



# CITY COUNCIL AGENDA

**OCTOBER 29, 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)**
  - Nori Herras, Billy DeFrank LGBT Center of Silicon Valley
  
- **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 Odette Morrow, who passed away on September 17, 2013. Odette, who worked in the local hotel and hospitality industry for many years, was a loving wife, mother, grandmother, and great-grandmother. She was very active in the Coyote Creek neighborhood, and also served as a lay chaplain with her church, where she ministered to people in convalescent homes and trained volunteers to do the same. Odette was a force of nature, with a smile that could light up a room, a laugh that could brighten the grayest day, and a personality that charmed everyone who met her. She lived by her personal mantra that she was “too blessed to be stressed.”

**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**

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- 1.1 Presentation of a proclamation declaring the Month of October as “Filipino American History Month” in the City of San José. (Chu)
- 1.2 Presentation of proclamation declaring the month of November 2013 as “Pancreatic Cancer Awareness Month” in the City of San José. (Oliverio)
- \* (Rules Committee referral 10/23/13)

## **2. CONSENT CALENDAR**

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**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

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### 2.3 Approval of Council Committee Reports.

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

- (a) [Rules and Open Government Committee Report of October 9, 2013.](#) (Mayor)
- (b) [Neighborhood Services and Education Committee Report of October 10, 2013.](#)  
(Nguyen)
- (c) [Transportation and Environment Committee Report of October 7, 2013.](#)  
(Liccardo)  
[Deferred from 10/22/13 – Item 2.3(d)]

### 2.4 Mayor and Council Excused Absence Requests.

**Recommendation:**

- (a) [Request for an excused](#) absence for Councilmember Constant from the Executive Session and the Regular and Evening City Council Meeting on October 22, 2013, due to a Family Emergency. (Constant)
- (b) [Request for an excused](#) absence for Councilmember Constant from the Rules and Open Government Committee Meeting on October 23, 2013, due to a Family Emergency. (Constant)

\* (Rules Committee referral 10/23/13)

### 2.5 City Council Travel Reports.

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

### 2.7 [Amendments to the Retail Concession Agreements with Host International, Inc. and WDFG North America, LLC.](#)

**Recommendation:**

- (a) [Consent to Assignment](#) of the Airport Retail Concession Agreement (the “Concession Agreement”) between the City and Host International, Inc. to WDFG North America, LLC. (“WDFG”); and
- (b) Approve the [Third Amendment](#) to the Concession Agreement providing for WDFG’s assumption of the Agreement and removing two undeveloped concession locations.

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

### 2.8 [Councilmember Campos’ Travel to Orlando, FL.](#)

**Recommendation:** Approve travel by Councilmember Campos to Orlando, FL on November 22 – 24, 2013, to attend the NALEO’s National Policy Institute on Emergency Response and Management. Source of Funds: National Association of Latino Elected and Appointed Officials and any remaining funds will be paid by District 5 Council Funds. (Campos)

\* (Rules Committee referral 10/23/13)

## 2. CONSENT CALENDAR

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### 2.9 [2013 National League of Cities Voting Delegate at the Annual Business Meeting.](#)

**Recommendation:** Approve the proposed designation of Councilmember Rose Herrera, as the voting delegate at the November 16, 2013 Annual Business Meeting for the National League of Cities. CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (City Manager's Office)

\* (Rules Committee referral 10/23/13)

### 2.10 ["Pink Ribbons, Inc." Movie Screening.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on October 23, 2013 and outlined in the attached memo previously submitted to the Rules and Open Government Committee:

- (a) Approve the "Pink Ribbons, Inc." movie screening as a 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. (Chu)

\* [Rules Committee referral 10/23/13 – Item G(2)]

## 3. STRATEGIC SUPPORT SERVICES

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### 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 [Amendment to Meyers Nave Agreement for Legal Services Related to the Fiscal Reform Plan.](#)

**Recommendation:**

- (a) Adopt a resolution authorizing the City Attorney to negotiate and execute a fifth amendment to the agreement with Meyers, Nave, Riback, Silver & Wilson (Meyers, Nave) for legal services in connection with employment, labor, and pension reform, increasing the contract amount by \$650,000 for a total amount not to exceed \$2,750,000, subject to appropriation of funds as recommended below, and extending the term through June 30, 2014.

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 Amendment to Meyers Nave Agreement for Legal Services Related to the Fiscal Reform Plan. (Cont'd.)

**Recommendation:**

- (b) Adopt the following Appropriation Ordinance amendments in the General Fund:
- (1) Increase the city-wide appropriation to the City Attorney's Office for Fiscal Reform Plan Outside Legal Counsel by the amount of \$650,000; and
  - (2) Decrease the Fiscal Reform Plan Implementation Earmarked Reserve by the amount of \$650,000.

CEQA: Not a Project; File No. PP10-066(c), Services that involve no physical changes to the environment. (City Attorney's Office/City Manager's Office)

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 [Rezoning of the Property Located on the Southeast Corner of South Bascom Avenue and Woodard Road.](#)

**Recommendation:** Consideration of an [ordinance](#) rezoning the property located on the southeast corner of South Bascom Avenue and Woodard Road (3702 South Bascom Avenue) from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District (Andarys Enterprise Inc, Owner). (Planning, Building and Code Enforcement)  
C13-031 – District 9

#### 4.2 [Citywide Capital Improvement Program Annual Status Report and Streamlining Measures.](#)

**Recommendation:** Accept the Annual Status Report on the Citywide Capital Improvement Program. CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (Public Works)

**TO BE HEARD JOINTLY WITH ITEM 7.1**

### 5. NEIGHBORHOOD SERVICES

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### 6. TRANSPORTATION & AVIATION SERVICES

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## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 [Semiannual Regional Wastewater Facility Capital Improvement Program Report. Supplemental](#)

**Recommendation:** As recommended by the Transportation and Environment Committee on October 7, 2013, accept the Semiannual Status Report on the San José-Santa Clara Regional Wastewater Facility Capital Improvement Program for the period January through June 2013. CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Annual Reports. (Environmental Services)

[Transportation and Environment referral 10/7/13 – Item d(3)]

**TO BE HEARD JOINTLY WITH ITEM 4.2**

## 8. PUBLIC SAFETY SERVICES

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### 8.1 [Response to Santa Clara County Civil Grand Jury Report Entitled “Law Enforcement Public Complaint Procedures.”](#)

**Recommendation:** Approve the response to the Santa Clara County Civil Grand Jury Reports entitled “Law Enforcement Public Complaint Procedures.” CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. (Police)

## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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- 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>
10207	Southwest corner of Montecito Vista Drive & Montecito Vista Way	7	Lennar Homes of California Inc.	106 Lots/ 100 Units	MFA

- 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.