



# CITY COUNCIL AGENDA

**SEPTEMBER 23, 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](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.

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

- **Invocation (District 8)**

- \* Pastor Solomon Tolentino, The Filipino 7<sup>th</sup> Day Adventist 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 9.1, 9.2, AND 9.3 ARE TO BE CONSIDERED IN A JOINT CITY COUNCIL/ REDEVELOPMENT AGENCY BOARD SESSION.**

**Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.**

- \* **ITEM 3.5 RENUMBERED TO ITEM 9.3**

- \* **SEE NEW ITEM 1.3 “PRESENTATION OF A COMMENDATION TO SEMI . . .”**

- **Closed Session Report**

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to the Dr. Martin Luther King, Jr. Library in celebration of its fifth anniversary and unique status as a co-developed and co-managed facility between the City of San José and San José State University. (Liccardo)
- 1.2 Presentation of gifts from the Dublin, Ireland Sister City Delegation. (Pyle/Williams)  
\* (Rules Committee referral 9/17/08)
- 1.3 Presentation of a commendation to SEMI for being an outstanding corporate citizen and a key contributor to the economy in San José and across the globe. (Mayor/Chu)  
\* (Orders of the Day)

# 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 will be removed from the Consent Calendar and considered separately.

## 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes.

- (a) Regular Minutes of June 10, 2008
- (b) Special Meeting Minutes of June 16, 2008
- (c) Regular Minutes of June 17, 2008

## 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28394 – Rezoning certain real property situated on the north side of Olsen Drive, approximately 100 feet west of Cypress Avenue (3315 Olsen Drive) to the R-2(PD) Planned Development Zoning District. PDC08-008
- (b) ORD. NO. 28395 – Rezoning certain real property situated on the southeast side of Montecito Vista Drive, 660 feet southwest of Monterey Road (2745 Monterey Road), to A(PD) Planned Development Zoning District. PDC08-032
- (c) ORD. NO. 28396 – Rezoning certain real property situated on both sides of Olsen Drive, between South Cypress Avenue and Doma Drive, and east of South Cypress Avenue, approximately 300 feet southerly of Kirkwood Drive from Count of Santa Clara to R-2 Two-Family Residence Zoning District. C08-019

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.2 Final adoption of ordinances. (Cont'd.)

**Recommendation:** Final adoption of ordinances.

- (d) ORD. NO. 28397 – Rezoning certain real property situated on the north side of Olin Avenue, approximately 400 feet westerly of Winchester Boulevard from County of Santa Clara to CO Commercial Office Zoning District. C08-019
- (e) ORD. NO. 28398 – Rezoning certain real property situated west of Winchester Boulevard between Stevens Creek Boulevard and Highway 280 from County of Santa Clara to R-1-8 Single-Family Residence Zoning District. C08-019
- (f) ORD. NO. 28399 – Rezoning certain real property situated at the west side O'Brien Court, extending southerly approximately 120 feet from the southwest corner of Campbell Avenue (1001 – 1015 O'Brien Court), to A(PD) Planned Development Zoning District. PDC06-126
- (g) ORD. NO. 28400 – Rezoning certain real property situated on the southeast corner of the intersection of the Alameda and Bush Street (746 The Alameda) to A(PD) Planned Development Zoning District. PDC07-009

### 2.3 [Naming of a new park.](#)

**Recommendation:** As recommended by the Parks and Recreation Commission, name a new park located at the northeasterly corner of Piercy Road and Tennant Avenue as "Piercy Park". (City Clerk)

### 2.4 [Naming of a new park.](#)

**Recommendation:** As recommended by the Parks and Recreation Commission, name a new park located at North King Road and Dobbin Avenue as "Newbury Park". (City Clerk)

\* **RECOMMEND DEFERRAL FOR MORE OUTREACH PER DISTRICT 3**

### 2.5 [Rebudget of Funds to Complete Various Projects.](#)

**Recommendation:**

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund (Fund 375):
  - (1) Increase the Beginning Fund Balance by \$372,000; and
  - (2) Increase the Hitachi Turnkey Project Design Review and Inspection appropriation to the Parks, Recreation and Neighborhood Services Department by \$372,000.

