



# CITY COUNCIL AGENDA

**DECEMBER 18, 2012**

**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  
NANCY PYLE

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. 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**
- \* 9:00 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 (Mayor)**  
Sally Ashton, Santa Clara County Poet Laureate

- **Pledge of Allegiance**

- **Orders of the Day**

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

\* ADJOURNMENT: This meeting will be adjourned in memory of Frank Lopez Sr., a decorated Vietnam Veteran who served two tours of duty and earned a Purple Heart medal and two bronze Stars, returning to San Jose and later helped co-found the Vietnam Veteran's War Memorial currently being built at Confluence Point in Guadalupe River Park. Frank Lopez Sr. returned to San Jose to teach and coach football at Mount Pleasant, Overfelt and James Lick High Schools in San Jose. He passed away on November 24, 2012 after a lifetime of service to our Nation and to the residents of San José. (Liccardo)

**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 2.9, “Actions Related to Taxicab Permits,” RENUMBERED TO ITEM 6.2**
- \* **ITEM 2.11, “Agreement with Hopkins Real Estate Group for Potential Development of the Singleton Landfill,” RENUMBERED TO ITEM 4.6**
- \* **SEE NEW ITEM 2.34, “Mayor Reed’s Travel to New York City, NY,” TO BE ADDED UNDER ORDERS OF THE DAY**
- Closed Session Report

## **1. CEREMONIAL ITEMS**

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- 1.1** Presentation of a commendation to Harker School student Sameer Vij for his exceptional leadership in founding TiEYouth, a nonprofit youth entrepreneurship conference held at TiEcon 2012, the largest entrepreneurship conference in the world. (Herrera/Constant)
- 1.2** Presentation of a commendation to the San José Vietnam War Memorial Foundation for raising funds and completing the installation of the San José Vietnam War Memorial to be dedicated in late December. (Liccardo)
- 1.3** Presentation of a commendation to Mr. Cung Le in honor of his outstanding martial arts performance and his international representation of the United States and the City of San José as a UFC Champion in China. (Nguyen)
- 1.4** Presentation of a commendation to Wilma Acosta for her courageous efforts in saving a special needs student from a burning school bus near Sylvandale Elementary School. (Nguyen)

## **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. CONSENT CALENDAR

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### 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29183 – Amending Section 10.32.010 of Chapter 10.32 of Title 10 of the San José Municipal Code to exclude properly trained airport employees and contract biologists discharging firearms within the perimeter of the Airport as part of the Airport’s Federal Aviation Administration-required wildlife hazard management program from the prohibition on discharging firearms within the limits of the City.
- (b) ORD. NO. 29184 – Amending Title 3 of the San José Municipal Code to amend various Sections of Chapter 3.28 and to add a new Chapter 3.49 for the purpose of establishing an option between the Tier 2 Defined Benefit Plan and a Defined Contribution 401(a) Plan that excludes participation in retiree healthcare, for Unclassified Executive Management and Professional Employees (Unit 99) who are hired on or after January 20, 2013.
- (c) ORD. NO. 29187 - Rezoning certain real property situated on the east side of Monterey Road, approximately 300 feet southerly of Alma Avenue, to a Conforming Planned Development Rezoning from the CG(PD) Planned Development Zoning District to the CG(PD) Planned Development Zoning District to allow a third drive-through use (carwash at a gas station) to a previously-approved 257,296 square foot shopping center (Sun Gardens). PDC12-023
- (d) ORD. NO. 29188 - Rezoning certain real property situated on the north side of the future Turturici Way, approximately 400 feet easterly of San Felipe Road (6782 & 6790 San Felipe Road), from the R-1-1 Single-Family Residence District to the A(PD) Planned Development Zoning District. PDC11-012
- \* (e) ORD. NO. 29189 – Rezoning certain real property of approximately 8.26 acres in size situated on the east side of Cottle Road between Coronado Avenue and Raleigh Road from IP(PD) Planned Development Zoning District to the CN-Commercial Neighborhood Zoning District. C12-030
- \* (f) ORD. NO. 29190 – Rezoning certain real property situated on the south side of Alum Rock Avenue, approximately 150 feet northeasterly of Sunnyslope Avenue (4700 Alum Rock Ave), from Unincorporated County Property to the R-1-8(PD) Planned Development Zoning District. PDC11-008
- \* (g) ORD. NO. 29191 – Rezoning certain real property situated on the northwest corner of Lincoln Avenue and Auzerais Avenue on a 0.44 gross-acre site (393 Lincoln Avenue) to the CIC Combined Industrial/Commercial Zoning District. C12-015

