



CITY COUNCIL AGENDA

APRIL 6, 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

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

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. 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, 2nd 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 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**
8:00 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 4)**
- **Pledge of Allegiance**
- **Orders of the Day**

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

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

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring the Month of April 2010 as “Month of the Young Child” in the City of San José. (Chirco)
- 1.2 Presentation of a commendation to the 2010 Save Our Sports Committee for their commitment to maintaining sports opportunities for student athletes. (Chu)
- 1.3 Presentation of a proclamation recognizing the month of April 2010 as “DMV/Donate Life California Month” in the City of San José. (Kalra)

2. CONSENT CALENDAR

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

2.1 Approval of Minutes.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) [ORD. NO. 28731](#) – Amending various sections of Chapter 20.70 and Chapter 20.100 of Title 20 of the San José Municipal Code to establish a new Conditional Use Permit process for Large Drinking Establishments that operate after midnight and have a maximum occupancy load of more than 250 persons whereunder the City Council would be the initial Decision-Making Body.

2.3 Approval of Council Committee Reports.

Recommendation:

- (a) [Community and Economic Development Committee Report of March 22, 2010.](#) (Pyle)
- (b) [Rules and Open Government Committee Report of March 17, 2010.](#) (Mayor)

* [Deferred from 3/30/10 – Item 2.3(a)]

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2. CONSENT CALENDAR

2.6 [Traffic and Criminal Recommended Bail Schedules.](#)

Recommendation: Approve recommended changes to the [City of San Jose Traffic](#) and [Criminal Bail Schedules](#) and direct the City Attorney to submit the recommended changes in the Bail Schedules to the Superior Court Bail Committee. CEQA: Not a Project. (City Attorney's Office)

2.7 [Televising Retirement Board Meetings.](#)

Recommendation: Approve televising the regular business meetings of the Federated and Police & Fire Retirement Boards meetings that occur at City Hall. CEQA: Not a Project. (City Manager's Office)

2.8 [Early Childhood Education Improvement Grant for the Smart Start San José Quality Guidelines Project.](#)

Recommendation: Adopt a [resolution](#) authorizing the City Manager, or designee, to:

- (a) Submit a grant application in the amount of \$300,000 to the U.S. Department of Health & Human Services for an early childhood education improvement grant for the Smart Start San José Quality Guidelines project; and
- (b) Accept any grant funds awarded to the City and negotiate and execute all necessary documents related to any grant funding from the Department of Health & Human Services for this project.

CEQA: Not a project. (Library)

2.9 [Sponsored Travel to Green Industries Trade Mission and Conference, Paris, France.](#)

Recommendation: Accept the invitation of the U.S. Embassy in France to send Nanci Klein as the City's official representative to the Green Industries Trade Mission and Conference in Paris, France on April 11 – 13, 2010. Source of Funds: The U.S. French Embassy will cover travel, accommodations, registration, and two-day's per diem costs. CEQA: Not a Project. (Economic Development)

* (Rules Committee referral 3/30/10)

3. STRATEGIC SUPPORT SERVICES

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

3.2 [Status Report on the Citywide Capital Improvement Program.](#) [Attachment – CIP Annual Status Report](#) [Presentation](#)

Recommendation: Accept the FY 2009-2010 Status Report on the Citywide Capital Improvement Program. CEQA: Not a Project. (Public Works)
(Deferred from 3/16/10 – Item 3.2 and 3/23/10 – Item 3.2)

3. STRATEGIC SUPPORT SERVICES

3.3 [Exchange Agreement Between the City of San José and the Santa Clara Valley Water District in Conjunction with the Reach 6 Flood Control Project.](#)

Recommendation: Approve an Exchange [Agreement](#) for the transfer of property interests between the City of San Jose and the Santa Clara Valley Water District in conjunction with the Reach 6 Flood Control Project which provides as follows:

- (a) Grant of fee title to the District of City-owned property vacated as a street;
- (b) Grant irrevocable right of entry to the District for construction on City properties pending the exchange of property rights;
- (c) Grant a public street easement across District-owned property for ingress and egress to properties along the remaining portion of Edwards to Willow; and
- (d) Authorize the Director of General Services to execute the deeds and other documents on behalf of the City to complete the transaction.