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.5 Rebudget of Funds to Complete Various Projects. (Cont'd.)

**Recommendation:**

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Excise Tax Fund (Fund 465):
  - (1) Increase the Beginning Fund Balance by \$30,000; and
  - (2) Increase the Community Facilities District No. 14 Feasibility Study Project appropriation to the Department of Public Works by \$30,000.

CEQA: Not a Project. (City Manager's Office/Public Works/Parks, Recreation and Neighborhood Services)

### 2.6 [Grant Application for a Solar America Cities Project.](#)

**Recommendation:**

- (a) Approve an agreement with the Department of Energy to conduct the Solar America Cities activities, for the term of July 1, 2008 through June 30, 2010, and to accept a grant in an amount not-to-exceed \$200,000.
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute a First Amendment to the Department of Energy grant agreement to revise the total program cost over the two year term of the grant agreement of not-to-exceed \$463,464.
- (c) Adopt the following Appropriation Ordinance and Funding Source Resolution amendments in the General Fund:
  - (1) Increase the estimate in the General Fund for Revenue from the Federal Government by \$110,606.
  - (2) Increase the Environmental Services Department's personal services appropriation by \$40,311.
  - (3) Increase the Environmental Services Department's non-personal/ equipment appropriation by \$70,295.

CEQA: Not a Project. (Environmental Services/City Manager's Office)

### 2.7 [Change Order for the Water Pollution Control Plant's Electrical Distribution System.](#)

[Supplemental – Letter from the Water Pollution Control Plant](#)

**Recommendation:** Approve a Contract Change Order No. 1 for the Switchgear M5, Interim Ring Bus, and Medium Voltage Cables Replacement Design-Build Project with Rosendin Electric, Inc., for a credit in the amount of \$300,000. CEQA: Exempt, File No. PP04-03-079. (Environmental Services)

## 2. CONSENT CALENDAR

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### 2.8 Initiation of the Following Annexation/Reorganizations.

**Recommendation:**

- (a) [Adopt a resolution initiating proceedings and setting a public hearing on Tuesday, October 21, 2008 at 7:00 p.m.](#) for the reorganization/annexation of the territory designated as Winchester No. 42, which involves the annexation to the City of San José of approximately 85 gross acres of land located west of Winchester Boulevard between Stevens Creek Boulevard and Highway 280 and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service. CEQA: Resolution No.65459. Council District 1. (Planning, Building and Code Enforcement)
- (b) [Adopt a resolution initiating proceedings and setting a public hearing on Tuesday, October 21, 2008 at 7:00 p.m.](#) for the reorganization/annexation of the territory designated as Buena Vista No. 2, which involves the annexation to the City of San José of approximately 40 gross acres of land located south of West San Carlos Street, west of Meridian Avenue and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, Burbank Sanitary District, Sunol Sanitary District, and Area No. 01 (Library Services). CEQA: Resolution No.65459. Council District 6. (Planning, Building and Code Enforcement)
- (c) [Adopt a resolution initiating proceedings and setting a public hearing on Tuesday, October 21, 2008 at 7:00 p.m.](#) for the reorganization/annexation of the territory designated as Riverside No. 51 which involves the detachment of 3.4 gross acres of land located along Santa Teresa Boulevard, 100 feet southeast of Bayliss Drive from the South Santa Clara Fire Protection District. CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement)

### 2.9 [Roundtable Drive Pedestrian Lighting Improvements Project.](#)

**Recommendation:** Report on bids and award of contract for the Roundtable Drive Pedestrian Lighting Improvements Project to the low bidder, San José Signal Electric Construction, Inc., in the amount of \$180,752, and approval of a contingency in the amount of \$18,000. CEQA: Exempt, File No. PP06-105. Council District 2. SNI: Edenvale/Great Oaks. (Public Works)

### 2.10 [Redevelopment Agency Executive Director's Travel to Chicago, IL.](#)

**Recommendation:** Approve travel by Redevelopment Agency Executive Director Harry Mavrogenes to Chicago, IL on October 1-3, 2008 to attend the San José Silicon Valley Chamber of Commerce "City-to-City" trip. Source of Funds: Redevelopment Agency. (Redevelopment Agency)  
(Rules Committee referral 9/10/08)