## 2. CONSENT CALENDAR

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### 2.2 Final Adoption of Ordinances. (Cont'd.)

**Recommendation:** Final adoption of ordinances.

- \* (h) [ORD. NO. 29192](#) – Approving a Development Agreement with Riverview Apartment Development Company, LLC., relative to the development of the Riverview Project on certain real property located in North San José and authorizing the City Clerk to execute the Development Agreement and cause the same to be recorded with the Santa Clara County Recorder’s Office. DA12-003

### 2.3 Approval of Council Committee Reports.

### 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 [Actions Related to the American Recovery and Reinvestment Act - Retrofit California Program.](#)

**Recommendation:**

- (a) Adopt a [resolution](#) authorizing the City Manager to accept the Federal Department of Energy grant increase of \$38,479 for a total grant of \$788,479 and to execute the [First Amendment to Retrofit California Sub-Awardee Agreement](#) between the Association of Bay Area Governments and the City of San José to allow for continuation of the Better Buildings Program San José until May 31, 2013 or until funds are expended;
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
  - (1) Increase the estimated Revenue from the Federal Government – Recovery Act, in the amount of \$38,479; and
  - (2) Increase the City-wide Appropriation to the Environmental Services Department, Recovery Act – Retrofit California in the amount of \$38,479.

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

- \* (Deferred from 12/11/12 – Item 2.9)

### 2.8 [Actions Related to the Silicon Valley Energy Watch Program.](#)

**Recommendation:** Approve a Change Order General Conditions Amendment to the [Master Service Agreement](#) with Pacific Gas and Electric (PG&E) to extend the term through March 31, 2013 for the Silicon Valley Energy Watch Program. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)

- \* (Deferred from 12/11/12 – Item 2.10)

## 2. CONSENT CALENDAR

### 2.9 Actions Related to Taxicab Permits.

**Recommendation:**

- (a) [Approve an ordinance amending Chapter 6.64 of Title 6 of the San José](#) Municipal Code to amend Section 6.64.130 and add a new Section 6.64.465 to create exceptions for out of town taxi businesses and taxi drivers whose principal place of business is outside of the City and who only do business in the City at the airport from obtaining an additional license under Title 6 if properly permitted under Title 25. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport/Police) [Ordinance](#)
- (b) [Approve an ordinance amending Sections 6.64.440 and 6.64.620 of Chapter 6.44](#) of Title 6 of the San José Municipal Code regarding Police taxicab permits to remove outdated language and to clarify hearing requirements to ensure consistency with other permit provisions in the Code. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy. (City Attorney's Office) [ordinance](#)

\* **RECOMMEND DEFERRAL TO 1/29/13 PER ADMINISTRATION**  
\* **RENUMBERED TO ITEM 6.2**

### 2.10 [Actions Related to the Lease Agreement with the Tech Museum of Innovation.](#)

**Recommendation:** Approve the First Amendment to the [Lease Agreement](#) between the City and the Tech Museum of Innovation (Tech) to clarify the date of the temporary certificate of occupancy, modify the operating payment schedule from monthly to quarterly, add the Tech as a participant in the Cultural Facilities Capital Maintenance Fund, and allow the City Manager to enter into minor amendments in the future without further Council approval. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Economic Development)

