



CITY COUNCIL AGENDA

FEBRUARY 5, 2008

AMENDED AGENDA

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D CORTESE, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

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.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. 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 every first and third Tuesday at 7 p.m., 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 and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two 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
Adjourn to Closed Session in Council Chambers Conference Room, W133
[See Separate Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall
- * 7:00 p.m. - Public Hearings, Council Chambers, City Hall - **CANCELLED**

- **Invocation (District 2)**
* Pastor Dave Sawkins, Venture Christian Church

- **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.

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Parking and Traffic Committee, a group of volunteer residents, which met for six years as an oversight group for City Hall construction and were instrumental in completing the large civic project with little disruption to the surrounding neighborhoods. (Liccardo)
TO BE HEARD IN THE EVENING
* **RECOMMEND DEFERRAL PER RULES COMMITTEE**
- 1.2 Presentation of a commendation to the Exchange Club of San José for their generous donation of the “Freedom Shrine” exhibit to San José City Hall and their commitment to the community. (Mayor)
(Rules Committee referral 1/23/08)

1. CEREMONIAL ITEMS

- 1.3 Presentation of a commendation to Margaret Gregg for her tireless efforts to help the homeless and to end homelessness. (Mayor/Housing)
* (Rules Committee referral 1/30/08)

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 will be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) [Special meeting minutes of December 17, 2007](#)
- (b) [Regular minutes of December 18, 2007](#)

2.2 Final adoption of ordinances.

2.3 [Grant Application for Compressed Natural Gas Vehicle Conversion at the Airport.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to execute a grant agreement with the Santa Clara Valley Transportation Authority in the total amount of \$606,393 to:

- (a) Provide funding to assist in the upgrade of the Airport's Compressed Natural Gas fueling station; and
- (b) Assist ground transportation operators, permitted to work at the Mineta San José International Airport, to convert their gasoline powered vehicles to compressed natural gas.

CEQA: Resolution Nos. 67380 and 71451, File No. PP08-005. (Airport)

2.4 [Public Art Project at the Santa Teresa Branch Library.](#)

Recommendation: Approval of an agreement with Beatrice Coron to fabricate and install artwork for the Santa Teresa Branch Library in a total amount not to exceed \$159,445.

CEQA: Exempt, File No. PP05-184. Council District 2. (Economic Development)

2.5 [Waste Characterization Consulting Services Agreement.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Cascadia Consulting Group, Inc., to provide waste characterization consulting services to the Environmental Services Department for a term from February 11, 2008 through July 31, 2008 in an amount not to exceed \$400,000.

CEQA: Not a Project. (Environmental Services)

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)

3.2 Report of the Rules and Open Government Committee – January 23, 2008

Mayor Reed, Chair

- (a) City Council
 - (1) Review January 29, 2008 Final Agenda
 - (2) Review February 5, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Neighborhood Speed and Traffic Enforcement. (City Manager/Police/Transportation)
Deferred from December 12, 2007, January 9, 2008 and January 16, 2008
 - (2) Federal
 - (d) Meeting Schedules
 - (e) The Public Record
 - (f) Appointments to Boards, Commissions and Committees
 - (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Discussion of AB 1441 – Legal Defense Fund. (City Attorney’s Office)
 - (2) Status Report relating to Internet Filtering Proposal and Computer Use at San José Public Libraries. (Library)
Deferred from January 16, 2008
 - (3) Foreclosure Activity and Date Homeowner Assistance Efforts. (Housing)
 - (h) Review of additions to Council Committee Agendas
 - (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (a) Review of remaining provisions of Sunshine Reform Task Force Phase I Report and Recommendations. (Manager)
Continued from January 16, 2008
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
 - (j) Open Forum
 - (k) Adjournment

3.3 Report of the Public Safety, Finance and Strategic Support Committee Councilmember Nguyen, Chair – No Report

3. STRATEGIC SUPPORT SERVICES

3.4 Report of the Rules and Open Government Committee – January 16, 2008

Mayor Reed, Chair

- (a) City Council
 - (1) Review January 22, 2008 Final Agenda
None – Meeting Cancelled
 - (2) Review January 29, 2008 Draft Agenda
 - (a) Agendize Approval of Grant Agreement with San José East Evergreen rotary in the amount of \$2,000. (Clerk/Cortese)
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
 - (1) State
 - (a) Neighborhood Speed and Traffic Enforcement. (City Manager/Police/Transportation)
Deferred from December 12, 2007 and January 9, 2008
 - (b) Accept City Positions on the February 5, 2008 Statewide Presidential Election Ballot – Propositions 91 through 97. (City Manager)
 - (c) Status of the Governor’s Proposed FY 08-09 State Budget (Verbal Report). (City Manager)
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Deferred Compensation Advisory Committee Appointment. (Human Resources)
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Authority to sponsor legislation for the Transfer of Solar Energy. (Mayor)
 - (2) Status Report relating to Internet Filtering Proposal and Computer Use at San José Public Libraries. (Library)
 - (3) Halt use of non-recyclable and non-compostable plastic bags in grocery and retail stores in San José.
 - (4) Accept report in response to Park West Landscape Inc.’s December 2007 letter. (Public Works)
 - (5) Attendance for the Rules and Open Government Committee and Approval of excused absences. (Mayor)
- (h) Review of additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (a) Review of remaining provisions of Sunshine Reform Task Force Phase I Report and Recommendations. (Manager)
Deferred from December 12, 2007 and January 9, 2008
Continued from December 5, 2007

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.4 Report of the Rules and Open Government Committee – January 16, 2008 (Cont'd.)