### **3. STRATEGIC SUPPORT SERVICES**

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

#### **3.2 Report of the Special Rules and Open Government Committee – [August 29, 2008](#) Mayor Reed, Chair**

- (a) Open Government Initiatives
  - (1) Review Administration & Accountability Section of Sunshine Reform Task Force Phase II Recommendation. (City Manager's Office)
    - (a) SRTF Phase II Report and Recommendations.
    - (b) Staff's Response to Phase II Report and Recommendations of the SRTF.
    - (c) SRTF Chair's Response to the Staff Report responding to Phase II Report and Recommendations of the SRTF.
  - (b) Public Comment
  - (c) Adjournment

#### **3.3 Report of the Rules and Open Government Committee – [September 10, 2008](#) Mayor Reed, Chair**

- (a) City Council (City Clerk)
  - (1) Review September 16, 2008 Final Agenda
  - (2) Review September 23, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) Sacramento Update (verbal report). (City Manager's Office)
  - (2) Federal
- (d) Meeting Schedule
  - (1) Approve time change for the Council Study Session on the Three-Year General Fund Structural Deficit Elimination Plan on November 17, 2008 from 9:00 a.m. to 4:00 p.m. in Council Chambers. (City Manager's Office)
  - (2) Approval to set a study session on Historic Preservation on Tuesday, October 23, 2008 from 9:00 a.m. to 12:00 p.m. in Council Chambers. (Planning, Building and Code Enforcement)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committee
  - (1) Approve appointments to Work2future Board of Directors. (Mayor)
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Traffic Signal Modification at Winchester Boulevard and Forest Avenue. (Public Works)
  - (2) Approve the Auditor's Office Monthly Report of Activities for July and August 2008. (City Auditor)
- (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

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 Report of the Rules and Open Government Committee – September 10, 2008

(Cont'd.)

- (i) Open Government Initiatives
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force (SRTF)  
Review of SRTF Phase II Report and Recommendations
    - (a) SRTF Phase II Report and Recommendations
    - (b) Staff's Response to Phase II Report and Recommendations of the SRTF.
    - (c) SRTF Chair's Response to the Staff Report responding to Phase II Report and Recommendations of the SRTF.
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

#### 3.4 Report of the Public Safety, Finance and Strategic Support Committee Councilmember Nguyen, Chair – *No Report.*

#### 3.5 Purchase of Insurance Policies.

- \* **Recommendation:** Approve the purchase of certain City and Redevelopment Agency insurance policies (property and liability for City; property only for Redevelopment Agency) for the period October 1, 2008 to October 1, 2009 at a cost not-to-exceed \$2,000,000 from Factory Mutual Insurance Company, ACE Property & Casualty Insurance Company and Lloyds of London, Indian Harbor Insurance Company, Travelers Property Casualty Insurance Company, and Westchester Fire Insurance Company. CEQA: Not a Project. (Human Resources)

\* **RENUMBERED TO ITEM 9.3**

#### 3.6 Report of the Rules and Open Government Committee – August 27, 2008 Mayor Reed, Chair

- (a) City Council (City Clerk)
  - (1) Review September 2, 2008 Final Agenda  
NONE – MEETING CANCELLED
  - (2) Review September 9, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) Sacramento Update (verbal report). (City Manager's Office)
  - (2) Federal
- (d) Meeting Schedule
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committee

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.6 Report of the Rules and Open Government Committee – August 27, 2008 (Cont'd.) Mayor Reed, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
    - (1) Downtown Commuter Bicycle Demonstration Project. (Reed/Liccardo/Williams)
    - (2) Recommend to agenda for the September 9, 2008 Council meeting an amendment to Council Resolution 74312 regarding confidentiality notice. (Mayor)  
**HEARD BY COUNCIL 9/9/08**
  - (h) Review of additions to Council Committee Agendas
    - (1) Community and Economic Development Committee
      - (a) Add an update on the Office of Cultural Affairs Grants Funding Program Strategic Review to the September 22, 2008 CED Committee Agenda.
    - (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 (SRTF)  
Review of SRTF Phase II Report and Recommendations
      - (a) SRTF Phase II Report and Recommendations
      - (b) Staff's Response to Phase II Report and Recommendations of the SRTF.
      - (c) SRTF Chair's Response to the Staff Report responding to Phase II Report and Recommendations of the SRTF.
    - (3) Significant Public Records Act Requests
    - (4) Council Policy Manual Update
  - (j) Open Forum
  - (k) Adjournment
- \* (Deferred from 9/9/08 – Item 3.5 and 9/16/08 – Item 3.5)