### 2.11 [Agreement with Hopkins Real Estate Group for Potential Development of the Singleton Landfill.](#)

[Memo from Mayor Reed, Vice Mayor Nguyen and Councilmember Rocha](#)

**Recommendation:** Approve an Exclusive Due Diligence [Agreement](#) with Hopkins Real Estate Group for the potential development of the Singleton Landfill for use as a retail development and a sports complex. CEQA: Statutorily Exempt, State CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Economic Development)

\* **RENUMBERED TO ITEM 4.6**

### 2.12 [Sale of a Portion of City-Owned Property at 1590 Gold Street.](#)

**Recommendation:** Adopt a [resolution](#):

- (a) Declaring an additional portion of land, currently within the right-of-way adjacent to Assessor's Parcel Number 015-03-013, surplus to the needs of the City;
- (b) Authorizing an alternative competitive process for the sale of 1590 Gold Street and an adjacent portion of right of way; and
- (c) Approving the [agreement](#) between the City and Fire House, LLC, for sale of the property in the amount of \$295,000.

CEQA: Exempt, File No. PP12-086. (Economic Development)

## 2. CONSENT CALENDAR

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### 2.13 [Transfer of City-Owned Property on Sierra Road to the Santa Clara Valley Transportation Authority.](#)

**Recommendation:** Adopt a [resolution](#):

- (a) Declaring APN 245-27-021, the approximately 2,962 square foot parcel adjacent to Sierra Road, as surplus to the needs of the City; and
- (b) Approving the quitclaim [deed and agreement](#) for transfer of such parcel APN 245-27-021 to the Santa Clara Valley Transportation Authority as part of the BART expansion to San José as indicated on Attachment A of the staff memorandum.

CEQA: Not a Project, File No. PP12-087. Council District 4. (Economic Development)

### 2.14 [Agreement with David J. Powers & Associates for Consulting Services.](#)

**Recommendation:** Approve the [Fifth Amendment to the Master Agreement](#) between the City of San José and David J. Powers & Associates for environmental consulting services to extend the term through December 31, 2013. CEQA: Not a Project, File No. PP 10-066(e), Services that involve no physical changes to the environment. (Environmental Services)

### 2.15 [Agreement with Republic Services Franchises Agreement.](#)

**Recommendation:** Approve the First Amendment to the [Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement](#) with Allied Waste Services of Santa Clara County dba Republic Services. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)

### 2.16 [Actions Related to the Bay Area Water Supply and Conservation Bond Issuance.](#)

**Recommendation:** Adopt a [resolution](#) authorizing the Bay Area Water Supply and Conservation Agency to make a prepayment on the City's behalf of capital obligations owed to the San Francisco Public Utilities Commission pursuant to a 2009 Water Supply Agreement and other related actions. CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273 - Rates, Tolls, Fares, and Charges. Council Districts 2, 4, 7 and 8. (Environmental Services)

### 2.17 [Open Purchase with Trendtec Inc. for Temporary Staffing.](#) [Supplemental Letter from the Treatment Plant Advisory Committee](#)

**Recommendation:** Authorize the City Manager to amend the existing Open Purchase Order 47565 with Trendtec Inc. to:

- (a) Increase the total compensation by \$210,055 for a revised total amount not to exceed \$291,055 for continued temporary employment services for five Assistant Environmental Inspectors; and
- (b) Extend the term of the Purchase Order through June 30, 2013.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)

## 2. CONSENT CALENDAR

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### 2.18 [Open Purchase with Essential Staffing for Consultant Services.](#)

