



# CITY COUNCIL AGENDA

**OCTOBER 8, 2013**

**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  
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 [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp). Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2<sup>nd</sup> Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for the final document.

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

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

- **Call to Order and Roll Call**
  - 9:30 a.m. - Closed Session, Call to Order in Council Chambers
  - Open Session, Labor Negotiations Update (See Item 3.2)
  - Adjourn to Closed Session in Council Chambers Conference Room, W133
  - See [Separate Agenda](#)
  - 1:30 p.m. - Regular Session, Council Chambers, City Hall

- **Invocation (District 9)**
  - \* Jane Light, Former President of the San José Public Library Foundation

- **Pledge of Allegiance**

- **Orders of the Day**

\* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

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

- **Closed Session Report**

# 1. CEREMONIAL ITEMS

---

- 1.1 Presentation of a commendation to Rick Holden for 15 years of exceptional service to the Community Leadership Program. (Constant)  
(Deferred from 9/10/13 – Item 1.1)
- 1.2 Presentation of a proclamation recognizing the week of October 20-26, 2013 as “National Save for Retirement Week” in the City of San José. (Constant)
- 1.3 Presentation of a proclamation recognizing October 9, 2013 as “International Walk to School Day” in the City of San José in an effort to celebrate the many benefits of walking and bicycling to school. (City Council)  
\* (Rules Committee referral 10/2/13)

# 2. CONSENT CALENDAR

---

**Notice to the public:** There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

## 2.1 Approval of Minutes.

## 2.2 Final Adoption of Ordinances.

### [Supplemental](#)

**Recommendation:** Final adoption of ordinances.

- (a) [ORD. NO. 29314](#) – Amending Sections 9.10.2010 and 9.10.2020 of Chapter 9.10 of Title 9 of the San José Municipal Code relating to single-use carry-out bags.

## 2.3 Approval of Council Committee Reports.

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

- (a) [Rules and Open Government Committee Report of September 18, 2013](#). (Mayor)
- (b) [Public Safety, Finance, and Strategic Support Committee Report of September 19, 2013](#). (Constant)
- (c) [Community and Economic Development Committee Report of September 23, 2013](#). (Herrera)

## 2.4 Mayor and Council Excused Absence Requests.

## 2.5 City Council Travel Reports.

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

## 2. CONSENT CALENDAR

---

### 2.7 [Additional Right-of-Way for the Delmas/Park Rule 20B Underground Utility District Project.](#)

**Recommendation:** Approve an [ordinance](#) designating a 30-foot wide strip of City-owned property (Assessor's Parcel No. 259-46-076) located on the south side of Park Avenue east of Gifford Street, as public right-of-way for the purpose of implementing the construction of the Delmas/Park Rule 20B Underground Utility District Project and to accommodate the undergrounding of overhead utility facilities. CEQA: Exempt, File No. PP13-081. Council District 3. (Public Works)

### 2.8 [Councilmember Campos' Travel to Dublin, Ireland.](#)

**Recommendation:** Approve travel by Councilmember Campos to Dublin, Ireland on October 12 – 17, 2013, to attend the Dublin Sister City Delegation. Source of Funds: District 5 Council Funds. (Campos)

\* (Rules Committee referral 10/2/13)

### 2.9 [Actions Related to Mayor Reed's Travel to Washington D.C.](#)

**Recommendation:**

(a) Approve travel by Mayor Reed to Washington, D.C. on October 1-3, 2013, to join the Silicon Valley Leadership Group to advocate for federal policies to support Silicon Valley job creation and global competitiveness. Source of Funds: Mayor's Office Budget. (Mayor)

(b) Request for an excused absence for Mayor Reed from the City Council Meeting on October 1, 2013 and the Rules and Open Government Committee on October 2, 2013 due to Authorized City Business: Silicon Valley Leadership Group Fall CEO/Senior Officer Trip. (Mayor)

\* (Rules Committee referral 10/2/13)