#### 3.7 Report of the Rules and Open Government Committee – [September 3, 2008](#) Mayor Reed, Chair

- (a) City Council (City Clerk)
  - (1) Review September 9, 2008 Final Agenda
  - (2) Review September 16, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) Sacramento Update (verbal report). (City Manager's Office)
    - (b) City Sponsored Legislation for the First Year of the Two-Year 2009-10 Session. (City Manager's Office)
  - (2) Federal
- (d) Meeting Schedule

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.7 Report of the Rules and Open Government Committee – September 3, 2008 (Cont'd.) Mayor Reed, Chair

- (e) The Public Record
  - (f) Appointments to Boards, Commissions and Committee
  - (g) Rules Committee Reviews, Recommendations and Approvals
    - (1) Accept Staff Report on Employee Campaign/Election Nomination Guidelines. (Office of Employee Relations)
    - (2) Recommend a workload analysis for the creation of a waiver process as permitted under Assembly Bill 411. (Cortese)
  - (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 (SRTF)
    - (3) Significant Public Records Act Requests
    - (4) Council Policy Manual Update
  - (j) Open Forum
  - (k) Adjournment
- \* (Deferred from 9/16/08 – Item 3.2)

#### 3.8 [AB 31 \(De Leon\) – Statewide Park Development and Community Revitalization Act of 2008.](#)

**Recommendation:** As referred by the Rules and Open Government Committee of September 17, 2008, consider a position of support for AB 31 (De Leon) – Statewide Park Development and Community Revitalization Act of 2008. (City Clerk)

\* [Rules Committee referral 9/17/08 – Item C(1)(b)]

#### 3.9 [Measure A – Hospital Seismic Safety and Medical Facilities.](#)

**Recommendation:** As referred by the Rules and Open Government Committee of September 17, 2008, consider a position of support for Measure A – Hospital Seismic Safety and Medical Facilities. (City Clerk)

\* [Rules Committee referral 9/17/08 – Items G(2) and G(1)]

#### 3.10 [2008 League of California Cities Resolutions.](#)

**Recommendation:** As referred by the Rules and Open Government Committee of September 17, 2008, approve the recommended City positions for four (4) resolutions to be considered at the Annual League of California Cities (LOCC) Conference to be held in Long Beach on September 24 – 27, 2008. (City Clerk)

\* [Rules Committee referral 9/17/08 – Items G(3)]

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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

4.2 **[Early Denial of General Plan amendment for property located on the east side of Dove Road approximately 400 feet north of Hassler Parkway \(4200 Dove Hill Road\).](#)**

[Attachment – Memo from Vice Mayor Cortese](#)

[Supplemental – Memo from the Planning Commission](#)

\* **Recommendation:** Denial or continued processing of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Silver Creek Planned Residential Community/Non-Urban Hillside to a new land use designation to be determined to allow 290-340 assisted-living units on five acres of a 21-acre site on the east side of Dove Road approximately 400 feet north of Hassler Parkway (4200 Dove Hill Road) (Salvatore Caruso, Applicant/Stanislaus and Eleanore Kuehne, Owner). CEQA: Incomplete. Director of Planning, Building and Code Enforcement recommends denial. Planning Commission recommends continued processing of the General Plan amendment request to change the Land Use/Transportation Diagram designation to a new land use designation to allow up to 340 assisted-living units on five acres of the subject site (5-2-0, Commissioner Zito and Jensen opposed).