\* **Recommendation:**

- (a) Authorize the City Manager to amend the existing Open Purchase order 46929 with Essential Staffing (Walnut Creek, CA) to:
- (1) Amend the existing Open Purchase Order 46929 with Essential Staffing (Walnut Creek, CA) to encumber an additional \$370,256 for a revised total amount not-to-exceed \$751,000 for continued temporary employment services and extend the term for an additional six months, ending June 30, 2013; and
  - (2) Amend the Purchase Order to provide for an option to extend the term for up to an additional twelve months through June 30, 2014, with total compensation not to exceed \$1,500,000 and subject to the appropriation of funds.
- (b) Adopt the following Appropriation Ordinance amendments in the General Fund:
- (1) Decrease the Human Resources Department's Personal Services appropriation by \$604,500; and
  - (2) Increase the Human Resources Department's Non-Personal Services appropriation by \$604,500.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)

### 2.19 [Amendment to the Agreement with Langham Consulting Services, Inc. for Utility Billing and Customer Service Consultant Services.](#)

[Supplemental Memo from the Environmental Services Department](#)

**Recommendation:** Approval of the [Fifth Amendment to the Agreement](#) with Langham Consulting Services, Inc., to provide professional services related to the City's Integrated Billing System to increase the total compensation by \$110,000 to an amount not to exceed \$940,000, to extend the agreement term through December 31, 2014, and to amend the scope of services. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance/Environmental Services)

### 2.20 [Authority to Record Deed of Trust on the Convention Center Expansion Site and the Fairmont Parking Garage for HUD Collateral Substitution.](#)

**Recommendation:** Adopt a resolution authorizing the City Manager to execute a [Deed of Trust](#) with the U.S. Department of Housing and Urban Development to be recorded against the Convention Center expansion site and the Fairmont Parking Garage as collateral for a Section 108 Loan. (Housing)

## 2. CONSENT CALENDAR

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### 2.21 [Agreement with Mitchell Corporation for Workers' Compensation Cost Containment Services.](#)

**Recommendation:** Approve an [amendment to extend the term of an agreement](#) with Mitchell Corporation to provide workers' compensation cost containment services and increase compensation at a cost not to exceed \$975,000 during the period July 1, 2012 to March 31, 2013, subject to annual appropriation of funds by the City Council. CEQA: Not a project. File No. PP10-066(e), Services that involve no physical changes to the environment. (Human Resources)

### 2.22 [Vacation of Accessory Easement for Sanitary Sewer Repair at 1460 North Fourth Street.](#)

**Recommendation:** Adopt a [resolution](#) summarily vacating a portion of a 20-foot wide accessory easement for sanitary sewer repair purposes lying on a property located at 1460 North Fourth Street. CEQA: Exempt, File No. PP12-101. Council District 3. (Public Works)

### 2.23 [Agreement with Denise Duffy & Associates, Inc. for Consultant Services.](#)

**Recommendation:** Approve the second amendment to the [master agreement](#) with Denise Duffy & Associates, extending the term from December 31, 2012 to December 31, 2014 for a continuation of ongoing environmental consultant services supporting various City projects, at no additional cost to the City. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works)

### 2.24 [Agreement with AECOM USA, Inc. for 60-Inch Brick Interceptor Phase VI-A Project.](#)

**Recommendation:** Approve the [Second Amendment to the Consultant Agreement](#) with AECOM USA, Inc. for the 60-Inch Brick Interceptor Phase VI-A Project by extending the term of the Agreement from December 31, 2012 to December 31, 2015 and increasing the amount of compensation by \$226,363, for a total agreement amount not to exceed \$3,437,741, and adding a provision allowing the Director of Public Works to extend the term for another six (6) months. CEQA: Exempt, File No PP09-078. Council Districts 3 and 4. (Public Works)

### 2.25 [Change Order for Echo Valley Drive and Cahalan Avenue Sanitary Sewer Replacement Project.](#)

**Recommendation:**

- (a) Increase the contingency for the Echo Valley Drive and Cahalan Avenue Sanitary Sewer Replacement Project by \$70,000 for a total contingency amount of \$164,900.
- (b) Approve [Contract Change](#) Order No. 2 with Ranger Pipelines, Inc. for the Echo Valley Drive and Cahalan Avenue Sanitary Sewer Replacement Project in the amount of \$80,211.82, for a total contract amount of \$1,110,103.97.

