



# **CITY COUNCIL AGENDA**

**FEBRUARY 2, 2010**

**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 request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
9:30 a.m. - Closed Session, Call to Order in Council Chambers  
Adjourn to Closed Session in Council Chambers Conference Room, W133  
[See Separate Agenda](#) [See RDA Agenda](#)  
1:30 p.m. - Regular Session, Council Chambers, City Hall

- **Invocation (District 2)**  
\* Pastor Bill Buchholz, Family Community Church

- **Pledge of Allegiance**
- **Orders of the Day**

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

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

- **Closed Session Report**

## **1. CEREMONIAL ITEMS**

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- 1.1 Presentation of a proclamation to the American Heart Association declaring February 5, 2010 as “National Wear Red Day” in the City of San José. (Campos/Kalra)

# 1. CEREMONIAL ITEMS

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- 1.2 Presentation of a proclamation recognizing India's Republic Day in the City of San José.  
(Kalra)  
\* (Rules Committee referral 1/27/10)

# 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.**
- 2.2 **Final adoption of ordinances.**
- 2.3 **Approval of Council Committee Reports.**

**Recommendation:**

- (a) Rules and Open Government Committee Report of January 13, 2010. (Mayor)
- (b) [Public Safety, Finance and Strategic Support Committee Report of January 21, 2010.](#) (Nguyen)
- (c) [Rules and Open Government Committee Report of January 6, 2010.](#) (Mayor)  
\* (Deferred from 1/26/10 – Item 3.3)
- (d) Transportation and Environment Committee Report of January 11, 2010. (Liccardo)  
\* (Deferred from 1/26/10 – Item 6.1)

- 2.4 **Mayor and Council Excused Absence Requests.**

**Recommendation:**

- (a) [Request for an excused absence for Councilmember Constant from the Regular Meeting of the Rules and Open Government Committee on February 3, 2010 due to Authorized City Business: Local Agency Formation Commission of Santa Clara County \(LAFCO\) Meeting.](#) (Constant)  
(Rules Committee referral 1/20/10)
- 2.5 [Agreement with Team San José for the Management of the Convention Center and Cultural Facilities.](#)

**Recommendation:** Adopt a resolution authorizing the City Manager to execute an Amendment to the [Agreement](#) authorizing the City Manager to execute an Amendment to the Agreement with Team San José for the Management of the Convention Center and Cultural Facilities to provide for the ability of the City Auditor to continue to conduct annual performance audits. CEQA: Not a Project. (City Attorney's Office)

## 2. CONSENT CALENDAR

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### 2.6 Amendments to Pacific Gas and Electric Company (PG&E) Franchise Fee Ordinances.

**Recommendation:**

- (a) Approve an ordinance amending the franchise with PG&E for the sale of gas within the City (Ordinance No. 15879 as amended by Ordinance Nos. 21676 and 26913) to add a franchise fee surcharge of 0.3% resulting in a total franchise fee paid to the City of 2.3% of gross receipts and to provide for the waiver of certain negotiation and arbitration rights under the franchise.
- (b) Approve an ordinance amending the franchise with PG&E for the sale of electricity within the City (Ordinance No. 15880 as amended by Ordinance Nos. 21677 and 26914) to add a franchise fee surcharge of 0.3% resulting in a total franchise fee paid to the City of 2.3% of gross receipts and to provide for the waiver of certain negotiation and arbitration rights under the franchise.

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

\* **RECOMMEND DEFERRAL TO 2/9/10 PER CITY ATTORNEY**

### 2.7 [Park Management System for Happy Hollow Park and Zoo.](#)

**Recommendation:** Adopt a [resolution](#) authorizing the Director of Finance to:

- (a) Negotiate and execute a First Amendment to the Agreement for a Park Management System with VGS Systems Engineering Inc., doing business as Omni Ticket Network to add a Point of Sale and Inventory Control system for the food and beverage concessions at Happy Hollow Park & Zoo and increase compensation up to \$30,000 for a revised not to exceed contract amount of \$219,634.
- (b) Increase the contingency amount by \$5,000 from \$25,000 to \$30,000 to cover unanticipated changes in the system design and/or installation.

CEQA: Not a Project. (Finance)

### 2.8 [Proposed 2009-2011 Spending Plan for the Supplemental Law Enforcement Services Fund.](#)

**Recommendation:**

- (a) Approve the proposed 2009-2011 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund for \$1,559,841.
- (b) Adopt the following 2009-2010 Appropriation Ordinance and Funding Sources Resolution Amendments in the Supplemental Law Enforcement Services Fund (Fund 414):
  - (1) Increase the Earned Revenue by \$225,229; and
  - (2) Establish a SLES Grant 2009-2011 appropriation for the Police Department in the amount of \$225,229.

