Recommendation: As recommended by the Rules and Open Government Committee on November 28, 2012:

- (a) Approve the BART to Berryessa Extension Project Community Meeting and District 4 Community Recognition 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 the event.

CEQA: Not a Project. (City Clerk)

* [Rules Committee referral 11/28/12 – Item G(9)]

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 Defined Contribution Option Plan for New Employees in Unit 99.

* **Recommendation:**

- (a) Approve an Ordinance amending Title 3 of the San José Municipal Code to add new Chapter 3.49 and amending various sections of Chapter 3.28 for the purposes 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 Executive Management and Professional Employees (Unit 99), and who are hired on or after January 20, 2013.

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.3 Defined Contribution Option Plan for New Employees in Unit 99. (Cont'd.)

Recommendation:

- (b) Adopt a resolution appointing the City Manager as administrator of the Defined Contribution 401(a) plan and authorizing the City Manager to negotiate and execute the Adoption Agreement and the Basic Plan Agreement and other documents to administer the Plan.

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

(Deferred from 11/27/12 – Item 3.3)

3.4 [Agreement with Renne Sloan Holtzman and Sakai for Consulting Services Relating to Labor Relations.](#)

[Supplemental Memo from the City Attorney](#)

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to execute the first amendment to the [Agreement](#) with Renne Sloan Holtzman & Sakai, LLP for labor consulting services in connection with labor matters, increasing the contract amount by \$400,000, not to exceed \$650,000, and extending the contract term to December 31, 2014.
- (b) Adopt the following Appropriation Ordinance amendments in the General Fund:
 - (1) Increase the city-wide appropriation for Labor/Employee Relations Consulting Funding in the amount of \$350,000; and,
 - (2) Decrease the Fiscal Reform Plan Implementation Earmarked Reserve in the amount of \$350,000.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (City Manager's Office)

3.5 [Amendment to Meyers Nave Agreement for Legal Services Related to the Fiscal Reform Plan.](#)

[Supplemental Memo from the City Attorney](#)

Recommendation:

- (a) Adopt a resolution authorizing the City Attorney to negotiate and execute a second amendment to the agreement with Meyers, Nave, Riback, Silver & Wilson for legal services in connection with employment, labor, and pension reform, increasing the contract amount by \$950,000 for a total amount not to exceed \$1,200,000, subject to appropriation of funds as recommended below.
- (b) Adopt the following Appropriation Ordinance amendments in the General Fund:
 - (1) Increase the city-wide appropriation to the City Attorney's Office for Fiscal Reform Plan Outside Legal Counsel by the amount of \$1,000,000; and
 - (2) Decrease the Fiscal Reform Plan Implementation Earmarked Reserve by the amount of \$1,000,000.

* CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney's Office/City Manager's Office)

3. STRATEGIC SUPPORT SERVICES

3.6 [Comprehensive Annual Financial Report \(CAFR\).](#)

[Presentation](#)

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on November 15, 2012, accept the report on the Comprehensive Annual Financial Report. (Finance)

[Public Safety, Finance and Strategic Support Committee referral 11/15/12 – Item D(6)]

* **ITEMS 3.6 AND 3.7 TO BE HEARD LAST IN THE AFTERNOON PRIOR TO SAN JOSE FINANCING AUTHORITY**

3.7 [Comprehensive Annual Debt Report \(CADR\).](#)

[Presentation](#)

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on November 15, 2012:

- (a) Accept the report on the Comprehensive Annual Debt Report; and
- (b) [Adopt a resolution amending City Council Policy 1-15, “Debt Management Policy,”](#) to include additional guidance on the use of variable rate debt and short-term borrowing. [Resolution](#)

CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making. (Finance)

[Public Safety, Finance and Strategic Support Committee referral 11/15/12 – Item D(7)]

* **ITEMS 3.6 AND 3.7 TO BE HEARD LAST IN THE AFTERNOON PRIOR TO SAN JOSE FINANCING AUTHORITY**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Sale of City-Owned Property at 500 South First Street.](#)