CEQA: Exempt, File No. PP11-029. (Public Works)

## 2. CONSENT CALENDAR

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### 2.26 [Route 87 Freeway Project Right of Way Cooperative Agreement with the State of California.](#)

**Recommendation:** Approval of the [Second Amendment to the Route 87 Freeway Project Right of Way Cooperative Agreement](#) between the State of California and the City of San José, extending the termination date of the agreement to December 31, 2014. CEQA: Route 87 Freeway Project EIR, Resolution No. 65071. Council Districts 3 and 4. (Transportation)

### 2.27 [Guadalupe Corridor Right of Way Cooperative Agreement with the State of California.](#)

**Recommendation:** [Approval of the Third Amendment to the Guadalupe Corridor Right of Way Cooperative Agreement](#) between the State of California, the County of Santa Clara, the Santa Clara Valley Transportation Authority and the City of San José, extending the termination date of the agreement to December 31, 2013. CEQA: Exempt, File No. PP07-129. Guadalupe Corridor EIR, December 1981. Council Districts 2, 6, 7, 10. (Transportation)

### 2.28 [Independent Police Auditor Compensation Package.](#) [Memo from Councilmember Constant](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on December 5, 2012, adopt a [resolution](#) approving the compensation package for Judge LaDoris Cordell for services as Independent Police Auditor for a term beginning January 1, 2013 and ending December 31, 2016. (Mayor)  
[Rules Committee referral 12/5/12 – Item G(3)]

### 2.29 [Revisions to Conflict of Interest Code.](#)

**Recommendation:** Adopt a [resolution](#) amending the Conflict of Interest Code for the City of San Jose. (City Clerk)

\* (Rules Committee referral 12/12/12)

### 2.30 [Waiver of Revolving Door Restrictions.](#)

**Recommendation:** Adopt a [resolution](#) approving a waiver of the Revolving Door Restriction under Municipal Code Section 12.10.070 to allow Lee Price, MMC, former City Clerk, to provide consulting services to assist the Office of the City Clerk. (City Clerk)

\* (Rules Committee referral 12/12/12)

### 2.31 [Acting City Clerk Compensation.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on December 12, 2012, adopt a [resolution](#) approving compensation for Acting City Clerk Toni Taber. (Mayor)

\* [Rules Committee referral 12/12/12 – Item G(2)]

## 2. CONSENT CALENDAR

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### 2.32 Councilmember Campos' Travel to San Diego, CA.

**Recommendation:** Approve travel by Councilmember Campos to San Diego, CA on January 18 – 20, 2013 to attend the League of California Cities, Latino Caucus Board Retreat. Source of Funds: Mayor/Council Travel Fund. (Campos)

\* [Rules Committee referral 12/12/12 – Item G(3)]

### 2.33 2013-14 Council Appointments.

**Recommendation:** As recommended by the Rules and Open Government Committee on December 12, 2012, approve Council Appointments for 2013-2014. (Mayor)

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

### 2.34 Mayor Reed's Travel to New York City, NY.

**Recommendation:** Approve travel by Mayor Reed to New York City, NY on December 6-7, 2012 to speak at a Pension Reform Forum co-sponsored by the TIAA-CREF Institute and SUNY Rockefeller Institute of Government, and to meet with local and state officials on a variety of issues significant to San José. Source of Funds: TIAA-CREF is paying for the round-trip flight, lodging, and ground transportation to/from the airport. Incidental expenses will be paid from the Mayor's Office Fund. (Mayor)

\* (Orders of the Day)

## 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 9:00 A.M.**

### 3.3 2013 Legislative Guiding Principles, Priorities and Advocacy Issues.

**Recommendation:** As recommended by the Rules and Open Government Committee on December 12, 2012, accept the 2013 Legislative Guiding Principles as edited by the Council Committees, and the Legislative Priorities and Advocacy Issues for the first year of the two-year Legislative Session in Sacramento and the 113<sup>th</sup> Congress. (City Manager's Office)

\* [Rules Committee referral 12/12/12 – Item G(4)]

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 Sale of a Portion of City-Owned Property on Emory Street.

