



# CITY COUNCIL AGENDA

**SEPTEMBER 16, 2014**

## **SYNOPSIS AMENDED**

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  
JOHNNY KHAMIS

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 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 <http://www.sanjoseca.gov/index.aspx?NID=3549>. 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  
**Absent Councilmembers: Constant.**  
1:33 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Councilmembers: Constant.**
- **Invocation (District 8)**  
Pastor Rodney Nelson, East Valley Pentecostal, provided the Invocation.
- **Pledge of Allegiance**  
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day and the Amended Agenda were approved.

- **Closed Session Report**  
None provided.

## **1. CEREMONIAL ITEMS**

---

- 1.1 Presentation of the League of California Cities’ 2014 Helen Putnam Award to the Environmental Services Department for its “Bring Your Own Bag” ordinance. (Chu)  
**Mayor Reed and Councilmember Chu presented the League of California Cities’ 2014 Helen Putnam Award to the Environmental Services Department for its “Bring Your Own Bag” ordinance, and commendations were presented to the Clean Water Action Group, Save the Bay and Save the Shores.**
- 1.2 Presentation of a commendation for the 25<sup>th</sup> Anniversary of the Partners in Reading program. (Library)  
**Mayor Reed, Councilmember Herrera and City Manager, Edward K. Shikada presented a commendation to the Library staff and volunteers for the 25<sup>th</sup> Anniversary of the Partners in Reading program.**
- 1.3 Presentation of proclamation declaring the week of September 14th through 20th as Balance Awareness Week in the City of San José. (Herrera)  
**Mayor Reed and Councilmember Herrera presented a proclamation declaring the week of September 14th through 20th as Balance Awareness Week in the City of San José.**

## **2. CONSENT CALENDAR**

---

- 2.1 **Approval of Minutes.**  
None provided.
- 2.2 **Final Adoption of Ordinances.**  
None provided.
- 2.3 **Approval of Council Committee Reports.**

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

- (a) Public Safety, Finance, and Strategic Support Committee Report of August 21, 2014. (Constant)  
[Deferred from 9/9/14 – Item 2.3(f)]
- (b) Community and Economic Development Committee of August 25, 2014. (Herrera)  
[Deferred from 9/9/14 – Item 2.3(g)]
- (c) Airport Competitiveness Committee Report of August 22, 2014. (Mayor)
- (d) Rules and Open Government Committee Report of August 27, 2014. (Mayor)  
**Approved.**

## 2. CONSENT CALENDAR

---

### 2.4 Mayor and Council Excused Absence Requests.

**Recommendation:**

- (a) Request for an excused absence for Vice Mayor Nguyen from the Closed Sessions and Council Meetings on September 23, 2014 and September 30, 2014 and the Regular Meetings of Rules and Open Government Committee on September 24, 2014 and October 1, 2014 due to Authorized City Business: 2014 New Generation Seminar: *“The Realities of a Changing Climate: Meeting the Challenge”*.

(Nguyen)

(Rules Committee referral 9/10/14)

**Excused.**

### 2.5 City Council Travel Reports.

**None provided.**

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

**None provided.**

### 2.7 Status Report on Reverse 911 System For Daycare and Afterschool Programs.

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on August 21, 2014:

- (a) Accept staff’s report regarding options available to the San José Police Department to inform private daycares and afterschool programs of an imminent threat to public safety;

**Accepted.**

- (b) Approve the new provider agreement between the City of San José and County of Santa Clara to use the County-wide AlertSCC Regional Mass Notification System, at no cost to the City, for emergency notifications.

