



# CITY COUNCIL AGENDA

**FEBRUARY 24, 2009**

**AMENDED AGENDA**

PETE CONSTANT  
ASH KALRA  
SAM LICCARDO  
KANSEN CHU  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON P. NGUYEN  
ROSE HERRERA  
JUDY CHIRCO, VICE MAYOR  
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 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 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, 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 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
  - 3:30 p.m. - Hear Open Forum and continue the RDA Board Meeting  
(no earlier than 3:30 p.m.)
  - 7:00 p.m. - Public Hearings, Council Chambers, City Hall
  
- **Invocation (District 2)**  
Oak Grove High School Choir
  
- **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.**
  
- \* **SEE NEW ITEM 1.8, “Presentation of a commendation to Officer Christine Zarate and Sergeant Sal Lopez . . .”**
  
- **Closed Session Report**

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to the City-San José State University Public Sector Career Initiative in recognition of its partnership to create the new website “Students: From Campus to City Hall.” (Human Resources)
- 1.2 Presentation of a commendation to the North Valley Community Association and the Northwood Adopt-A-Park for their 5<sup>th</sup> Anniversary of the Northwood Adopt-A-Park Program to keep Northwood Elementary School and Northwood Park clean. (Chu)  
**TO BE HEARD IN THE EVENING**
- 1.3 Presentation of a commendation to the North Valley Community Association for their work in organizing the “Holiday in Berryessa” event at Berryessa Branch Library in December 2008. (Chu)  
**TO BE HEARD IN THE EVENING**
- 1.4 Presentation of a commendation to the San José Youth Chamber Orchestra for their exemplary performance at the City of San José State of the City Address. (Mayor)  
**TO BE HEARD IN THE EVENING**
- 1.5 Presentation of a commendation to the Tzu-Chi organization for its worldwide service in the areas of charity, medicine, education and humanitarian development; and most especially for the services provided to the local community now that two Tzu-Chi offices are located in the City of San José. (Pyle)  
**TO BE HEARD IN THE EVENING**
- 1.6 Presentation of a commendation to Miguel E. Jara, owner of La Taqueria on South First Street, upon his retirement. (Mayor/Redevelopment Agency)
- 1.7 Presentation of a proclamation declaring the week of February 26<sup>th</sup> – March 1<sup>st</sup>, 2009 as “First Tee Week” in the City of San José. (Mayor/Constant)  
\* (Rules Committee referral 2/18/09)
- 1.8 Presentation of a commendation to Officer Christine Zarate and Sergeant Sal Lopez their continued efforts to make a positive impact in the community above and beyond the requirements of their service. (Kalra)  
\* (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. CONSENT CALENDAR

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### 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes.

- (a) Regular Minutes of October 7, 2008
  - (b) Special Meeting Minutes of October 14, 2008
  - (c) Regular Minutes of October 21, 2008
  - (d) Joint City of San José Financing Authority Minutes of October 21, 2008
  - (e) Historic Preservation Study Session Minutes of October 23, 2008
  - (f) Regular Minutes of October 28, 2008
- (Deferred from 2/10/09 – Item 2.1)

### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28493 – Rezoning certain real property situated on the southern portion of area generally bounded by North Fifth Street, East Santa Clara Street, North Sixth Street, and East Saint John Street to DC Downtown Primary Commercial Zoning District. C08-058 [Presentation](#)
- (b) ORD. NO. 28495 – Rezoning certain real property situated on the north side of Foxworthy Avenue, approximately 100 feet east of Lansford Avenue (1345 Foxworthy Avenue), to A(PD) Planned Development Zoning District. PDC08-048 [Presentation](#)
- (c) ORD. NO. 28496 – Rezoning certain real property situated on the east side of North 21<sup>st</sup> Street, approximately 350 feet northerly of East Santa Clara Street (32 North 21<sup>st</sup> Street) to CN Commercial Neighborhood Zoning District. C08-063 [Presentation](#)
- (d) ORD. NO. 28497 – Rezoning certain real property situated at the southwest corner of North First Street and Skyport Drive (1717 North First Street), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC08-037 [Presentation](#)

### 2.3 [Contract Change Order for Airport - Runway 12R/30L Centerline Lights Project.](#)

**Recommendation:**

- (a) Approve [Contract](#) Change Order No. 1 for the Runway 12R/30L Centerline Lights Project at the Norman Y. Mineta San José International Airport in the amount of \$101,527, and a four day time extension to complete additional work related to the construction of the Project.
- (b) Approve additional funding in the amount of \$81,527 for additional work related to the installation of Runway 12R/30L Centerline Lights Project.

