



CITY COUNCIL AGENDA

JANUARY 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. 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
- **Invocation (District 10)**
Rev. Samer Youssef, Antiochian Orthodox Church of the Redeemer
- **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 Meyerholz Elementary School for its outstanding achievement in being named a 2012 National Blue Ribbon School. (Constant)

1. CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to ANA for its investment of service at Mineta San José International Airport and its commitment to provide 21st century air service to Silicon Valley business and leisure travelers. (Mayor)
- 1.3 Administer Oaths of Office for newly elected and re-elected Councilmembers. (City Clerk)
- 1.4 Presentation of a proclamation recognizing the Month of January 2012 as “National Mentoring Month” in the City of San José in honor of those who have given their time and effort to help mentor youth in need of guidance. (Campos)
(Rules Committee referral 12/19/12)

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.

Recommendation: Final Adoption of Ordinances:

- (a) ORD. NO. 29195 – Amending Chapter 13.32 of Title 13 of the San José Municipal Code to amend Sections 13.32.020, 13.32.070, 13.32.090, 13.32.100, 13.32.110, and 13.32.120, and add Sections 13.32.041 and 13.32.095, and amending Sections 20.100.140, 20.100.220, and 20.100.300 of Chapter 20.100 of Title 20, all to modify the tree removal requirements for single-family residences to streamline the permitting process and to modify the permit recordation requirements for tree removal and certain other permits.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of January 25, 2012. (Mayor)
- (b) [Rules and Open Government Committee Report of February 1, 2012.](#) (Mayor)
- (c) [Rules and Open Government Committee Report of February 15, 2012.](#) (Mayor)
- (d) [Rules and Open Government Committee Report of February 22, 2012.](#) (Mayor)
- (e) [Rules and Open Government Committee Report of February 29, 2012.](#) (Mayor)
- (f) [Rules and Open Government Committee Report of March 7, 2012.](#) (Mayor)
- (g) [Rules and Open Government Committee Report of March 14, 2012.](#) (Mayor)
- (h) Rules and Open Government Committee Report of March 21, 2012. (Mayor)
- (i) [Rules and Open Government Committee Report of March 28, 2012.](#) (Mayor)

2. CONSENT CALENDAR

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.

2.7 [City Manager's Travel to Las Vegas, Nevada.](#)

Recommendation: Authorize travel for City Manager Debra Figone to Las Vegas, Nevada, on January 24-26, 2013, to participate in the Large Cities Executive Forum. Source of Funds: City Manager's Non Personal Services Appropriation. CEQA: Not a Project, File No. PP10-069, Administrative Activities. (City Manager's Office)

2.8 [Agreements with A-N West, Inc. and AECOM Technical Services, Inc. for Consulting Services.](#)

* **Recommendation:** Approve the consultant master agreements with [A-N West, Inc. and MTH Engineers](#), a Joint Venture, and [AECOM Technical Services](#), Inc., for consultant services, including engineering services for design of storm pump stations, from the date of execution through December 31, 2015, in a total amount not to exceed \$500,000 for each master agreement. CEQA: Not a Project, File No. PP10-066(d), Contracts for professional services. (Public Works)

2.9 [North San José Development Update and Noble Dog Park Community Meetings.](#)

Recommendation: As recommended by the Rules and Open Government Committee on December 19, 2012:

- (a) Approve the North San José Development Update and Noble Dog Park Community Meetings as City-sponsored Special Events; 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 12/19/12 – Item G(5)]

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. STRATEGIC SUPPORT SERVICES

3.3 [Audit of Staffing Reductions.](#)

[Memo from Councilmember Rocha](#)

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on November 15, 2012, accept the audit of staffing reductions. (City Auditor)

[Public Safety, Finance and Strategic Support Committee referral 11/15/12 – Item D(4)]

3.4 [2012 Service Efforts and Accomplishments Report.](#)

Recommendation: Accept the 2012 Service Efforts and Accomplishments Report. (City Auditor)

3.5 [Statement of Policy and City Council Questions for the Prospective Police Chief.](#)

Recommendation: Adopt a statement of Policy and City Council Questions related to the selection of a prospective Police Chief as described in the staff memorandum, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager’s Office)

3.6 [Recycle Plus Billing and Customer Service – Service Delivery Evaluation Update.](#)

Recommendation: Approve discontinuing the City’s in-house service delivery model for Recycle Plus Billing and Customer Service; choose not to implement the Public Private Competition Policy; and continue to evaluate two alternative service delivery options with a final recommendation to be brought forward to Council in Spring 2013. CEQA: Not a Project, File No. PP10-069(a), City organizational and administrative activities. (Environmental Services/Finance)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Lease Agreement with Whispers Inc, dba Whispers Café & Creperie.](#)

