



# CITY COUNCIL AGENDA

OCTOBER 8, 2013

## SYNOPSIS

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  
**Absent Council Members: All Present.**  
  
**1:31 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: All Present.**
- **Invocation (District 9)**  
Jane Light, Former President of the San José Public Library Foundation, read an excerpt from the poem "*Ode to the Book*" by Pablo Neruda.
- **Pledge of Allegiance**  
Mayor Reed, accompanied by Third Graders from Lynnhaven Elementary School, led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day and the Amended Agenda were approved.  
  
Mayor Reed announced the appointment of Toni J. Taber as City Clerk.
- **Closed Session Report**  
No Report.

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to Rick Holden for 15 years of exceptional service to the Community Leadership Program. (Constant)  
(Deferred from 9/10/13 – Item 1.1)  
**Mayor Reed and Council Members Constant and Liccardo recognized and commended Rick Holden for 15 years of outstanding service.**
- 1.2 Presentation of a proclamation recognizing the week of October 20-26, 2013 as “National Save for Retirement Week” in the City of San José. (Constant)  
**Mayor Reed and Council Member Constant recognized the week of October 20 through October 26, 2013 as “National Save for Retirement Week” in San José.**
- 1.3 Presentation of a proclamation recognizing October 9, 2013 as “International Walk to School Day” in the City of San José in an effort to celebrate the many benefits of walking and bicycling to school. (City Council)  
(Rules Committee referral 10/2/13)  
**Mayor Reed, Vice Mayor Nguyen and Council Members Constant, Herrera, Liccardo and Khamis recognized October 9, 2013 as “International Walk to School Day” in San José.**

# 2. CONSENT CALENDAR

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- 2.1 **Approval of Minutes.**  
**There were none.**

- 2.2 **Final Adoption of Ordinances.**

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29314 – Amending Sections 9.10.2010 and 9.10.2020 of Chapter 9.10 of Title 9 of the San José Municipal Code relating to single-use carry-out bags.

**Ordinance No. 29314 adopted.**

**Noes: Constant.**

- 2.3 **Approval of Council Committee Reports.**

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

- (a) Rules and Open Government Committee Report of September 18, 2013. (Mayor)  
(b) Public Safety, Finance, and Strategic Support Committee Report of September 19, 2013. (Constant)  
(c) Community and Economic Development Committee Report of September 23, 2013. (Herrera)

**Approved.**

- 2.4 **Mayor and Council Excused Absence Requests.**  
**No Report.**

## 2. CONSENT CALENDAR

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### 2.5 City Council Travel Reports.

Mayor Reed and Council Member Khamis presented highlights of their Silicon Valley Leadership Group Trip to Washington D.C. which focused mainly on Immigration and Business Tax Reform, and included discussions on Patent and Trademark District Offices, one to be located in Silicon Valley.

### 2.6 Report from the Council Liaison to the Retirement Boards. No Report.

### 2.7 Additional Right-of-Way for the Delmas/Park Rule 20B Underground Utility District Project.

**Recommendation:** Approve an ordinance designating a 30-foot wide strip of City-owned property (Assessor's Parcel No. 259-46-076) located on the south side of Park Avenue east of Gifford Street, as public right-of-way for the purpose of implementing the construction of the Delmas/Park Rule 20B Underground Utility District Project and to accommodate the undergrounding of overhead utility facilities. CEQA: Exempt, File No. PP13-081. Council District 3. (Public Works)

**Ordinance No. 29319 passed for publication.**

### 2.8 Council Member Campos' Travel to Dublin, Ireland.

**Recommendation:** Approve travel by Council Member Campos to Dublin, Ireland on October 12 – 17, 2013, to attend the Dublin Sister City Delegation. Source of Funds: District 5 Council Funds. (Campos)  
(Rules Committee referral 10/2/13)

**Approved.**

### 2.9 Actions Related to Mayor Reed's Travel to Washington D.C.

**Recommendation:**

- (a) Approve travel by Mayor Reed to Washington, D.C. on October 1-3, 2013, to join the Silicon Valley Leadership Group to advocate for federal policies to support Silicon Valley job creation and global competitiveness. Source of Funds: Mayor's Office Budget. (Mayor)
- (b) Request for an excused absence for Mayor Reed from the City Council Meeting on October 1, 2013 and the Rules and Open Government Committee on October 2, 2013 due to Authorized City Business: Silicon Valley Leadership Group Fall CEO/Senior Officer Trip. (Mayor)

(Rules Committee referral 10/2/13)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.10 Council Member Rocha's Travel to Los Angeles, CA.