CEQA: Resolution Nos. 67380 and 71451, PP 07-067. (Airport/Public Works)

## 2. CONSENT CALENDAR

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### 2.4 [Settlement regarding City of San Jose v. World Oil](#)

\* **Recommendation:**

- (a) Approve a settlement and authorize the City Attorney to negotiate and execute a Stipulated Judgment to settle an eminent domain matter with World Oil Company relating to real property located at 3148 Senter Road for the total amount of \$762,500, plus statutory interest and costs for the land value, plus \$9,375 for the loss of goodwill, as considered by the City Council during Closed Session on January 27, 2009.
- (b) Adopt the following Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:
  - (1) Increase the appropriation to the Public Works Department for the Senter Road: Tully to Singleton project by \$150,000.
  - (2) Decrease the Ending Fund Balance by \$150,000.

CEQA: Senter Road Widening Project Final EIR, File No. PP04-295. (City Attorney's Office)

### 2.5 [Agreements for Public Art Program at Norman Y. Mineta San José International Airport.](#)

**Recommendation:**

- (a) Approve two (2) agreements with Gorbet+Banerjee, related to the Norman Y. Mineta San José International Airport Public Art Program, as follows:
  - (1) An [agreement](#) for fabrication and installation of non-architectural systems for public artworks at the Norman Y. Mineta San José International Airport, in an amount not to exceed \$360,500; and
  - (2) An [agreement](#) for the design, fabrication and installation of three (3) pilot artworks at the Norman Y. Mineta San José International Airport, in an amount not to exceed \$310,000.
- (b) Adopt a resolution:
  - (1) Authorizing the City Manager to negotiate and execute an agreement with Gorbet+Banerjee for development and configuration of custom software systems and programmatic operational manuals to support art activation platforms at the Norman Y. Mineta San José International Airport, in an amount not to exceed \$355,000; and
  - (2) Authorizing the City Manager to negotiate and execute amendments to the above three (3) agreements to add up to six (6) months to the term and reallocate scope and/or funding from one agreement to another agreement if the City Manager believes that it would benefit the City's administration of the agreements, provided that there is no increase in the total aggregate compensation of \$1,025,500 approved by the authorization.

CEQA: Resolution Nos. 67380 and 71451, PP07-256. (Economic Development)

## 2. CONSENT CALENDAR

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### 2.6 Urban Runoff Management Plan.

- \* **Recommendation:** Authorize the City Manager to certify and submit the 2009-2010 City of San José Urban Runoff Management Work Plans to the San Francisco Bay Regional Water Quality Control Board in conformance with the City's Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System permit requirements. CEQA: Exempt, File No. PP09-026. (Environmental Services)

### 2.7 Grant from the California Energy Commission's RESCO Initiative for a 2009-2012 San José SMART<sup>E</sup> Program.

**Recommendation:** Adopt a [resolution](#) authorizing the City Manager to submit a grant application to the California Energy Commission's Renewable-based Energy Secure Communities (RESCO) Initiative, requesting grant funding in the amount of \$1,269,000 and providing for City matching funding in the amount of \$1,076,000 to conduct the following activities ("2009-2012 San José Specific, Measurable, Attainable, Realistic and Timely Energy Solutions (SMART<sup>E</sup>) Program."

- (a) Development and implementation of a program that addresses the community need for financing the upfront costs of energy efficiency and renewable energy measures and enables the deployment of mature and viable renewable energy technologies and energy efficiency solutions.
- (b) Facilitation and support for PG&E's development of a Smart Grid Project and smart meter installations.
- (c) Development and implementation of San José's SMART<sup>E</sup> Community Education and Outreach plan, including comprehensive education, training and outreach resources for the residents and businesses of San José through multiple-medias and an education and demonstration center.
- (d) Continued implementation and support for the Redevelopment Agency (RDA) Clean Tech Incentive Program, which provides incentives to clean tech companies to locate and do business in redevelopment areas San José.