[GP08-08-03](#) – District 8

**TO BE HEARD IN THE EVENING**

4.3 **[Public Hearing on the Reorganization of Meridian No. 73.](#)**

**Recommendation:** Conduct a public hearing and adoption of a resolution ordering the reorganization of territory designated as Meridian No. 73 which involves the annexation to the City of San José of an approximately 147 gross acre County island located between Hamilton Avenue and Dry Creek Road, west of Meridian Avenue and east of the City of Campbell boundary, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

**TO BE HEARD IN THE EVENING**

4.4 **[Public Hearing on the Reorganization of Hamilton No. 59.](#)**

**Recommendation:** Conduct a public hearing and adoption of a resolution ordering the reorganization of territory designated as Hamilton No. 59 which involves the annexation to the City of San José of an approximately 131 gross acre County island located between Meridian Avenue and Leigh Avenue, north of Hamilton Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

**TO BE HEARD IN THE EVENING**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.5 [Public Hearing on the Reorganization of Burbank No. 41.](#)

**Recommendation:** Conduct a public hearing and adoption of a resolution ordering the reorganization of territory designated as Burbank No. 41 which involves the annexation to the City of San José of an approximately 16 gross acre County island located on the north side of Stevens Creek Boulevard, west of Revey Avenue, including additional properties along Bellerose Drive, Di Salvo Avenue, Ciro Avenue, O'Connor Drive and Bailey Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. SNI: Burbank/Del Monte. (Planning, Building and Code Enforcement)  
**TO BE HEARD IN THE EVENING**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 **Report of the Neighborhood Services and Education Committee – [September 11, 2008](#) Councilmember Chirco, Chair**

- (a) Update on Library Summer Reading Program and Other Youth Services. (Library)
- (b) Report on Citywide Sports Field Study. (Parks, Recreation and Neighborhood Services)
- (c) Quarterly Grant Update – Status for January through June, 2008. (Parks, Recreation and Neighborhood Services)
- (d) After School Program Update. (Parks, Recreation and Neighborhood Services)
- (e) Review of Quarterly Performance Measure Reporting. (Neighborhood Services CSA)
- (f) Strong Neighborhoods Monthly Update. (City Manager's Office)
  - (1) Pilot Areas Update.
- (g) Schools/City Collaborative Monthly Update. (City Manager's Office)
  - (1) Reports from School Safety, Joint Use and Teacher Recruitment/ Retention Sub-committees.
- (h) Green Job Training Update. (Economic Development/Work2Future)
- (i) Oral Petitions
- (j) Adjournment

### 5.2 [Watson Park Master Plan.](#)

[Attachment – Watson Park Master Plan Report](#)

[Attachment - Final CEQA Initial Study and Mitigation, Monitoring and Reporting Program](#)

**Recommendation:** Approve the Watson Park Master Plan and adopt a resolution incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, File No. PP07-130. Council District 3. SNI: 13<sup>th</sup> Street. (Parks, Recreation and Neighborhood Services)

## 5. NEIGHBORHOOD SERVICES

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### 5.3 [Mayor's Gang Prevention Task Force Strategic Work Plan 2008-2011.](#)

#### [Action, Collaboration, Transformation \(ACT\) DRAFT Report](#)

**Recommendation:** Approve the Action, Collaboration, Transformation (ACT) – A plan to break the cycle of youth violence and foster hope, the Mayor's Gang Prevention Task Force Strategic Work Plan 2008-2011. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/Police)

[Public Safety, Finance and Strategic Support Committee referral August 21, 2008 – Item (c)]

\* **TO BE HEARD FIRST IN THE EVENING**

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 **Report of the Transportation and Environment Committee – [September 8, 2008](#)** **Councilmember Williams, Chair**

