



CITY COUNCIL AGENDA

SEPTEMBER 16, 2014

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 <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, 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 8)**
Pastor Rodney Nelson, East Valley Pentecostal

- **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.

- Orders of the Day (Cont'd.)

- * **ITEM 2.10 RENUMBERED TO 3.5**

- * ADJOURNMENT: This meeting will be adjourned in memory of San José resident Jit Singh Bainiwal, 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)

- Closed Session Report

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)

1.2* Presentation of a commendation for the 25th Anniversary of the Partners in Reading program. (Library)

1.3* Presentation of proclamation declaring the week of September 14th through 20th as Balance Awareness Week in the City of San José. (Herrera)

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. CONSENT CALENDAR

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)

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)

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

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; and
- (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)

2. CONSENT CALENDAR

2.8 [Actions Related to the Airport Concession Disadvantaged Business Enterprise Program.](#)

[Memo from Councilmember Liccardo](#)

[Attachment A – 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)

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)

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**

2.11 [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

(Item continued on the next page)

2. CONSENT CALENDAR

2.11 San José Downtown Association Agreement. (Cont'd.)

Recommendation:

(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)

2.12 [Amendment to the Sewer Use Regulations.](#) [Supplemental](#)

* **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)

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)]

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)

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Edward Shikada (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 [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 [Appendix B](#)
- (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)]

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

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;
- (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)

3. STRATEGIC SUPPORT SERVICES

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**

3.6 [Patrol Staffing Retention Plan.](#)

[Memo from Councilmember Rocha](#)
[Memo from Councilmember Liccardo](#)

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; and
- (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)]

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

[Supplemental](#)

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)

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 st Street	3	Barry Swenson Builder	1 / 376	MFA	Approval

- 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 San José resident Jit Singh Bainiwal, 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)

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.