CEQA: Not a Project. (Environmental Services)

- \* **RECOMMEND DROP PER ADMINISTRATION**

### 2.8 Ordinance Revisions for Dental Mercury and Fats, Oils and Grease Programs

**Recommendation:** As recommended by the Transportation and Environment Committee of February 2, 2009:

- (a) Approve proposed Dental Amalgam program and direct the City Attorney to draft an ordinance amending Chapter 15.14 of the San José Municipal Code to regulate dental practices under a Dental Wastewater Permit and require the installation of amalgam separators and implementation of Best Management Practices.
- (b) Direct the City Attorney to draft an ordinance amending Chapter 15.14 of the San José Municipal Code to implement the enhanced Fats, Oils and Grease Control Program.

(Environmental Services)

[Transportation and Environment Committee referral – Item (e)]

## 2. CONSENT CALENDAR

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### 2.9 [Special Events & Venues Recycling.](#)

**Recommendation:** As recommended by the Transportation and Environment Committee of February 2, 2009, require special events with over 1,000 attendees to specify that food vendors use #1 (PET) plastic recyclable beverage containers for that event as a condition of their Event Authorization effective May 1, 2009. (Environmental Services)  
[Transportation and Environment Committee referral – Item (f)]

### 2.10 Actions Related to Historic Landmark Initiations.

**Recommendation:**

(a) [Adopt a resolution to:](#)

- (1) Initiate proceedings to consider the McMillan House, located at 525 S. Sixth Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.
- (2) Set a public hearing on Tuesday, April 7, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures.
- (3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council. [Resolution](#)

CEQA: Not a Project. SNI: University.

[HL08-176](#) – District 3 [Presentation](#)

(b) [Adopt a resolution to:](#)

- (1) Initiate proceedings to consider the Lynwood Apartments, located at 553 S. Sixth Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.
- (2) Set a public hearing on Tuesday, April 7, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures.
- (3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council. [Resolution](#)

CEQA: Not a Project. SNI: University.

[HL08-177](#) – District 3 [Presentation](#)

(c) [Adopt a resolution to:](#)

- (1) Initiate proceedings to consider the Kimura House, located at 556 N. Third Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.
- (2) Set a public hearing on Tuesday, April 7, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures.
- (3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council. [Resolution](#)

CEQA: Not a Project.

[HL08-178](#) – District 3 [Presentation](#)

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.10 Actions Related to Historic Landmark Initiations. (Cont'd.)

**Recommendation:**

(d) [Adopt a resolution to:](#)

- (1) Initiate proceedings to consider the Reverend G. A. Miller Residence, located at 80 S. Sixth Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.
- (2) Set a public hearing on Tuesday, April 7, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures. [Resolution](#)
- (3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.

CEQA: Not a Project. SNI: 13<sup>th</sup> Street.

[HL08-179](#) – District 3 [Presentation](#)

(Planning, Building and Code Enforcement)

### 2.11 [Spending Plan for the Supplemental Law Enforcement Services Fund.](#)

**Recommendation:**

- (a) Approve the 2008-2010 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund for \$1,577,752.
- (b) Approve the revised 2007-2009 Spending Plan for the SLES Grant, reallocating funding from the previously established Projects #1, #4, and #6 to Projects #2 and #5 and allocating \$88,398 interest earned into the established projects within the same grant.
- (c) Adopt the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Supplemental Law Enforcement Services Fund (Fund 414):
  - (1) Establish a SLES Grant 2008-2010 appropriation for the Police Department in the amount of \$788,876; and
  - (2) Increase the Earned Revenue by \$788,876.

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

### 2.12 [Forfeiture of bid bond submitted by Élan Construction.](#)

**Recommendation:** Adopt a [resolution](#) waiving the requirement that the Director of the Department of Public Works seek forfeiture of the bid bond submitted by Élan Construction as security for its bid on the Third Street Garage Staircase Replacement Project. CEQA: Exempt, PP08-155. Council District 3. (Public Works)

## 2. CONSENT CALENDAR

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### 2.13 [Master agreement with Engineering Economics.](#)

**Recommendation:**

- (a) Approve a consultant master [agreement](#) with Engineering Economics, Inc., for a variety of commissioning consultant services for various City projects from the date of execution through December 31, 2011, in an amount not to exceed \$500,000.
- (b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute amendments to the master agreement to modify the scope of services to include additional standard services.