- (a) Items Recommended for Deferral:
  - (1) Report on Red Light Running Camera System. (Police)
  - (2) Trail Program Status Report. (Parks, Recreation and Neighborhood Services)
  - (3) Report on Airport Door to Door Shuttle Model. (Airport)
  - (4) Status Report on Taxi Service. (Airport)
  - (5) Update Report on Revised Street Light Policy. (Transportation)
  - (6) Update on Storm Water Municipal Regional Permit. (Environmental Services)
- (b) VTA Activities Report. (Transportation)
- (c) Terminal Area Improvement Program (TAIP) Quarterly Report. (Airport)
- (d) Report on Recycled Water Master Plan. (Environmental Services)
- (e) Recommendation for Council Approval on City Water Conservation Plan. (Environmental Services)  
**SEE ITEM 7.2 FOR COUNCIL ACTION TO BE TAKEN**
- (f) Report on Key Legislature Items. (City Manager's Office)
- (g) Status Report on Water Pollution Control Plant Master Plan. (Environmental Services)
- (h) Recommendations on the Private Sector Green Building Policy. (Planning, Building and Code Enforcement)
  - (1) Recommend Council adoption of the proposed Private Sector Green Building Policy for new construction.
  - (2) Direct staff to draft an ordinance establishing mandatory green building standards for private sector development for Council adoption.  
**SEE ITEM 7.3 FOR COUNCIL ACTION TO BE TAKEN**
- (i) Quarterly Update on Performance Measures for Airport, Environmental Services Department, General Services, Department of Transportation, and Police Department. (City Manager's Office)
- (j) Oral Petition
- (k) Adjournment

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 Actions Related to the “Cities Keep It Clean” Program.

**Recommendation:**

- (a) Adopt a “Cities Keep It Clean Resolution” expressing the City’s commitment to work cooperatively with Save the Bay and other program participants in the *Cities Keep It Clean* Program and to strive to implement a majority of the *Cities Keep It Clean* Program Actions to improve water quality in our creeks, rivers, and the San Francisco Bay.
- (b) Direct staff to continue developing strategies to protect the Bay from trash by:
  - (1) Requiring local retail stores to dramatically decrease the use of plastic grocery bags, requiring or encouraging reusable bags through ban or fee programs.
  - (2) Requiring local food establishments to dramatically reduce the use of non-biodegradable/non-compostable take out food containers through ban or fee programs.
  - (3) Establishing green waste/composting programs to facilitate proper disposal of bio-plastic alternatives to Styrofoam and plastic bags.
  - (4) Establishing a fee based fund for clean up of litter hot spots.
- (c) Reduce Pharmaceutical contamination from the Bay by establishing permanent medicine disposal sites that are easy and convenient for individuals to use to reduce flushing medications into local waterways.

CEQA: Not a Project. (Environmental Services)

\* **RECOMMEND DEFERRAL TO 10/7/08 PER ADMINISTRATION**

### 7.2 City Water Conservation Plan.

**Recommendation:** Approve the City Water Conservation Plan, which will be used by City staff as a guidance document to implement water conservation efforts through Fiscal Year 2010-11. CEQA: Not a Project. (Environmental Services)  
[Transportation and Environment Committee 9/8/08 – Item (e)]

### 7.3 Private Sector Green Building Policy.

\* **Recommendation:**

- (a) Adopt a resolution approving a new Council Policy entitled “Private Sector Green Building Policy” for new construction.
- (b) Direct staff to draft an ordinance establishing mandatory green building Standards for private sector development for Council adoption.

CEQA: Exempt. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

[Transportation and Environment Committee 9/8/08 – Item (h)]

\* **RECOMMEND DEFERRAL TO 10/7/08 PER MAYOR**

## 8. PUBLIC SAFETY SERVICES

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## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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\* See Items 8.1 “Agency Board and City Council actions related to issuance of Merged Area Redevelopment Project Revenue Bonds . . .”, 8.2 “Agency Board and City Council actions related to award of a contract for construction of the SoFA Sidewalk Demonstration Project”, and 8.3 “Acceptance of an update on the Convention Center Phase I Expansion Project” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.

\* **CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEMS 9.1, 9.2, AND 9.3 IN A JOINT SESSION**

### 9.1 [Community Center Joint Use Agreement with Oak Grove School District.](#)

[Attachment – Edenvale Community Center Joint Use Agreement](#)

**Recommendation:**

- (a) Approve a joint use agreement among the City of San José, San José Redevelopment Agency and the Oak Grove School District for the design, construction and joint use of a Community Center and parking lot on the Caroline Davis Intermediate School campus.
- (b) City Council certification that (1) funding strategies will be pursued so that the projected funding for operation and maintenance of the Community Center will be made available in fiscal year 2010-2011, the first year of operation and (2) appropriate efforts will be undertaken so that those funding strategies cover the entire cost of the Community Center project, including operation and maintenance costs, as to not require a decrease in existing basic neighborhood services.