**Recommendation:** Adopt a [resolution](#):

- (a) Declaring 28,990 square feet of vacated street on Emory Street, surplus to the needs of the City;
- (b) Approving an [agreement](#) between the City of San José and Bellarmine College Preparatory (Bellarmine) for sale of the property in the amount of \$325,000; and
- (c) Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction.

CEQA: Mitigated Negative Declaration, File No. PDC07-072. (Economic Development)  
(Deferred from 12/4/12 – Item 4.2 and 12/11/12 – Item 4.1)

### 4.2 ADMINISTRATIVE HEARING on and Consideration of a Planned Development Permit and Determination of Public Convenience or Necessity.

- \* **Recommendation:** Conduct an ADMINISTRATIVE HEARING on and consider a Planned Development Permit and Determination of Public Convenience or Necessity to allow demolition of an existing restaurant structure (Chevy's) and construction of a new 7,453 square foot restaurant with outdoor patio (BJ's) that includes the on-sale and off-sale of alcoholic beverages in the A(PD) Planned Development Zoning District on a .96 gross acre site located on the southwest corner of Coleman Avenue and Autumn Street. (511 Coleman Avenue)(CLPF San José Retail, Inc., Owner). CEQA: Exempt. Planning commission recommends approval (7-0).  
PD12-041/ABC12-011 – District 3. (Planning, Building and Code Enforcement)

### 4.3 Actions Related to Reallocation of Affordable Housing Units Under the North San José Area Development Policy.

- \* **Recommendation:**
  - (a) Adopt a [resolution](#) amending the North San José Area Development Policy to:
    - (1) Allow reallocation of up to 174 of the remaining affordable housing units in Phase 1 as market-rate housing units to enable a shovel-ready market-rate housing project to proceed in Phase 1 if such project developer ensures by written agreement with the City a substantial benefit to the City towards the provision of high rise, high-density residential development in North San José and new affordable housing to balance the reduction of affordable housing allocation in Phase 1; and
    - (2) Shift the number of reallocated affordable housing units originally reserved for Phase 1 to Phase 2, and correspondingly decrease the number of market-rate housing units in Phase 2, to ensure the vision of a mixed-income community.
  - (b) Direct the Administration to negotiate and bring back for Council consideration a written agreement with Mill Creek Residential Trust LLC that meets the criteria set forth in subsection (a) of the staff memorandum.

CEQA: Resolution No.72768, Addendum to the North San José Policy Update EIR.  
Council Districts 3 and 4. (Planning, Building and Code Enforcement/Housing)

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.4 [Public Hearing for the Vacation of Chabolla Alley](#)

**Recommendation:** Conduct a public hearing and adopt a [resolution](#) to vacate Chabolla Alley between North San Pedro Street and Terraine Street. CEQA: Exempt, File No. PP12-090. Council District 3. (Public Works)

### 4.5 [Ordinance Amending Titles 13 and 20 to Amend the Tree Removal Requirements for Single-Family Residences.](#)

**Recommendation:**

- (a) Approve an [ordinance](#) of the City of San José amending Chapter 13.32 of Title 13 of the San José Municipal Code, and amending Sections 20.100.140 and 20.100.220 of Chapter 20.100 of Title 20, to modify the tree removal requirements for single-family residences in order to streamline permitting processes and further implement the Community Forest Goal and Policies set forth within the Envision San José 2040 General Plan, to modify permit recordation requirements for tree removal and certain other permits, and to make other technical, non-substantive, or formatting changes within those chapters and sections of Title 13 and Title 20; and
- (b) Adopt a [Resolution](#) setting forth the tree species to be placed on the unsuitable tree list as eligible for the modified tree removal requirements for single-family residences.