CEQA: Not a Project. (Public Works)

### 2.14 [Purchase agreement with the Joe E. Levitt and Jane C. Levitt Family Trust.](#)

**Recommendation:** Adopt a [resolution](#) approving a purchase [agreement](#) with Joe E. Levitt and Jane Levitt, Trustees of the Joe E. Levitt and Jane C. Levitt Family Trust dated September 29, 1983, for the purchase of real property located at Jackson Avenue, San José, CA (APN No. 249-64-010) for an amount not to exceed \$352,000, with an estimated additional amount of \$7,000 for closing and escrow costs, and authorizing the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Mitigated Negative Declaration, File No. PP07-130. Council District 3. (Public Works)

### 2.15 [Excused absence for Councilmember Campos.](#)

**Recommendation:** Request for an excused absence for Councilmember Campos from the Regular Meeting of the Neighborhood Services and Education Committee on March 12, 2009 due to being out of town. (Campos)  
(Rules Committee referral 2/11/09)

### 2.16 **Excused absence for Mayor Reed.**

**Recommendation:**

- (a) [Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on February 11, 2009 due to Authorized City Business: Travel to Washington, D.C. to advocate on behalf of the City with the Federal Government.](#)
- (b) [Report on Legislative Advocacy Trip to Washington, D.C. and request for approval of travel.](#)

(Mayor)

(Rules Committee referral 2/11/09)

## 2. CONSENT CALENDAR

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### 2.17 [Silicon Valley Workforce Investment Network Board Nomination.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee of February 18, 2009, approve the appointment of Brian M. Chrisman, CEO/Founder of Borgata Recycling, Inc., San José, California as a private sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law. (Mayor)

\* (Rules Committee referral 2/18/09 – Item 9.1)

## 3. STRATEGIC SUPPORT SERVICES

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

### 3.2 Report of the Rules and Open Government Committee – [January 21, 2009](#) Mayor Reed, Chair

- (a) City Council
  - (1) Review January 27, 2009 Final Agenda
    - (a) Add New Items to Final Agenda
    - (b) Review Study Session Agendas
    - (c) Assign “Time Certain” to Agenda Items (if needed)
  - (2) Review February 3, 2009 Draft Agenda
    - (a) Add New Items to Draft Agenda
    - (b) Review Study Session Agendas
    - (c) Assign “Time Certain” to Agenda Items (if needed)
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
  - (1) Approve Updated City Council Appointments. (Mayor)
- (g) Rules committee Reviews, Recommendations and Approvals
- (h) Review of additions to Council Committee Agendas
- (i) Open Government Initiatives
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force (SRTF)
    - (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
    - (d) Police Records Workplan Response

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules and Open Government Committee – January 21, 2009 (Cont'd.) Mayor Reed, Chair

- (e) City Attorney's review of Proposition 9 – "Victim's Bill of Right Act of 2008, Marsy's Law" – and any impact to access to information contained in City Police Records
  - (f) Correspondence from the Public regarding Police Records
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
  - (j) Open Forum
  - (k) Adjournment
- (Deferred from 2/3/09 – Item 3.3 and 2/10/09 – Item 3.2)

#### 3.3 Report of the Rules and Open Government Committee – [January 28, 2009](#) Mayor Reed, Chair

- (a) City Council
    - (1) Review February 3, 2009 Final Agenda
      - (a) Add New Items to Final Agenda
      - (b) Review Study Session Agendas
      - (c) Assign "Time Certain" to Agenda Items (if needed)
    - (2) Review February 10, 2009 Draft Agenda
      - (a) Add New Items to Draft Agenda
      - (b) Review Study Session Agendas
      - (c) Assign "Time Certain" to Agenda Items (if needed)
  - (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
      - (a) Summary of Federal Relations Activities – Year-End 2008 and 2009 Outlook. (City Manager's Office)
  - (d) Meeting Schedules
  - (e) The Public Record
  - (f) Appointments to Boards, Commissions and Committees
  - (g) Rules committee Reviews, Recommendations and Approvals
    - (1) Priority Ranking of the 2009 Legislative Priorities. (City Manager's Office)
- HEARD BY COUNCIL 2/3/09 – ITEM 3.8**
- (h) Review of additions to Council Committee Agendas
    - (1) Approve the Committee Workplans for February – June 2009 as follows:
      - (a) Community and Economic Development Committee. (Mayor/Pyle)
      - (b) Neighborhood Services and Education Committee. (Mayor/Campos)
      - (c) Transportation and Environment Committee. (Mayor/Liccardo)
      - (d) Public Safety, Finance and Strategic Support Committee. (Mayor/ Nguyen)
      - (e) Rules and Open Government Committee. (Mayor)