[Memo from Councilmember Liccardo](#)

[Presentation](#)

Recommendation: Adopt a [resolution](#):

- (a) Declaring the property located at 500 South First Street, comprised of a 33,284 square foot building on an approximately 19,023 square foot parcel, surplus to the needs of the City;
- (b) Approving an [agreement](#) between the City and Movimiento de Arte y Cultura Latino Americana de San Jose, Incorporated for the sale of the property in the amount of \$1,400,000, \$650,000 to be paid in cash over a three-year period and \$750,000 to be paid in in-kind services over 20-year period; and
- (c) Authorizing the City Manager or her designee to execute the sale agreement, the deed, and all other documents necessary to complete the transaction.

CEQA: Exempt, File No. PP12-099. (Economic Development)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [Sale of a Portion of City-Owned Property on Emory Street.](#)

Recommendation: Adopt a resolution:

- (a) Declaring 28,990 square feet of vacated street on Emory Street, surplus to the needs of the City;
- (b) Approving an agreement between the City of San José and Bellarmine College Preparatory (Bellarmine) for sale of the property in the amount of \$325,000; and
- (c) Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction.

CEQA: Mitigated Negative Declaration, File No. PDC07-072. (Economic Development)

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

4.3 [Environmental Impact Report for the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan.](#)

[Memo from Councilmembers Chu and Kalra](#)

[Supplemental Memo from the Director of PBCE](#)

* **Recommendation:** Conduct an ADMINISTRATIVE HEARING and consider an appeal of the Planning Commission's certification of the Environmental Impact Report (EIR) for the proposed project, the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan. In addition, consider adoption of a resolution to uphold the Planning Commission's certification of the EIR and certify that:

- (a) The City Council has read and considered the EIR;
- (b) The EIR has been completed in compliance with the California Environmental Quality Act (CEQA);
- (c) 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;
- (d) The EIR reflects the independent judgment and analysis of the City of San Jose;
- (e) The Director of Planning, Building and Code Enforcement shall transmit copies of the EIR to any other decision-making body of the City of San Jose for the project.

(Planning, Building and Code Enforcement)

(Deferred from 9/25/12 – Item 4.3)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

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)]
(Deferred from 11/27/12 – Item 6.1)

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 [Acceptance of the Basic Financial Statements for both the Redevelopment Agency of the City of San Jose and the Successor Agency to the Redevelopment Agency.](#)

Recommendation: Accept the Basic Financial Statements for both the Redevelopment Agency of the City of San José for the period July 1, 2011 to January 31, 2012 and the Successor Agency to the Redevelopment Agency of the City of San José for the period February 1, 2012 to June 30, 2012. (Finance)

* (Rules Committee referral 11/28/12)

TO BE HEARD WITH ITEM 3.6

- **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.

- **Council will recess until 7:00 p.m.**

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

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

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. [Ordinance](#)
[PDC12-023](#) – District 7
[Deferred from 11/27/12 – Item 11.1(a)]

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. Planning Commission recommend approval (7-0-0).
[PDC11-012](#) – District 8
(Deferred from 10/23/12 – Item 11.2 and 11/27/12 – Item 11.2)

11. PUBLIC HEARINGS

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.

Attachment – Memo from Councilmember Rocha

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

(Deferred from 11/27/12 – Item 11.3)

- **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 Gunnery Sergeant Harold "Skip" Adams (United States Marine Corps, retired) who passed away on November 12, 2012 at 86 years of age. Skip served his country during World War II at the Battle of Iwo Jima, and later became an enthusiastic promoter of the Spirit of '45 Campaign to preserve the memories of those who witnessed the end of that war and worked to create the era of peace that followed. (Herrera)

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

1:30 P.M.

TUESDAY, DECEMBER 4, 2012

CHAMBERS

- 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)

* (Deferred from 11/27/12)

- 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.