



CITY COUNCIL AGENDA

JANUARY 15, 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
- 7:00 p.m. - Public Hearings, Council Chambers, City Hall

* Councilmember Constant will Participate via Telephone from the Following Location:

University of La Verne
Campus Center, 2nd Floor, Rinehart Lounge
1950 3rd Street
La Verne, CA 91750

- **Invocation (District 2)**

Rajan Zed, President of the Universal Society of Hinduism

- **Pledge of Allegiance**

- **Orders of the Day**

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

- Orders of the Day (Cont'd.)

* ADJOURNMENT: This meeting will be adjourned in memory of Dr. Herman Hyatt Sr. and Henry Gage. (Liccardo)

- Dr. Herman Hyatt Sr. was one of the longest-serving African American pediatricians in San José, and was also a lawyer, served as a sergeant in the military, and was a pastor of St. James AME Church. He passed away on December 31, 2012.
- Henry Gage Sr. served in the U.S. Navy and Air Force between 1945 and 1967, serving in both the Korean and Vietnam Wars. He was an outspoken leader and advocate for civil rights, a trustee and President of East Side Union High School District, President of the local NAACP, and trustee and moderator of the Antioch Baptist Church in San Jose. Henry Gage Sr. passed away on January 4, 2013.

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

* **ITEM 3.6, “Council Confirmation of Vice Mayor Madison Nguyen,” RENUMBERED TO ITEM 2.10**

- Closed Session Report

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to the following supporters for their dedication and commitment to the Dr. Martin Luther King, Jr., Association of Santa Clara Valley community forums co-sponsored by Councilmember Kansen Chu, Sam Van Zandt, Dr. Agi Schenley, Robert Lopez, Robert O'Donnell, and Hector Oropeza. (Chu)
(Deferred from 12/11/12 – Item 1.2)
TO BE HEARD IN THE EVENING
- 1.2** Presentation of a commendation to the Sharks Ice Bantam B Division team for winning the division Silverstick Regional Qualifying Tournament. (Mayor)
TO BE HEARD IN THE EVENING
- 1.3** Presentation of a proclamation declaring the Month of January 2013 as “National Blood Donor Month” in the City of San José. (Mayor)
- 1.4** Presentation of an award to San José Police Department from the California Highway Patrol for the California Law Enforcement Challenge. (Police)

1. CEREMONIAL ITEMS

- 1.5 Presentation of a commendation to the Oak Grove Rough Riders in recognition of their excellent season that included winning the Northern California Conference Championship and finishing second in the nation. (Kalra)
TO BE HEARD IN THE EVENING

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.**
- 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)
* [Deferred from 1/8/13 – Item 2.2(a)]
- (b) [Rules and Open Government Committee Report of March 21, 2012.](#) (Mayor)
* [Deferred from 1/8/13 – Item 2.2(h)]

- 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 **[Amendments to the Pay Plan for Various Classifications.](#)**

Recommendation: Adopt a [resolution](#) to amend the City of San José Pay Plan effective January 15, 2013, to create the following classifications:

- (a) Transportation Specialist (3876)
- (b) Air Service Development Manager (3549)
- CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)

2. CONSENT CALENDAR

2.8 [Report on Bids and Award of Contract for Los Esteros Road and Zanker Road Service Lateral Project.](#)

[Supplemental - Letter from the Treatment Plant Advisory Committee](#)

Recommendation:

- (a) Award the construction contract for the Los Esteros Road – Zanker Road Service Lateral Project to the low bidder, Northern Underground Construction, Inc., in the amount of \$663,308; and
 - (b) Approve a contingency in the amount of \$100,000.
- CEQA: Exempt, PP12-035. (Environmental Services)

2.9 [Grant Application for the Safe Pathway to Diridon Station Project.](#)

Recommendation:

- (a) Adopt [resolution](#) authorizing the City Manager to:
 - (1) Execute and submit a grant application to the Metropolitan Transportation Commission (MTC) for the Safe Routes to Transit Grant Program in the amount not to exceed \$675,000 for the Safe Pathways to Diridon Station project; with no local match required, and
 - (2) Make the required assurances to comply with the project application, deadlines to complete the project, grant program requirements, and other assurances required by the MTC as explained in this memorandum; and
 - (3) Accept any grant award and negotiate and execute any documents to effectuate the grant, including the authority to negotiate and execute any documents that increase the amount of the grant awarded or require an increase in the local match of funds from the City for the project, subject to the appropriation of funds.
- (b) Adopt the following Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:
 - (1) Establish an appropriation to the Department of Transportation in the amount of \$266,000 for the Safe Pathways to Diridon Station Project, and
 - (2) Decrease the Ending Fund Balance by \$266,000.

CEQA: Exempt, File No. PP11-095. Council District 6. (Transportation/City Manager's Office)

2.10 [Council Confirmation of Vice Mayor Madison Nguyen.](#)

Recommendation: As recommended by the Rules and Open Government Committee on December 12, 2012, approve the appointment of Madison Nguyen as Vice Mayor. (Mayor)

[Rules Committee referral 12/12/12 – Item G(5)]

* **RENUMBERED FROM ITEM 3.6**

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 Board and Commission Program Workplan.