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 Report of the Rules and Open Government Committee – January 28, 2009 (Cont'd.) Mayor Reed, Chair

- (i) Open Government Initiatives
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force (SRTF)
    - (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
    - (d) Approve Sunshine Proposals Schedule Change. (City Manager's Office)
  - (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 2008-2009 Mid-Year Budget Actions related to the Downtown Entertainment Zone. [Attachment – Memo from Mayor Reed and Councilmembers Liccardo, Kalra and Herrera](#) **Recommendation:**

- (a) [Direct the City Attorney to prepare an ordinance to amend the Public Entertainment Permit Ordinance](#) to authorize a change in the fee methodology for the Public Entertainment Business Permit charged to Public Entertainment Businesses operating in the Downtown Entertainment Zone to include costs related to police enforcement of the Public Entertainment Permit Ordinance. Actual fee increases will be brought forward as part of the 2009-2010 Proposed Budget process.
- (b) [Direct the City Attorney to prepare an ordinance to amend Title 20 of the San José Municipal Code](#) to implement a soft-closing program for the Downtown Entertainment Zone to allow bars and nightclubs to stay open until 2:30 A.M. with a Conditional Use Permit.
- (c) Discuss and provide further direction to the Administration on the City Manager's proposed cost model and structure in order to further inform the proposed ordinance amendments directed above.

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

[Deferred from 2/10/09 – Items 3.4(i)-(k)] [Presentation](#)

#### 3.6 [Agreement with the San José Police Officers' Association.](#)

[Attachment – Tentative Agreement](#)

##### **Recommendation:**

- (a) Adopt a [resolution](#) to approve the terms of a Memorandum of Agreement with the San José Police Officers' Association and authorizing the City Manager to execute the agreement with a term of July 1, 2008 to June 30, 2010.

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.6 Agreement with the San José Police Officers' Association. (Cont'd.)

**Recommendation:**

- (b) Adopt the following 2008-2009 Appropriation Ordinance amendments in the General Fund:
- (1) Increase the Police Department's Personal Services appropriation by \$10,822,874; and
  - (2) Decrease the Salaries and Benefits Earmarked Reserve by \$10,822,874.
- CEQA: Not a Project. (City Manager's Office)

#### 3.7 [Amend Municipal Code to add a cap on the amount of Telecommunications Users Tax paid by service users.](#) [Presentation](#)

[Supplemental – Memo from the Director of Finance](#)

**Recommendation:** Approve an [ordinance](#) amending Chapter 4.70 of Title 4 of the San José Municipal Code, by adding a new Part to provide a cap on the amount of Telecommunications Users Tax paid by service users, provided certain conditions are satisfied, which part shall expire on December 31, 2012, unless otherwise extended, shortened, or revised by the City Council. CEQA: Not a Project. (Finance)

#### 3.8 [AB 46 \(Blakeslee\), Energy: Energy Conservation Assistance.](#)

- \* **Recommendation:** As referred by the Rules and Open Government Committee of February 11, 2009, consider adopting a position of support for AB 46 (Blakeslee) – An Act to Amend Section 25421 of the Public Resources Code, relating to energy, and energy conservation assistance. (Environmental Services)  
[Rules Committee referral 2/11/09 – Item 6.1(b)]

#### 3.9 [SB 16 and H.R. 598 – Related to Low Income Housing Tax Credits.](#)

**Recommendation:** As referred by the Rules and Open Government Committee of February 11, 2009, consider adopting a position of support for State SB 16 (Lowenthal) – Low-Income Housing Tax Credit, and Federal H.R. 598 (Rangel) – American Recovery and Reinvestment Tax Act. (Housing)  
[Rules Committee referral 2/11/09 – Items 6.1(c) and 6.2(a)]

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.2 [Downtown Property-Based Business Improvement District Annual Financial Report.](#)

**Recommendation:** Accept the Downtown San José Property-Based Business Improvement District Financial Report for FY 2007-08. CEQA: Exempt, File No. PP08-095. Council District 3. (Public Works/Transportation)

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Report of the Neighborhood Services and Education Committee – [February 12, 2009](#) Councilmember Campos, Chair