CEQA: Mitigated Negative Declaration, File No. PP08-003. Council District 2. SNI: Edenvale/Great Oaks. (City Manager’s Office/Redevelopment Agency)

### 9.2 [Design, Construction and Transfer of the Proposed Edenvale Community Center.](#)

[Supplemental – Memo from the City Manager and Director of the RDA](#)

[Attachment – Memo from Councilmember Williams](#)

\* **Recommendation:**

- (a) Conduct a public hearing as required by Health and Safety Code Section 33679 and adopt a resolution by the City Council making certain determinations required by Health and Safety Code Section 33445 for Agency funding of the Edenvale Community Center (“Center”).
- (b) Approve a Cooperation Agreement by the City Council and Redevelopment Agency Board providing for the Agency’s construction of the Center, the City’s occupation and maintenance of the Center, for the transfer of City funds in the amount of \$5,307,000 to Agency for construction of the Center, and the transfer of all the Agency’s rights, title and interest in the Center following its completion.

*(Item continued on the next page)*

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 9.2 Design, Construction and Transfer of the Proposed Edenvale Community Center. (Cont'd.)

#### **Recommendation:**

- (c) Adopt a resolution by the Redevelopment Agency Board:
  - (1) Approve the proposed increase of \$5,307,000 to the FY 2008-09 Adopted Capital Budget, Miscellaneous Revenue line item from City San José.
  - (2) Approve an adjustment to the FY 2008-09 Adopted Capital Budget adding \$9,628,153 to the Edenvale/Great Oaks – Edenvale Community Center project line in the Strong Neighborhood Initiative (SNI) Redevelopment Area.
  - (3) Amend the FY 2008-09 Agency Appropriations Resolution.
- (d) Adopt the following 2008-2009 Appropriation Ordinance amendments in the General Fund (Fund 001):
  - (1) Establish a Transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,435,000.
  - (2) Decrease in the Neighborhoods Capital Improvements Fund Earmarked Reserve by \$1,435,000.
- (e) Adopt the following 2008-2009 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund; Parks Purposes Council District #2 (Fund 378):
  - (1) Establish a transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,517,000.
  - (2) Establish an Edenvale Community Center Fixtures, Furniture and Equipment appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$600,000.
  - (3) Increase the Council District 2 Public Art appropriation by \$59,000.
  - (4) Decrease the Reserve: District 2 Community Center by \$2,117,000.
  - (5) Decrease the Ending Fund Balance by \$59,000.
- (f) Adopt the following 2008-2009 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):
  - (1) Establish a transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,065,000.
  - (2) Decrease the Reserve: Calpine Open Space by \$565,000.
  - (3) Decrease the Reserve: District 2 Community Center by \$500,000.
- (g) Adopt the following 2008-2009 Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
  - (1) Establish a transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,290,000.
  - (2) Decrease the Reserve: District 2 Community Center by \$1,290,000.
- (h) Adopt a resolution by the Redevelopment Agency Board approving the award of a construction contract to Ralph Larsen & Son, Inc., the lowest responsive bidder, in the amount of \$12,594,000, for the construction of the Edenvale Community Center, and authorizing a construction contingency of \$906,000 for a total contract amount of \$13,500,000.

*(Item continued on the next page)*

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 9.2 Design, Construction and Transfer of the Proposed Edenvale Community Center. (Cont'd.)

**Recommendation:**

- (i) Approve the second amendment to the agreement by the Redevelopment Agency Board with Carrier Johnson Architects, in the amount of \$432,250 for a total contract amount not-to-exceed \$1,747,490, amending the scope of services to include contract administration and project close out, modifying the Schedule of Performance and extending the term of the agreement to June 30, 2010.
- (j) Approve the second amendment to the agreement by the Redevelopment Agency Board with Gilbane Building Company, in the amount of \$860,000 for a total contract amount not-to-exceed \$1,260,000, amending the scope of services to include construction administration and project close out, modifying the Schedule of Performance and extending the term of the agreement to June 30, 2010.