- (i) (3) Significant Public Records Act Requests
- (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

* (Deferred from 1/29/08 – Item 3.3)

3.5 Support Position for Federal Housing Legislation.

Recommendation: As recommended by the Rules and Open Government Committee of January 30, 2008, adopt a position of support for the following Federal Housing Legislation:

- (a) H.R. 3915 (Miller) – Mortgage Reform and Anti-Predatory Lending Act of 2007, if amended.
- (b) S. 2036 (Schumer) – Protecting Access to Safe Mortgages Act.
- (c) S. 2452 (Dodd) – Homeownership Preservation and Protection Act of 2007. (Housing)

* (Rules Committee referral 1/30/08)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee Councilmember Pyle, Chair – *No Report*

4.2 Amendment for property located on the east side of Almaden Expressway approximately 300 feet northerly of Fleetwood Drive.

Attachment

Recommendation: Tentative Denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) on a 1.82-acre site located on the east side of Almaden Expressway approximately 300 feet northerly of Fleetwood Drive (Tom Mazzone, Owner and Applicant). CEQA: Incomplete. Director of Planning, Building and Code Enforcement recommends denial. Planning Commission recommends continued processing of the application (6-0-1, Commissioner Platten Absent).

GP07-10-01 – District 10

TO BE HEARD IN THE EVENING

* **RECOMMEND DEFERRAL TO 2/26/08 PER ADMINISTRATION**

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee
Councilmember Chirco, Chair – *No Report*

5.2 [Actions related to the acquisition of a billboard located at 1000 South Bascom.](#)

[Supplemental](#)

Recommendation: Adoption of a resolution determining that the public interest and necessity require the acquisition of a billboard owned by Clear Channel Outdoor (“CCO”) located at 1000 South Bascom, San José, CA (APN Numbers 282-29-002, 003, and 004) and authorizing the City Attorney to file suit in eminent domain to acquire such property interest, to apply for an order for possession before judgment, and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available. CEQA: Exempt, File No. PP05-0126. Council District 6. (Public Works)

(Deferred from 12/4/07 – Item 3.6, 12/18/07 – Item 5.2 and 1/8/08 – Item 5.2)

* **DROP PER ADMINISTRATION**

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee
Councilmember Williams, Chair – *No Report*

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Open Forum
- Council will recess until 7:00 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearings at this time.

11. PUBLIC HEARINGS

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) [Consideration of an ordinance rezoning the real property](#) located at the northwest corner of Los Gatos-Almaden Road and Warwick Road (14861 Los Gatos-Almaden Road) from R-1-2 Residence Zoning District to R-1-8 Residence Zoning District to allow residential uses on a 0.99 gross acre site (Abdy Mirzadegan, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C07-087 - District 9

[Deferred from 1/29/08 – Item 11.1(f)]

*

DROP TO BE RENOTICED

- (b) Consideration of an ordinance rezoning the real property located at/on the west side of South 22nd Street, approximately 400 feet northerly of East San Fernando Street (29 S 22nd Street) from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District to allow one existing and one new single-family detached residence on a 0.17 gross acre site. SNI: Five Wounds/Brookwood Terrace. CEQA: Incomplete.

PDC06-091 – District 3

DROP, WITHDRAWN BY APPLICANT

- (c) Consideration of an ordinance rezoning the real property located on the north side of San Felipe Road, approximately 650 feet south of Fowler Road (3810 San Felipe Road) from Agriculture to R-1-5 Single Family Residence Zoning District on a 0.46 gross acre site (Li Chaoyang and Cao Hong, Owner). CEQA: Resolution No. 65459.

C07-093 – District 8

RECOMMEND CONTINUANCE TO 02/26/08 PER ADMINISTRATION

(Item continued on the next page)

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar. (Cont'd.)

Recommendation:

- (d) [Consideration of an ordinance rezoning the real property](#) located at/on the east side of Almaden Road, approximately 450 feet south of McKean Road (19600 Almaden Road) from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to six single-family detached residences on a 1.09 gross acre site (Masoumi Mike Et Al, Owner; Mike Masoumi, Developer). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). [PDC07-037](#) – District 10

* **RECOMMEND CONTINUANCE TO 02/26/08 PER ADMINISTRATION**

11.2 [Rezoning the real property located on the north side of East Taylor Street.](#)

Recommendation: Consideration of an ordinance rezoning the real property located on the north side of East Taylor Street approximately 110 feet east of North Second Street (65 E. Taylor Street) from R-M Multi-Family Residential District to A(PD) Planned Development Zoning District to allow office uses in an existing single-family residence on a 0.13 gross acre site (Lindstrom Cary O., Owner). CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (6-0-1).

[PDC05-123](#) – District 3

* **RECOMMEND CONTINUANCE TO 02/26/08 PER ADMINISTRATION**

● 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>
9976	West side of Dent Ave., 400 feet south of Branham Lane	9	Flor O’Sullivan	1 Lot / 20 Units	Multi- Family Attached

● Notice of City Engineer’s Award of Construction Projects

● Open Forum

● 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, Redevelopment Agency Board, 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, Redevelopment Agency Board, 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 agenda 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, unless they are speaking during open forum.
 - 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.