- (a) Call to Order and Roll Call
- (b) Review of Workplan
  - (1) Report on Housing Element. (Housing)
  - (2) Report on Homework Center Program. (Parks, Recreation and Neighborhood Services)
  - (3) Report on the Draft Volunteer Policy. (Parks, Recreation and Neighborhood Services)
- (c) Committee Reports.
  - (1) Consent Calendar
    - (a) Library Parcel Tax Oversight Committee 2007-2008 Annual Report. (Library)
    - (b) Report on Parks Capital Program. (Parks, Recreation and Neighborhood Services)
  - (2) Verbal Report on Anti-Graffiti/Anti-Litter Program.
  - (3) Verbal Monthly Update on Schools/City Collaborative.
    - (a) Reports from School Safety, Joint Use, and Teacher Recruitment/Retention Sub-committees. (City Manager's Office)
- (d) Open Forum
- (e) Adjournment

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 Report of the Transportation and Environment Committee – [February 2, 2009](#) Councilmember Liccardo, Chair

- (a) Review of Workplan and Consent Calendar. (City Manager's Office)
- (b) Report on Airport Ground Transportation & Fee Adjustments. (Airport)
- (c) City Bicycle Master Plan Report. (Transportation)
- (d) Report on Commercial Solid Waste System Redesign. (Environmental Services)  
**SEE ITEM 7.4 FOR COUNCIL ACTION TO BE TAKEN**
- (e) Report on Ordinance Revisions for Dental Mercury and Fats, Oil and Grease Programs. (Environmental Services)  
**SEE ITEM 2.8 FOR COUNCIL ACTION TO BE TAKEN**

*(Item continued on the next page)*

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 Report of the Transportation and Environment Committee – February 2, 2009 Councilmember Liccardo, Chair (Cont'd.)

- (f) Report on Special Events & Venues Recycling. (Environmental Services)  
**SEE ITEM 2.9 FOR COUNCIL ACTION TO BE TAKEN**
- (g) Report on Plastic Carryout Bag Ban and Reduction in Single Use.  
(Environmental Services/IWM)  
**SEE ITEM 7.7 FOR COUNCIL ACTION TO BE TAKEN**
- (h) Public Forum
- (i) Adjournment

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 [Amendments in the Integrated Waste Management Fund.](#)

**Recommendation:** Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Integrated Waste Management Fund (Fund 423):

- (a) Increase the estimate for Earned Revenue by \$393,005;
- (b) Increase the Household Hazardous Waste Las Plumas Facility appropriation by \$2,193,005; and
- (c) Decrease the Ending Fund Balance by \$1,800,000.

CEQA: Mitigated Negative Declaration, File No. PP06-100. (Environmental Services)

### 7.2 [Application of Living Wage Policy to Contracts for the Water Pollution Control Plant.](#)

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

**Recommendation:** Adopt a resolution modifying the City of San José Living Wage Policy so that it applies to the contracts issued for the San José/Santa Clara Water Pollution Control Plant, and approving the Policy as modified and updated to reflect current wage rates as a formal City Council Policy, and superseding Resolution No. 68900. CEQA: Not of Project. (Environmental Services)

\* **RECOMMEND DROP PER ADMINISTRATION; TO BE RENOTICED**

### 7.3 [Commercial Waste System Redesign.](#)

[Supplemental – Memo from the City Attorney](#)

**Recommendation:** As recommended by the Transportation and Environment Committee of February 2, 2009, develop an RFP to solicit and award an exclusive franchise to collect and process commercial solid waste, recyclables, and organic materials for each of the two service districts for an initial term of ten years with two options to extend the term, the first for three years and the second for two years for a total of five years. (Environmental Services)

[Transportation and Environment Committee referral – Item (d)]

\* **RECOMMEND DROP PER RULES COMMITTEE**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.4 Plastic Carryout Bag Ban and Reduction in Single Use.

**Recommendation:** As recommended by the Transportation and Environment Committee of February 2, 2009:

- (a) Adopt a [resolution](#) of support for the efforts of the Santa Clara County Cities Association in promoting a regional approach to reducing the use and impacts of disposable, single-use carryout paper and plastic bags; and
- (b) Direct staff to continue supporting the Santa Clara County Recycling and Waste Reduction Commission for a regional approach to single-use carryout bag usage and to provide feedback to the commission on the County’s draft model ordinance language; and
- (c) Direct staff and the City Attorney to return to the Transportation and Environment Committee in April 2009 with option to reduce single-use carryout bags for Council consideration including implementation, cost and stakeholder outreach plans; and
- (d) Continue to support legislation that would implement a state-wide program that would significantly reduce the use of single use carryout bags and that would remove any restriction on the City’s ability to establish fees on plastic carryout bags or other disposable packaging.