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

[Public Safety, Finance, and Strategic Support Committee 8/21/14 – Item D(4)]

(Deferred from 9/9/14 – Item 2.14)

**Approved.**

## 2. CONSENT CALENDAR

---

### 2.8 Actions Related to the Airport Concession Disadvantaged Business Enterprise Program.

**Recommendation:** Adopt a resolution to:

- (a) Approve the three-year Airport Concession Disadvantaged Business Enterprise (ACDBE) Program update in accordance with the regulations of the Federal Aviation Administration (FAA);
- (b) Approve the three-year ACDBE participation target of 10.57% for all Airport concessions, other than car rentals, for Federal Fiscal Years (FFY) 2015 through 2017;
- (c) Approve the three-year ACDBE participation target of 3.46% for car rentals, for FFYs 2015 through 2017;
- (d) Authorize the City Manager to submit the three-year ACDBE participation plan update to the FAA;
- (e) Authorize the City Manager to make revisions to the three-year ACDBE participation plan as requested by the FAA.

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

**Resolution No. 77160 adopted, with staff directed to return to Council in three weeks with an outreach plan communicating bidding opportunities to local disadvantaged and other small and local business enterprises, encouraging participation in concessions and other business opportunities at the airport.**

### 2.9 Settlement Agreement in case of Celina Galindo, et al. v. Lee Tassio, et al.

**Recommendation:** Approve a settlement in the amount of \$300,000 to each plaintiff, inclusive of attorneys' fees, for an aggregate total amount of \$900,000, and authorize the City Attorney to execute a Settlement Agreement to settle the case of *Celina Galindo, et al. v. Lee Tassio, et al.* CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney)

**Approved.**

### 2.10 Audit of Customer Call Handling.

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on August 21, 2014, accept the Audit of Customer Call Handling.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (City Auditor)

[Public Safety, Finance, and Strategic Support Committee referral 8/21/14 – Item D(8)]

**Renumbered to Item 3.5**

## 2. CONSENT CALENDAR

---

### 2.11 San José Downtown Association Agreement.

**Recommendation:** Adopt a resolution authorizing the City Manager to:

- (a) Execute a Services Agreement with the San José Downtown Association for services to market and promote Downtown San José for the period of July 1, 2014 through June 30, 2015 for an amount not to exceed \$420,000;
- (b) Negotiate and execute subsequent amendments to the Agreement to revise the scope of services, subject to the appropriation of funds; and
- (c) Execute up to four additional one-year options to extend the agreement through June 30, 2019 to provide ongoing services for an estimated annual cost of \$320,000, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. Council District 3. (Economic Development)

**Resolution No. 77156 Adopted.**

### 2.12 Amendment to the Sewer Use Regulations.

**Recommendation:** Approve an ordinance amending Chapter 15.14 of Title 15 of the San José Municipal Code to add a new Section 15.14.248 and amend Section 15.14.755 to add a new definition of the Clean Water Act and modify permit conditions to allow the transfer of discharge permits in the event of a change of ownership. CEQA: Not a Project; File No. PP10-068(c), Municipal Code amendments that involve no changes to the environment. (Environmental Services)

**Ordinance No. 29486 passed for publication.**

### 2.13 Annual Review and Proposed Amendments of the City's Investment Policy.

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on August 21, 2014, adopt a resolution approving revisions to the City of San José's Investment Policy. CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making. (Finance)

[Public Safety, Finance, and Strategic Support Committee referral 8/21/14 – Item D(6)]

**Resolution No. 77157 Adopted.**

### 2.14 Contract Change Order for the Street Resurfacing Project.

**Recommendation:** Approve Contract Change Order No. 1 in the amount of \$280,313 for the 2013 Relinquishment Project. CEQA: Exempt, File No. PP11-035. (Transportation)

**Approved.**

### 3. STRATEGIC SUPPORT SERVICES

---

3.1 **Report of the City Manager, Edward Shikada (Verbal Report).**  
None provided.

3.2 **Labor Negotiations Update.**  
None provided.