**Recommendation:** Approve travel by Council Member Rocha to Los Angeles, CA on October 16-17, 2013, for the San José Silicon Valley Chamber Study Mission to Los Angeles. Source of Funds: Mayor/Council Funds. (Rocha)  
(Rules Committee referral 10/2/13)

**Approved.**

### 2.11 Agreement with the National Aeronautics and Space Administration Ames Research Center (NASA ARC) for Use of Moffett Federal Airfield.

**Recommendation:** Adopt a resolution ratifying the extension to the Reimbursable Space Act Agreement with the National Aeronautics and Space Administration Ames Research Center (NASA ARC) for utilization of Moffett Federal Airfield for Law Enforcement and Emergency Response Capabilities, for an extension period not to exceed three months, for support services related to the use of office and hangar space and estimated fuel costs. CEQA: Not a Project, File No. PP10-066(f), Lease of equipment of existing space for the same use. (Economic Development)  
(Rules Committee referral 10/2/13)

**Resolution No. 76814 adopted.**

### 2.12 Hindu Awareness and Appreciation Month Reception.

**Recommendation:** As recommended by the Rules and Open Government Committee on October 2, 2013:

- (a) Approve the Hindu Awareness and Appreciation Month Reception as a City Council sponsored Special Event.
- (b) Approve expending funds and accepting donations from various individuals, businesses and community groups to support this event.

CEQA: Not a Project. (Kalra)  
[Rules Committee referral 10/2/13 – Item G(2)]

**Approved.**

### 2.13 Documentary Showing on Community Gardens.

**Recommendation:** As recommended by the Rules and Open Government Committee on October 2, 2013:

- (a) Approve the showing of a community gardens documentary as City Council sponsored Special Event.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (Oliverio)  
[Rules Committee referral 10/2/13 – Item G(3)]

**Approved.**

## 2. CONSENT CALENDAR

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### 2.14 San José Gun Buy Back.

**Recommendation:** As recommended by the Rules and Open Government Committee on October 2, 2013:

- (a) Approve the San José Gun Buy Back as a City Council sponsored Special Event.
- (b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.

(Campos)

**Approved.**

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the City Manager, Debra Figone (Verbal Report) No Report.

### 3.2 Labor Negotiations Update

**Recommendation:** Accept Labor Negotiations Update.

**Heard at 9:30 a.m.**

**No Report.**

### 3.3 2012-2013 City Manager's Annual Report.

**Recommendation:**

- (a) Accept the 2012-2013 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter Section 701 (F).

**Accepted.**

- (b) Adopt Appropriation Ordinance and Funding Sources Resolution amendments in various operating and capital funds to implement the 2012-2013 Annual Report recommendations, including appropriate technical adjustments, as detailed in Section IV (Recommended Budget Adjustments and Clean-Up Actions).

**Ordinance No. 29320 adopted.**

**Resolution No. 76815 adopted.**

- (c) Approve the release of the Successor Agency to the Redevelopment Agency PERS Levy/Water District Levy General Fund Contingency Plan that was included in the 2013-2014 Adopted Budget.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (City Manager's Office)

**Approved.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.4 Ordinance Requiring Employee Contributions to Federated Retirement Plan while Receiving Supplemental Military Pay.

**Recommendation:** Approve an ordinance amending Section 3.28.630 of Chapter 3.28 of Title 3 of the San José Municipal Code (the 1975 Federated Employees Retirement Plan) to require members to pay the employee's share of contributions when receiving supplemental military pay from the City during military service and to make changes in compliance with federal laws. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy change to Title 3 (Personnel). (City Attorney's Office)

**Ordinance No. 29321 passed for publication.**

**Noes: Campos, Chu.**

#### 3.5 Terms of an Agreement with the Association of Engineers and Architects, IFPTE, Local 21, Units 41/42 and Unit 43 (AEA).