(Environmental Services)

[Transportation and Environment Committee referral – Item (g)]

- \* **RECOMMEND DROP PER ADMINISTRATION, REFER BACK TO TRANSPORTATION & ENVIRONMENT COMMITTEE**

## 8. PUBLIC SAFETY SERVICES

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## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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- \* *See Items 8.1 “Actions related to an Amended and Restated Disposition and Development Agreement with Block 3 Development Partners, LLC . . .”, 8.2 “Approval of a Cooperation Agreement between the City and Agency and related actions for a proposed Spartan Keyes Neighborhood Center”, 8.3 “Approval of a Building Rehabilitation and Loan Agreement with Urban Markets, LLC . . .”, and 8.4 “Approval of an Amended and Restated DDA with Green Valley Corporation . . .” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.*

- **Open Forum (To be heard no earlier than 3:30 p.m.)**  
*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 Hearings at this time.

## 11. PUBLIC HEARINGS

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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 northwest corner of Blossom Hill Road and Poughkeepsie Road \(161 Blossom Hill Road\) from CN Commercial Neighborhood Zoning District to R-MH Mobilehome Park District to allow mobile home use on a 0.5 gross acre site \(Barbaccia Properties Holdings, LLC, Owner\). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval \(7-0-0\). C08-064 – District 2 \[Ordinance\]\(#\) \[Presentation\]\(#\)](#)  
[Continued from 2/10/09 – Item 11.1(b)]
  
- (b) [Consideration of an ordinance rezoning the real property located at/on the southwest corner of S. De Anza Boulevard and Fallen Leaf Lane \(1051 S. De Anza Boulevard\) from the CP Commercial Zoning District to the CN Commercial Zoning District to accommodate setback restriction on a 0.51 gross acre site \(Robinson Oil Corp, Owner\). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. \[Ordinance\]\(#\) \[Presentation\]\(#\)](#)
  
- \* (c) [Consideration of an ordinance rezoning the real property located on the southeast corner of McKee Road and N. 33rd Street \(280 N 3rd Street\) from the R-2 Residential and CP Commercial Pedestrian Zoning Districts to the CP Commercial Pedestrian Zoning District on a 0.51 gross acre site \(Shirazi Amir Et Al, Owner\). SNI: Five Wounds/Brookwood Terrace. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. \[Ordinance\]\(#\) \[Presentation\]\(#\)](#)  
[C08-053 – District 3](#)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

# 11. PUBLIC HEARINGS

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## 11.2 ADMINISTRATIVE HEARING regarding an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity.

\* **Recommendation:** Conduct an ADMINISTRATIVE HEARING and consider an appeal of the Planning Commission's decision to deny, as mandated by the Municipal Code, a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol at a new 2,379 square foot retailer/convenience store on a 0.53 gross acre site in the CP Commercial Pedestrian Zoning District, located on the southeast corner of North King Road and Maybury Road (788 North King Road) (Rosado, Leticia C. and Carmelo G., Owner). CEQA: Exempt. The Planning Commission recommends denial (4-1-1), as mandated by the Municipal Code. The Director of Planning, Building and Code Enforcement recommends the City Council overturn the mandatory denial by the Planning Commission and approve the subject Conditional Use Permit and make a Determination of Public Convenience or Necessity by finding that the required findings for a Determination of Public Convenience or Necessity can be made and that there is a significant overriding public benefit served by the proposed off-sale of alcohol at the location.

CP08-035 & ABC08-006 - District 3 [Presentation](#)

\* **RECOMMEND CONTINUANCE TO 3/17/09 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 pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9999	Northwest corner of Curtner Avenue and Monterey Road	7	WPV San José LLC	16 Lots	Retail	Approve

\* 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>
10023	Southeast corner of Piercy Road and Tennant Avenue	2	KB Home – South Bay	44 Lots / 40 Units	Single Family Detached
10028	East side of Boynton Avenue, 150 feet north of Underwood Drive	1	Hammond-Ku	5 Lots / 4 Units	Single Family Attached

- 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.
  - 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.