3.3 **Approval of Sale and Issuance of Bonds and Related Bond Documents for Airport Revenue Refunding Bonds, Series 2014A, Series 2014B, and Series 2014C.**

**Recommendation:** Adopt the Nineteenth Supplemental Resolution (the “Resolution”) of the City Council:

- (a) Authorizing the issuance of City of San José Airport Revenue Refunding Bonds, Series 2014A, Series 2014B, and Series 2014C, in an aggregate principal amount of not to exceed \$180,000,000 to be sold through negotiated sale;
- (b) Approving substantially final forms of Tenth Supplemental Trust Agreement, Preliminary Official Statement, Final Official Statement, Bond Purchase Agreement and Continuing Disclosure Certificate; authorizing the distribution of one or more Preliminary Official Statements and the Final Official Statements; and
- (c) Authorizing the City’s designated officers to take other necessary actions in connection therewith.

CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Finance)  
[Deferred from 9/9/14 – Item 3.4(b)]

**Resolution No. 77158 Adopted.**

3.4 **Approval of the Issuance of a Tax-Exempt Multifamily Housing Revenue Notes and Loan of Note Proceeds for the Cambrian Center Project.**

**Recommendation:** Adopt a resolution:

- (a) Authorizing the issuance of (a) tax-exempt multifamily housing revenue notes designated as “City of San José Multifamily Housing Revenue Notes (Cambrian Center), Series 2014A-1 (the “Series 2014A-1 Note”) and Series 2014A-2 (the “Series 2014A-2 Note, with, the Series 2014A-1 Note, the “Series 2014A Tax-Exempt Notes”) in an aggregate principal amount not to exceed \$38,069,000 and
- (b) taxable multifamily housing revenue notes designated “City of San José Multifamily Housing Revenue Notes (Cambrian Center), Series 2014A-3 (the “Series 2014A-3 Note”) and Series 2014A-4 (the “Series 2014A-4 Note”, with the Series 2014A-3 Note, the “Series 2014A Taxable Notes”) in an aggregate principal amount not to exceed \$5,000,000;

*(Item Continued on the next page)*



### 3. STRATEGIC SUPPORT SERVICES

---

#### 3.4 Approval of the Issuance of a Tax-Exempt Multifamily Housing Revenue Notes and Loan of Note Proceeds for the Cambrian Center Project (Cont'd.)

**Recommendation:** Adopt a resolution:

- (b) Approving a loan of Series 2014A Tax-Exempt Note and Series 2014A Taxable Note proceeds to Eden Cambrian, L.P., a California limited partnership created by Eden Housing Inc., to finance the acquisition and rehabilitation of the Cambrian Center apartments located at 2360 Samaritan Place, in San José;
- (c) Approving in substantially final form the Funding Loan Agreement, Borrower Loan Agreement, Assignment of Deed of Trust, and Regulatory Agreement and Declaration of Restrictive Covenants (the “Series 2014A Documents”); and
- (d) Authorizing and directing the City Manager, Director of Finance, and Director of Housing, or their designees, to execute and, deliver the Series 2014A Documents and other related Series 2014A Tax-Exempt Note and Series 2014A Taxable Note documents as necessary.

CEQA: Negative Declaration, File No. PDC79-098. (Finance/Housing)

(Deferred from 9/9/14 – Item 3.5)

**Resolution No. 77159 adopted.**

#### 3.5 Audit of Customer Call Handling.

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on August 21, 2014, accept the Audit of Customer Call Handling.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (City Auditor)

[Public Safety, Finance, and Strategic Support Committee referral 8/21/14 – Item D(8)]

***Renumbered from Item 2.10***

**Accepted.**

#### 3.6 Patrol Staffing Retention Plan.

**Recommendation:** As recommended by the Rules and Open Government Committee on September 10, 2014, direct the City Manager to begin negotiations with the Police Officers Association and other applicable bargaining units to:

- (a) Enter into a stipulation to defer the implementation of the portion of Measure B that calls for our employees to make an additional 4% contribution of salary to the Police & Fire and Federated retirement plans or take a 4% reduction in pay, for at least an additional year beyond July 1, 2015, the expiration of the existing stipulation;

*(Item Continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

---

#### 3.6 Patrol Staffing Retention Plan.

- (b) Create a Patrol Staffing Retention Plan to allow officers with 25 years or more of experience to remain in a paid position on the force, in patrol, while receiving a distribution of pension benefits in some form. Such a program must avoid the large liabilities created by guaranteed rates of return in may “DROP” programs, and ensure that officers who remain on the force do so at a rank of officers or sergeant, serving in a patrol responsibility.