### 2.10 [Councilmember Rocha's Travel to Los Angeles, CA.](#)

**Recommendation:** Approve travel by Councilmember Rocha to Los Angeles, CA on October 16-17, 2013, for the San José Silicon Valley Chamber Study Mission to Los Angeles. Source of Funds: Mayor/Council Funds. (Rocha)

\* (Rules Committee referral 10/2/13)

## 2. CONSENT CALENDAR

---

### 2.11 [Agreement with the National Aeronautics and Space Administration Ames Research Center \(NASA ARC\) for Use of Moffett Federal Airfield.](#)

**Recommendation:** Adopt a [resolution](#) ratifying the extension to the Reimbursable Space Act Agreement with the National Aeronautics and Space Administration Ames Research Center (NASA ARC) for utilization of Moffett Federal Airfield for Law Enforcement and Emergency Response Capabilities, for an extension period not to exceed three months, for support services related to the use of office and hangar space and estimated fuel costs. CEQA: Not a Project, File No. PP10-066(f), Lease of equipment of existing space for the same use. (Economic Development)

\* (Rules Committee referral 10/2/13)

### 2.12 [Hindu Awareness and Appreciation Month Reception.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on October 2, 2013:

- (a) Approve the Hindu Awareness and Appreciation Month Reception as a City Council sponsored Special Event; and
- (b) Approve expending funds and accepting donations from various individuals, businesses and community groups to support this event.

CEQA: Not a Project. (Kalra)

\* [Rules Committee referral 10/2/13 – Item G(2)]

### 2.13 [Documentary Showing on Community Gardens.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on October 2, 2013:

- (a) Approve the showing of a community gardens documentary as 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. (Oliverio)

\* [Rules Committee referral 10/2/13 – Item G(3)]

### 2.14 [San José Gun Buy Back.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on October 2, 2013:

- (a) Approve the San José Gun Buy Back as a City Council sponsored Special Event; and
- (b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.

(Campos)

[Rules Committee referral 10/2/13 – Item G(4)]

### 3. STRATEGIC SUPPORT SERVICES

---

#### 3.1 Report of the City Manager, Debra Figone (Verbal Report)

#### 3.2 Labor Negotiations Update

**Recommendation:** Accept Labor Negotiations Update.  
**TO BE HEARD AT 9:30 A.M.**

#### 3.3 [2012-2013 City Manager's Annual Report.](#)

[Supplemental Presentation](#)

\* **Recommendation:**

- (a) Accept the 2012-2013 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter Section 701 (F);
- (b) Adopt Appropriation Ordinance and Funding Sources Resolution amendments in various operating and capital funds to implement the 2012-2013 Annual Report recommendations, including appropriate technical adjustments, as detailed in Section IV (Recommended Budget Adjustments and Clean-Up Actions).
- (c) Approve the release of the Successor Agency to the Redevelopment Agency PERS Levy/Water District Levy General Fund Contingency Plan that was included in the 2013-2014 Adopted Budget.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (City Manager's Office)

#### 3.4 [Ordinance Requiring Employee Contributions to Federated Retirement Plan while Receiving Supplemental Military Pay.](#)

[Supplemental](#)

- \* **Recommendation:** Approve an [ordinance](#) amending Section 3.28.630 of Chapter 3.28 of Title 3 of the San José Municipal Code (the 1975 Federated Employees Retirement Plan) to require members to pay the employee's share of contributions when receiving supplemental military pay from the City during military service and to make changes in compliance with federal laws. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy change to Title 3 (Personnel). (City Attorney's Office)

#### 3.5 [Terms of an Agreement with the Association of Engineers and Architects, IFPTE, Local 21, Units 41/42 and Unit 43 \(AEA\).](#)

- \* **Recommendation:** Adopt a resolution:
- (a) Approving the terms of a collective bargaining agreement between the City and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21 (AEA), Units 41/42, and authorizing the City Manager to execute an agreement with a term of July 1, 2013, through June 30, 2014; and

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

---

#### 3.5 Terms of an Agreement with the Association of Engineers and Architects, IFPTE, Local 21, Units 41/42 and Unit 43 (AEA). (Cont'd.)