CEQA: Final Program EIR for Envision San José 2040 General Plan, EIR Resolution No. 76041, File No. PP12-098.

Citywide

(Deferred from 12/11/12 – Item 11.3)

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

### 4.6 [Agreement with Hopkins Real Estate Group for Potential Development of the Singleton Landfill.](#)

[Memo from Mayor Reed, Vice Mayor Nguyen and Councilmember Rocha](#)

**Recommendation:** Approve an Exclusive Due Diligence [Agreement](#) with Hopkins Real Estate Group for the potential development of the Singleton Landfill for use as a retail development and a sports complex. CEQA: Statutorily Exempt, State CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Economic Development)

\*

**RENUMBERED FROM ITEM 2.11**

**TO BE HEARD IMMEDIATELY FOLLOWING THE CONSENT CALENDAR**

### 4.7 [Transfer of Vacated City-Owned Property on Via del Oro to Mission West Properties.](#)

**Recommendation:** Adopt a [resolution](#):

- (a) Declaring an approximate 3,400 square foot of land adjacent to APN 706-02-034 as surplus to the needs of the City;

*(Item continued on the next page)*

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.7 Transfer of Vacated City-Owned Property on Via del Oro to Mission West Properties. (Cont'd.)

**Recommendation:**

- (b) Approving a [quitclaim deed and agreement](#) for transfer of such surplus property to Mission West Properties, L.P. II, the adjacent property owner, without consideration; and
- (c) Authorizing the City Manager or designee to execute such deed and agreement and all other documents necessary to complete the transaction.

CEQA: EIR 08/1973, Council District: 2. (Economic Development)

\* (Rules Committee referral 12/12/12)

## 5. NEIGHBORHOOD SERVICES

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## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 [Property-Based Business Improvement District Annual Financial Report and Agreement.](#)

[Attachment from Groundwerx](#)

**Recommendation:**

- (a) Approve the Downtown San José Property-Based Business Improvement District Annual Financial Report for Fiscal Year 2011-12.
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the San José Downtown Property Owners' Association and the San José Downtown Association to manage the Downtown Property-Based Business Improvement District (PBID) and provide baseline and enhanced services as specified in the approved PBID Management Plan and Engineer's Report from January 1, 2013 to December 31, 2022, subject to annual reporting to and appropriation by the City Council.

CEQA: Exempt. File No. PP12-053. Council District 3. (Transportation)

### 6.2 Actions Related to Taxicab Permits.

**Recommendation:**

- (a) [Approve an ordinance amending Chapter 6.64 of Title 6 of the San José Municipal Code](#) to amend Section 6.64.130 and add a new Section 6.64.465 to create exceptions for out of town taxi businesses and taxi drivers whose principal place of business is outside of the City and who only do business in the City at the airport from obtaining an additional license under Title 6 if properly permitted under Title 25. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport/Police) [Ordinance](#)

\* **RECOMMEND DEFERRAL TO 1/29/13 PER ADMINISTRATION**  
(Item continued on the next page)

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.2 Actions Related to Taxicab Permits. (Cont'd.)

**Recommendation:**

- (b) [Approve an ordinance amending Sections 6.64.440 and 6.64.620 of Chapter 6.44](#) of Title 6 of the San José Municipal Code regarding Police taxicab permits to remove outdated language and to clarify hearing requirements to ensure consistency with other permit provisions in the Code. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy. (City Attorney's Office) [ordinance](#)

\* RECOMMEND DEFERRAL TO 1/29/13 PER ADMINISTRATION

\* RENUMBERED FROM ITEM 2.9

## 7. ENVIRONMENTAL & UTILITY SERVICES

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## 8. PUBLIC SAFETY SERVICES

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## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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### 9.1 [Assignment of the Parking Covenants for the 50 West San Fernando Street Building to the City of San José from the Successor Agency.](#)