CEQA: Not a Project, File No. PP10 069(b), City Organizational & Administrative Activities, and File No. PP10-068(c), General Procedure & Policy Making.

(Mayor/Liccardo/Khamis)

[Rules Committee referral 9/10/14 – Item G(2)]

**Approved, with direction as outlined in Councilmember Liccardo’s memorandum of September 16, 2014, that (1) Under no circumstances can the Patrol Retention Staffing Plan increase aggregate unfunded liabilities or costs to the City’s retirement plan; (2) In addition to whatever is discussed in the September 16, 2014 open session, return in open session on any future Council agenda to address questions raised by Council about the actual Patrol Staffing Retention Plan being proposed by the Police Chief. That discussion should focus on what is actually proposed by the Chief, and should avoid the distraction of the pros and cons of any imagined “DROP” plans which are not being authorized for negotiation. In addition, the City Attorney and outside counsel should be included with the City Manager as handling the referenced part of the stipulation indicated in Staff’s memorandum of September 11, 2014, Section (a).**

**Noes: Chu, Kalra, Khamis, Rocha.**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

---

#### 4.1 Public Hearing on the FY 2013-2014 Consolidated Annual Performance Evaluation Report.

**Recommendation:** Conduct a Public Hearing on the FY 2013-2014 Consolidated Annual Performance Evaluation Report and approve the document for submittal to the U.S. Department of Housing and Urban Development by the September 30, 2014 deadline. CEQA: Not a Project, File No. PP10-069(a), Annual Report. (Housing)

**Public hearing held.**

**Approved, with staff to develop an internal report breaking down data identifying the City’s housing and community development goals and progress made.**

## 5. NEIGHBORHOOD SERVICES

---

## 6. TRANSPORTATION & AVIATION SERVICES

---

## 7. ENVIRONMENTAL & UTILITY SERVICES

---

## 8. PUBLIC SAFETY SERVICES

---

### 8.1 Use of Police Reserves.

**Recommendation:**

- (a) As recommended by the Public Safety, Finance, and Strategic Support Committee on May 15, 2014, accept the report on the Use of Police Reserves.
- (b) Accept the Police Department's workplan for revisions to San José Municipal Code Chapter 8.12 – San José Police Reserve.

CEQA: Not a Project, File No. PP10-069(A), Staff Reports. (Police)  
[Public Safety, Finance, and Strategic Support Committee 5/15/14 – Item D(2)]  
(Deferred from 6/17/14 – Item 8.1 and 8/5/14 – 8.1)

**Deferred to 9/23/14 per Rules and Open Government Committee.**

## 9. REDEVELOPMENT – SUCCESSOR AGENCY

---

- 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>
10266	1729 North 1 <sup>st</sup> Street	3	Barry Swenson Builder	1 / 376	MFA	Approval

- **Open Forum**

1. Ross Signorino offered recommendations and observations on security issues.
2. Richard McCoy discussed the importance of San José's Veteran's Day Parade and concerns regarding its financing.
3. Perry Nistry proposed an entrepreneurship development program for the homeless population.
4. Susan Landry presented issues regarding medical marijuana zoning certification and stressed the need for a time extension.
5. David Wall discussed fiscal waste in the City.

- **Adjournment**

**The Council of the City of San José adjourned at 3:49 p.m. in memory of San José resident Jit Singh Baniwal, who founded the Sikh Gurdwara San José in 1985. Jit worked as a high school teacher in India teaching Math and Science and migrated to San José in July 1977. He passed away on Friday, August 29, 2014 leaving behind his beloved wife and 3 children. (Herrera)**