Recommendation: Approve the Board and Commission Program workplan. (City Clerk)

(Rules Committee referral 11/28/12)

(Deferred from 12/11/12 – Item 3.4)

* **DEFERRED TO 1/29/13 PER RULES AND OPEN GOVERNMENT COMMITTEE**

3.4 [Appeals Hearing Board Interviews.](#)

[Candidate Applications](#)

[Conflict of Interest from the City Attorney](#)

[Conflict of Interest from Planning, Building and Code Enforcement](#)

* **Recommendation:**

(a) Interview applicants for appointment to the Appeals Hearing Board;

(b) Appoint two (2) members to the Appeals Hearing Board; and

(c) If no appointment is made, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.

(City Clerk)

* **TO BE HEARD NO EARLIER THAN 3:30 P.M.**

3.5 [Ordinance to Implement Retirement Benefits Modifications in Police and Fire Retirement System.](#)

[Supplemental Memo from the City Attorney](#)

[Supplemental Memo from the Chair of the Ad Hoc SRBR Committee](#)

Recommendation: Approve an [ordinance](#) amending various sections of Chapters 3.32 and 3.36 of Title 3 of the San José Municipal Code to clarify that the City Charter supersedes the City of San José Police and Fire Retirement Plan in event of conflict, discontinue the Supplemental Retiree Benefit Reserve, and clarify actuarial soundness is determined consistent with the California Constitution. CEQA: Not a Project, File No. PP10-068(b), Municipal Code. (City Manager's Office/City Attorney's Office)

* **TO BE HEARD FIRST AFTER THE CONSENT CALENDAR**

3.6 [Council Confirmation of Vice Mayor Madison Nguyen.](#)

Recommendation: As recommended by the Rules and Open Government Committee on December 12, 2012, approve the appointment of Madison Nguyen as Vice Mayor. (Mayor)

[Rules Committee referral 12/12/12 – Item G(5)]

* **RENUMBERED TO ITEM 2.10**

3. STRATEGIC SUPPORT SERVICES

3.7 [2011-2012 Service Efforts and Accomplishments Report.](#)

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

* (Deferred from 1/8/13 – Item 3.4)

3.8 [Recycle Plus Billing and Customer Service – Service Delivery Evaluation Update. Memorandum from Councilmember Rocha](#)

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)

* (Deferred from 1/8/13 – Item 3.6)

* **TO BE HEARD IMMEDIATELY FOLLOWING ITEM 3.5**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Funding for the Applied Survey Research Inc. for the 2013 Homeless Census and Survey.](#)

* **Recommendation:**

(a) Adopt a resolution authorizing the City Manager to:

- (1) Negotiate and execute a Consultant Agreement with Applied Survey Research, Inc. (ASR) in an amount not to exceed \$149,240 for the implementation of the 2013 Santa Clara County Homeless Census and Survey; and
- (2) Negotiate and execute an Agreement with the County of Santa Clara to implement the Homeless Census and Survey for areas of Santa Clara County outside of San José with the County contributing up to \$49,747 towards the consultant Agreement with ASR; and

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Housing Trust Fund:

- (1) Increase the appropriation to the Housing Department for Housing and Homeless Projects by \$49,747; and
- (2) Increase the estimate for Earned Revenue by \$49,747.

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

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

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 and 1/8/13 – Item 9.1)

* **DROP**

- **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.

No Public Hearings on Consent Calendar at this time.

11.2 [Rezoning Real Property Located at the Southwest Corner of William Street and South 8th Street.](#)

Recommendation: Consideration of an [ordinance](#) rezoning the real property located at the southwest corner of William Street and S. 8th Street (346 E. William Street) to allow for the development of a four-story, mixed-use project with (1) up to 28 attached residential units, (2) 1,780 feet of ground floor commercial space, (3) two levels of parking, and (4) the conversion of one single-family residence to a private community center on a 0.57 gross acre site (Ho Year LLC, Owner; JPH Consulting Paulo Hernandez, Developer). SNI: University. CEQA: [Mitigated Negative Declaration](#) to be adopted. [PDC09-019](#) – District 3

* **DEFERRED TO 2/26/13**

11.3 [Rezoning Real Property Located Northerly of the Intersection of Springbrook Avenue and Canyon Ridge Drive.](#)

[Memo from Councilmember Herrera](#)

* **Recommendation:** Consideration of an [ordinance](#) rezoning the real property located northerly of the intersection of Springbrook Avenue and Canyon Ridge Drive from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow up to 12 single family detached residential units on an approximately 6.4 acre portion of a 26.24 gross acre site (Red Horizon Invrs II LLC, Owner; Time Lewis Communities, Developer. CEQA: [Mitigated Negative Declaration](#), resolution to be adopted.

[PDC07-077](#) – District 8

- **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 receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10009	East side of Almaden Road approximately 400 feet S/O McKean Road	10	Omid Shakeri	6 Lots / 6 Units	SFD

- **Open Forum**

Members of the Public are invited to speak on any item that does not appear on today’s Agenda and that is within the subject matter jurisdiction of the City Council.

- **Adjournment**

* This meeting will be adjourned in memory of Dr. Herman Hyatt Sr. and Henry Gage. (Liccardo)

- Dr. Herman Hyatt Sr. was one of the longest-serving African American pediatricians in San José, and was also a lawyer, served as a sergeant in the military, and was a pastor of St. James AME Church. He passed away on December 31, 2012.
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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.