**Recommendation:**

- (a) Approve an assignment from the Successor Agency assigning its obligations regarding certain covenants for the benefit of the owner of the 50 West San Fernando Street building to the City; [Contract](#)
- (b) Approve an assignment by the City Council accepting an assignment from the Successor Agency of such covenants; and [Contract](#)
- (c) That the City Council approve an amendment to the parking covenants to identify replacement parking for the building and clarify other terms of the parking covenant. [Contract](#)

(Successor Agency)

### 9.2 Approval of 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;

*(Item continued on the next page)*

## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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### 9.2 Approval of Purchase and Sale Agreements for the Sale of Four Successor Agency Parcels. (Cont'd.)

**Recommendation:**

- (c) 5647 Gallup Drive 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)

\* **RECOMMEND DEFERRAL TO 1/8/13 PER ADMINISTRATION**

### 9.3 [Approve New Jose Theatre Lease with Comedy Club of San Jose, LLC \(Improv\). Supplemental from the City Manager](#)

\* **Recommendation:** Adopt a resolution by the City Council, acting in its capacity as Successor Agency to the Redevelopment Agency, authorizing the Managing Director to negotiate and execute a lease between the Comedy Club of San Jose, LLC and the Successor Agency for the Jose Theater located at 62 South Second Street. (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>
9477	SW Corner of St. Elizabeth Dr and Fruitdale Ave	6	Southwest Expressway Investors, Ltd.	6 Lots / 502 Units	MFA	Approve

### ● 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 Frank Lopez Sr., a decorated Vietnam Veteran who served two tours of duty and earned a Purple Heart medal and two bronze Stars, returning to San Jose and later helped co-found the Vietnam Veteran's War Memorial currently being built at Confluence Point in Guadalupe River Park. Frank Lopez Sr. returned to San Jose to teach and coach football at Mount Pleasant, Overfelt and James Lick High Schools in San Jose. He passed away on November 24, 2012 after a lifetime of service to our Nation and to the residents of San José. (Liccardo)

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/  
FINANCING AUTHORITY AGENDA**

**1:30 P.M.**

**TUESDAY, DECEMBER 18, 2012**

**CHAMBERS**

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- 1. Call to Order and Roll Call**
- 2. [Approval of Consent of the San José Financing Authority to the Recording of Subordinate Leasehold Deeds of Trust Against the Ground Lease for the Fourth Street Apartments.](#)**

**Recommendation:**

It is recommended that the San José Financing Authority Board adopt a [resolution](#):

- (a) Consenting to the recording of a subordinate leasehold deed of trust for an Federal Home Loan Bank Affordable Housing Program loan in the amount of \$1,000,000 against the Ground Lease between the City of San José Financing Authority (“Authority”) and Fourth Street Apartments, L.P. (the “Borrower”) for the Fourth Street Apartments located at 1460 North Fourth Street;
- (b) Consenting to the recording of a subordinate leasehold deed of trust for a Mental Health Services Act (“MHSA”) loan in the amount of \$661,621 and a \$570,000 operating subsidy grant against the Ground Lease between the Authority and the Borrower for the Fourth Street Apartments;
- (c) Consenting to the recording of a subordinate leasehold deed of trust for a Tax Credit Assistance loan in the amount of \$8,789,846 against the Ground Lease between the Authority and the Borrower for the Fourth Street Apartments;
- (d) Authorizing the Executive Director of the Authority or designee to negotiate and execute an amendment to the Ground Lease to add the new subordinate loans and lenders and to provide additional notice and cure provisions for the California Housing Finance Agency, in connection with MHSA loan; and
- (e) Authorizing the Executive Director of the Authority or designee to execute all documents pertaining to these approvals.

CEQA: Addendum to Final EIR for the North San José Area Development Policy, Resolution No. 72768, File No. PDC06-022. Council District 3. (Finance/Housing)

- 3. Open Forum**
- 4. Adjourn the San José Financing Authority.**

## **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.