**Recommendation:** Adopt a resolution:

- (a) Approving the terms of a collective bargaining agreement between the City and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21 (AEA), Units 41/42, and authorizing the City Manager to execute an agreement with a term of July 1, 2013, through June 30, 2014.
- (b) Approving the terms of a collective bargaining agreement between the City and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21 (AEA), Unit 043, and authorizing the City Manager to execute an agreement with a term of July 1, 2013, through June 30, 2014.

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

**Resolution No. 76816 adopted.**

#### 3.6 Semi-Annual Recommendation Follow-Up Report on All Outstanding Audit Recommendations.

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on September 19, 2013, accept the Semi-Annual Recommendation Follow-Up Report on all Outstanding Audit Recommendations for the Six Months Ended June 30, 2013. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (City Auditor)

**Accepted.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 Permit Fees for Residential and Commercial Roof Mounted Solar Energy.

**Recommendation:** Adopt a resolution making the following findings for permit fees for Residential and Commercial Roof Mounted Solar Energy Permits which produce direct current electricity (“Photovoltaic System”):

- (a) The City has adopted appropriate ordinance, permit fees, and processes to streamline the submittal and approval of permits for solar energy systems pursuant to the practices and policies in state guidelines and model ordinances.
- (b) The City’s cost for issuing Photovoltaic System permits is reasonable, and achieves cost recovery for the Building and Fire Departments administrative costs.
- (c) The City’s fee structure results in a quick and streamlined process for Photovoltaic System permits.

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Planning, Building and Code Enforcement)

**Resolution No. 78617 adopted.**

**Staff was requested to look at potential funding sources that may allow solar energy systems to be available to lower income residents.**

**Noes: Khamis.**

### 4.2 Envision San José 2040 Annual Report.

Recommendation: Accept the Envision San José 2040 General Plan Annual Review report. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (Planning, Building and Code Enforcement)

**Deferred to October 22, 2013 per Administration.**

### 4.3 Ordinance Implementing 2013 California Building Standards.

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on September 19, 2013, approve an ordinance amending Title 24 of the San José Municipal Code to:

- (a) Adopt the 2013 editions of the California Building Code (CBC), California Residential Code (CRC), California Electrical Code (CEC), California Mechanical Code (CMC), California Plumbing Code (CPC), California Historical Building Code (CHBC), California Existing Building Code (CEBC), California Green Building Standards Code (CALGreen) and the 2012 edition of the International Existing Building Code Appendix Chapters A2, A3 and A4.
- (b) Adopt local amendments regarding certain structural design requirements, fire sprinkler regulations, and other building and fire safety requirements.

CEQA: Exempt, File No. PP13-082. (Planning, Building and Code Enforcement/Fire)

[Public Safety, Finance and Strategic Support Committee Referral 09/19/13 – Item D(4)(1)]

**Deferred to November 5, 2013 per Administration.**

## 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 Agreement with Brown and Caldwell for the Digester and Thickener Facilities Upgrade Project at the San José-Santa Clara Regional Wastewater Facility.

**Recommendation:** Approve a Consultant Agreement with Brown and Caldwell to provide engineering services for the Digester and Thickener Facilities Upgrade Project at the San José-Santa Clara Regional Wastewater Facility (formerly known as the San José/ Santa Clara Water Pollution Control Plant). This agreement will be effective from the date of execution to December 31, 2019, for a total amount not to exceed \$12,017,526. CEQA: Statutorily Exempt, File No. PP10-066(d), Consultant Services for Design. (Environmental Services)  
**Approved.**

## 8. PUBLIC SAFETY SERVICES

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## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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- Open Forum

- (1) David Wall advised the Council to plan for the day when the water pollution control plant may fail.
- (2) Ross Signorino suggested walking to school in pairs and that bicyclists should wear safety vests.
- (3) Jim Piazza warned about the effects of Trichloroethylene (TCE) on the human body.

- Adjournment

The Council of the City of San José was adjourned at 5:26 p.m. in memory of Maria De La Luz (Callison) Henderson, a dedicated public servant and school liaison for the Evergreen School District for more than 25 years, and a loving mother of nine children, four of which she adopted. Maria was an energetic community volunteer and member of the Evergreen Senior Advisory Council and St. Francis of Assisi Prayer Shawl Ministry. Maria passed away peacefully on Thursday, October 3, 2013. (Herrera)”