**Recommendation:**

- (b) Approving the terms of a collective bargaining agreement between the City and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21 (AEA), Unit 043, and authorizing the City Manager to execute an agreement with a term of July 1, 2013, through June 30, 2014.

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

#### 3.6 [Semi-Annual Recommendation Follow-Up Report on All Outstanding Audit Recommendations.](#)

- \* **Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on September 19, 2013, accept the Semi-Annual Recommendation Follow-Up Report on all Outstanding Audit Recommendations for the Six Months Ended June 30, 2013. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (City Auditor)  
[Public Safety, Finance, and Strategic Support Committee Referral 9/19/13 - Item D(6)]

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

---

#### 4.1 [Permit Fees for Residential and Commercial Roof Mounted Solar Energy.](#) [Memo from Councilmember Chu](#)

**Recommendation:** Adopt a [resolution](#) making the following findings for permit fees for Residential and Commercial Roof Mounted Solar Energy Permits which produce direct current electricity ("Photovoltaic System"):

- (a) The City has adopted appropriate ordinance, permit fees, and processes to streamline the submittal and approval of permits for solar energy systems pursuant to the practices and policies in state guidelines and model ordinances;
- (b) The City's cost for issuing Photovoltaic System permits is reasonable, and achieves cost recovery for the Building and Fire Departments administrative costs; and
- (c) The City's fee structure results in a quick and streamlined process for Photovoltaic System permits.

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Planning, Building and Code Enforcement)



## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

---

### **4.2 Envision San José 2040 Annual Report.**

- \* Recommendation: Accept the Envision San José 2040 General Plan Annual Review report. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (Planning, Building and Code Enforcement)  
**RECOMMEND DEFERRAL TO 10/22/13 PER ADMINISTRATION**

### **4.3 Ordinance Implementing 2013 California Building Standards.**

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on September 19, 2013, approve an ordinance amending Title 24 of the San José Municipal Code to:

- (a) Adopt the 2013 editions of the California Building Code (CBC), California Residential Code (CRC), California Electrical Code (CEC), California Mechanical Code (CMC), California Plumbing Code (CPC), California Historical Building Code (CHBC), California Existing Building Code (CEBC), California Green Building Standards Code (CALGreen) and the 2012 edition of the International Existing Building Code Appendix Chapters A2, A3 and A4; and
- (b) Adopt local amendments regarding certain structural design requirements, fire sprinkler regulations, and other building and fire safety requirements.

CEQA: Exempt, File No. PP13-082. (Planning, Building and Code Enforcement/Fire)  
[Public Safety, Finance and Strategic Support Committee Referral 09/19/13 – Item D(4)(1)]

**RECOMMEND DEFERRAL TO 11/5/13 PER ADMINISTRATION**

## **5. NEIGHBORHOOD SERVICES**

---

## **6. TRANSPORTATION & AVIATION SERVICES**

---

## 7. ENVIRONMENTAL & UTILITY SERVICES

---

### 7.1 [Agreement with Brown and Caldwell for the Digester and Thickener Facilities Upgrade Project at the San José-Santa Clara Regional Wastewater Facility. Supplemental](#)

**Recommendation:** Approve a [Consultant Agreement](#) with Brown and Caldwell to provide engineering services for the Digester and Thickener Facilities Upgrade Project at the San José-Santa Clara Regional Wastewater Facility (formerly known as the San José/Santa Clara Water Pollution Control Plant). This agreement will be effective from the date of execution to December 31, 2019, for a total amount not to exceed \$12,017,526. CEQA: Statutorily Exempt, File No. PP10-066(d), Consultant Services for Design. (Environmental Services)  
(Deferred from 9/24/13 – Item 7.1)

## 8. PUBLIC SAFETY SERVICES

---

## 9. REDEVELOPMENT – SUCCESSOR AGENCY

---

- Open Forum  
*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.*
- Adjournment

## **CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

### **1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

### **2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN  
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.