* **Recommendation:** Approve an [agreement](#) with Whispers Inc, dba Whispers Café & Creperie for the lease of real property located at 150 S. 2nd Street for the purpose of operating a restaurant with the following annual rent: Year 1 - \$70,980; Year 2 - \$110,526; Year 3 - \$116,610; Year 4 - \$122,694; Year 5 - \$128,778; Year 6 - \$133,422; Year 7 - \$137,425; Year 8 - \$141,548; Year 9 - \$145,794; Year 10 - \$150,168 for a total compensation to the City of approximately \$1,257,944 during the initial 10-year term. CEQA: Exempt, File No. PP10-095. Council District 3. (Economic Development)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [Actions Related to Rocketship Tamien School.](#) [Supplemental Memo from the Director of PRNS](#) [Memo from Mayor Reed and Vice Mayor Nguyen](#) [Memo from the Director of PBCE](#)

* **Recommendation:**

- (a) Adopt a [resolution](#) adopting the Mitigated Negative Declaration and the associated Mitigation Monitoring Plan and Report Program prepared for the Rocketship Tamien Public School #8 and Joint Use Area (File No. PP12-091) as having been completed in compliance with the California Environmental Quality Act reflecting the City's independent judgment and analysis.
- (b) Adopt a [resolution](#):
 - (1) Declaring 26,528 square feet of real property on Goodyear Street adjacent to Lick Avenue (near the Tamien Transit Station) surplus to the needs of the City of San José;
 - (2) Approving a [Purchase and Sale Agreement](#) and Escrow Instruction between the City of San José and Launchpad Development Company for the sale of approximately 26,528 square feet of real property in the amount of \$848,896 to facilitate the construction of Rocketship Tamien Public School #8;
 - (3) Authorizing the City Manager to negotiate and execute a Joint Use Agreement between the City of San José, Launchpad Development Nine, LLC, and Rocketship Education for the use of approximately 34,545 square feet of real property for the construction and joint use of recreational improvements and a parking lot associated with the development of Rocketship Tamien Public School #8 for a term of 33 years and in the amount of \$651,104; and
 - (4) Authorizing the City Manager or her designee to execute the sale agreement, and to negotiate and execute the quitclaim deed and all other documents necessary to complete the various transactions with Launchpad Development Company, Launchpad Development Nine LLC, and Rocketship Education to facilitate development of the Rocketship Tamien Public School # 8.

CEQA: Mitigated Negative Declaration to be adopted, File No. PP12-091. Council District 3. (Parks, Recreation and Neighborhood Services/Planning, Building Code Enforcement/Economic Development)

* **TO BE HEARD NO EARLIER THAN 3:00 P.M.**

4.3 [Actions Related to the 2013-2014 Hazardous Vegetation Commencement Report for the Removal of Weeds or Refuse.](#)

Recommendation: Conduct a public hearing and adopt a [resolution](#):

- (a) Overruling any and all objections to the 2013-2014 Hazardous Vegetation Commencement Report; and
- (b) Directing the Santa Clara County Department of Agriculture and Resource Management to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Exempt, File No. PP08-245. (Planning, Building and Code Enforcement)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Actions Related to the Curb Café Pilot Program.](#) [Memo from Councilmember Liccardo](#)

Recommendation: Approve the following actions to establish a San José Curb Café pilot program:

- (a) Approve an [ordinance](#) amending various sections of Part 1 of Chapter 13.36 of Title 13 relating to encroachment permits upon public right of way and Part 12 of Chapter 20.100 of Title 20 of the San José Municipal Code relating to the permitting of sidewalk cafés and
- (b) Adopt a [resolution](#) implementing guidelines for a pilot program to authorize up to five Curb Cafés within a one year period.

CEQA: Exempt 15304(b), File No. PP12-103. (Transportation/Public Works)

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT SUCCESSOR AGENCY

9.1 Purchase and Sale Agreements for the Sale of Four Successor Agency Parcels.

Recommendation: Approve the Purchase and Sale Agreements for the following Successor Agency owned properties:

- (a) 193 East Santa Clara Street to Symphony Development for a purchase price in the amount of \$4,250,000;
- (b) 1171 Mesa Drive to Alok Damireddy for a purchase price in the amount of \$225,000;
- (c) 5647 Gallup Dive to Alok Damireddy for a purchase price in the amount of \$228,000; and
- (d) 88 East San Fernando Street (Central Place Parking Garage) to Next Ventures, LLC for a purchase price in the amount of \$446,016.71.

(Successor Agency)

(Deferred from 12/18/12 – Item 9.2)

RECOMMEND DEFERRAL TO 1/15/13 PER ADMINISTRATION

- **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 JOSÉ 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 JOSÉ 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.