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

## 2. CONSENT CALENDAR

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### 2.9 [Summary Vacation of a Public Service Easement and Wire Clearance Easement at 1730 Peregrino Way.](#)

- \* **Recommendation:** Adopt a [resolution](#) summarily vacating a Public Service Easement and Wire Clearance Easement at 1730 Peregrino Way. CEQA: Not a Project. Council District 6. (Public Works)

## 3. STRATEGIC SUPPORT SERVICES

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

### 3.2 [Community Satisfaction Survey.](#) [Attachment – 2009 Community Satisfaction Survey](#) [Presentation in Powerpoint](#)

- \* **Recommendation:** Accept the 2009 Community Satisfaction Survey. (City Manager's Office)

### 3.3 [Candidate Screening Criteria and Community Interview Panel Composition for Independent Police Auditor Executive Recruitment.](#)

[Supplemental – Memo from the Director of Human Resources](#)  
[Attachment – Memo from Councilmembers Kalra and Chu](#)

**Recommendation:** Approve candidate screening criteria to be used by consultant in evaluating applicants, and provide direction as to the composition of the community panel that will participate in interviewing and providing input on the top tier candidates for the Independent Police Auditor position. CEQA: Not a Project. (Human Resources)

### 3.4 [FY 2009-10 First Quarter Revenue Collection Strategic Plan Report.](#)

**Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on December 17, 2009:

- (a) Accept the FY 2009-10 First Quarter Revenue Collection Strategic Plan Report; and
- (b) Adopt a [resolution](#) authorizing the Director of Finance to write off 126 uncollectible accounts in an amount totaling \$1,702,757.42.

(Finance)

[Public Safety, Finance and Strategic Support Committee referral 12/17/09 – Item D(3)]

- \* (Deferred from 1/12/10 – Item 3.7 and 1/26/10 – Item 3.5)

### 3.5 [2008-2009 Annual Performance Audit of Team San José, Inc.](#)

[Attachment – 2008-2009 Annual Performance Audit](#)

**Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on January 21, 2010, accept the 2008-2009 Annual Performance Audit of Team San José, Inc. (City Auditor)

- \* [Public Safety, Finance and Strategic Support Committee referral 01/21/10 – Item D(3)]

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 [Sign Code Ordinance Update.](#)

[Attachment 1 – Freeway Signs](#)

[Attachment 2 – Electronic Digital Signs](#)

[Attachment 3 – Large Banner Signs/Supergraphics](#)

[Attachment 4 – Billboards on Private Property & Off-Site Advertising on City Property](#)

[Attachment 5 – Public Correspondence](#)

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

[Presentation 1 – Electronic/Digital Signs](#)

[Presentation 2 – Super Graphic Signs in the Downtown](#)

[Presentation 3 – Billboard Analysis in Two SJ Census Tracts](#)

[Presentation 4 – Roof Signs](#)

[Presentation 5 – Sign Blight](#)

[Presentation 6 – Comparison of Existing and Allowed Signage for Downtown Businesses](#)

**Recommendation:** Accept the report and direct staff to prepare an ordinance to revise Title 23 of the San José Municipal Code (the Sign Ordinance) consistent with the proposed draft signage strategy and conduct additional related community outreach.

CEQA: Not a Project. (Planning, Building and Code Enforcement)

(Continued from 1/12/10 – Item 4.3)

\* **TO BE HEARD LAST**

## 5. NEIGHBORHOOD SERVICES

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## 6. TRANSPORTATION & AVIATION SERVICES

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## 7. ENVIRONMENTAL & UTILITY SERVICES

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## 8. PUBLIC SAFETY SERVICES

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### 8.1 [Audit of Civilianization Opportunities in the San José Police Department.](#)

[Attachment – Audit of Civilianization Opportunities](#)

[Attachment – Memo from Rob Davis on Hiring of Retired Sworn officers](#)

**Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on January 21, 2010:

- (a) Accept the audit of Civilianization Opportunities in the San Jose Police Department; and
- (b) Accept the Administration's response on the audit of Civilianization Opportunities in the San José Police Department.

(City Auditor/City Manager)  
\* [Public Safety, Finance and Strategic Support Committee referral 01/21/10 – Item D(1)]

## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

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- **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.