CEQA: Mitigated Negative Declaration, File No PP08-003. Council District 2. SNI: Edenvale/Great Oaks. (City Manager's Office/Redevelopment Agency)  
(Deferred from 9/9/08 – Item 9.1)

### 9.3 Purchase of Insurance Policies.

- \* **Recommendation:** Approve the purchase of certain City and Redevelopment Agency insurance policies (property and liability for City; property only for Redevelopment Agency) for the period October 1, 2008 to October 1, 2009 at a cost not-to-exceed \$2,000,000 from Factory Mutual Insurance Company, ACE Property & Casualty Insurance Company and Lloyds of London, Indian Harbor Insurance Company, Travelers Property Casualty Insurance Company, and Westchester Fire Insurance Company. CEQA: Not a Project. (Human Resources)

- \* **RENUMBERED FROM ITEM 3.5**

- **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 or Redevelopment Agency Board.*

- Continue RDA Board Meeting (immediately following Open Forum)
- Council will recess until 7:00 p.m.

## 10. GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearing at this time.

## 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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(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 southwest terminus of Fortran Court (4405 Fortran Drive) from A(PD) Planned Development Zoning District to IP Industrial Park Zoning District to allow industrial park uses, including religious assembly in a vacant building on a 5.15 gross acre site (Fortran Court Investors, LLC, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
C08-039 – District 4

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

# 11. PUBLIC HEARINGS

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## 11.2 [Various actions regarding Strong Neighborhoods Initiative Edenvale/Great Oaks Neighborhood Improvement Plan Amendment.](#)

[Attachment – Edenvale/Great Oaks Neighborhood Improvement Plan September 2008](#)  
[Attachment – Edenvale/Great Oaks Revitalization Plan December 2001](#)

**Recommendation:**

- (a) Accept the Strong Neighborhoods Initiative (SNI) Edenvale/Great Oaks Neighborhood Improvement Plan Amendment as the renewed community vision for the future of the Edenvale/Great Oaks SNI Planning Area.
- (b) Encourage Edenvale/Great Oaks area residents, property owners and community members to continue to dedicate their time, energy and resources towards the Plan Amendment while continuing with their community-building activities.

CEQA: Strong Neighborhoods Initiative Program EIR Resolution No. 71045. Council District 2. SNI: Edenvale/Great Oaks. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). (City Manager's Office/Redevelopment Agency)

\* **TO BE HEARD SECOND IN THE EVENING**

## 11.3 [Rezoning real property located on the southwest corner of Berryessa Road and N. 15<sup>th</sup> Street.](#)

[Attachment – General Development Plan Esquina Berryessa](#)  
[Attachment – Letter from Ruth and Going Incorporated](#)

**Recommendation:** Consideration of an ordinance rezoning the real property located on the southwest corner of Berryessa Road and N. 15<sup>th</sup> Street (674 Berryessa Road) from the R-2 Residential Zoning District to the A(PD) Planned Development Zoning District to allow the demolition of a two-family dwelling and three multi-family dwellings and the construction of up to four single-family detached residences on a 0.25 gross acre site (Somot Properties, LLC). SNI: 13<sup>th</sup> Street. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

[PDC08-016](#) – District 3

## 11.4 [Rezoning real property located on the south side of West San Carlos Street between Meridian Avenue and Page Street.](#)

[Attachment – West San Carlos Mixed-Use](#)

**Recommendation:** Consider an ordinance rezoning the real property located on the south side of West San Carlos Street between Meridian Avenue and Page Street from County and CP Commercial Pedestrian Zoning District Commercial Pedestrian Zoning to A(PD) Planned Development Zoning District to allow up to 218 attached single family residences and 22,600 square feet for commercial uses on a 3.59 gross acres site (Dubrovnik Properties, LLC & Nicholas Gera, Owner). SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

[PDC07-096](#) – District 6

(Continued from 9/9/08 – Item 11.4)



- 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>
9990	Northwest corner of North 1 <sup>st</sup> Street and Vista Montana	4	Vista Montana Park Homes LLC	2 Lots / 444 Units	Multi-Family Attached
10016	Southwest corner of North 1 <sup>st</sup> Street and Component Drive	4	Tishman Speyer	4 Lots	Commercial

- Notice of City Engineer’s Award of Construction Projects

- 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 or Redevelopment Agency Board.*

- 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.