CEQA: Resolution No. 75043. (General Services)

* **TO BE HEARD AFTER ITEM 4.2**

3.4 [Procurement Report and Proposed Amendments to Sections 4.12 and 4.16 of the Municipal Code to Streamline Procurements and the Disposition of Surplus Personal Property.](#)

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

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on March 18, 2010:

- (a) Accept the Procurement Report.
- (b) Direct the City Attorney to draft an ordinance amending the San José Municipal Code provisions with respect to:
 - (1) Council Appointees' contract authority:
 - (a) Include a Consumer Price Index for All Urban Consumers adjustment to automatically increase the contract approval authority limits every three years; and
 - (b) Include incidental services as part of the purchase of supplies, materials, and equipment.
 - (2) The procurement of goods and services:
 - (a) Change the protest procedures for purchases under \$100,000;
 - (b) Allow for an online formal bid procedure, including a reverse auction process to purchase goods and services;
 - (c) Expand the conditions for cooperative purchases to include non-profit organizations that are made up of multiple public agencies in California or elsewhere;
 - (d) Establish that the list of required award factors used in requests for quotes and requests for proposals is subject to revision by the Director of Finance, on a case-by-case basis, if it is determined that it is in the best interest of the City to do so;

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.4 Procurement Report and Proposed Amendments to Sections 4.12 and 4.16 of the Municipal Code to Streamline Procurements and the Disposition of Surplus Personal Property. (Cont'd.)

Recommendation:

- (b) (2) (e) In formal bidding, allow award of contract to more than one bidder when exact quantities and or delivery dates are unknown; and
- (f) For Request for Quotes (RFQ) and formal Request for Proposals (RFP) allow award of contract to more than one proposer when such action is in the best interest of the City.
- (3) Unclaimed and Surplus Personal Property:
 - (a) Streamline the noticing requirements for bids of surplus personal property; and
 - (b) Raise the threshold requiring the sale of surplus personal property by sealed bid or auction from \$400 to \$1,000.

(Finance)

[Public Safety, Finance and Strategic Support Committee referral 3/18/10 – Item D(5)]

* (Deferred from 3/30/10 – Item 3.3)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Funding Agreement with The Housing Trust of Santa Clara County under the Neighborhood Stabilization Program 2.](#)

Recommendation:

- (a) Adopt a resolution authorizing the Director of Housing to negotiate and execute a consortium funding agreement with The Housing Trust of Santa Clara County under the Neighborhood Stabilization Program 2 in the amount of \$19,139,324.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund:
 - (1) Increase the estimate to Earned Revenue in the amount of \$1,000,000; and
 - (2) Establish an appropriation to the Housing Department for the Neighborhood Stabilization Program 2 project in the amount of \$1,000,000.

CEQA: Not a Project. (Housing/City Manager’s Office)

4.2 [Public Hearing to Vacate a Portion of McLellan Avenue, Grant Street, and Edwards Avenue.](#)

Recommendation: Conduct a public hearing and adopt a [resolution](#) to conditionally vacate a portion of McLellan Avenue, Grant Street, and Edwards Avenue. CEQA: Guadalupe Flood Control EIR, Resolution No. 75043. Council District 3. (Public Works/General Services)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 [Special Event Services and Costs.](#)

[Supplemental – Memo from the Director of the Office of Economic Development](#)

- * **Recommendation:** As recommended by the Community and Economic Development Committee on March 22, 2010:

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

- (1) Amending the Schedule of Fees and Charges (Resolution No. 72737, as amended):

(a) To increase the cap on gated event ticket prices and to reduce the collection of gate fees from 5% to 0% of gate fees for the period of January 1, 2009 to June 30, 2010.

(b) To repeal the Special Events Traffic Enforcement Unit Fee.

- (2) Authorizing the Chief Development Officer to issue refunds to event organizers who paid gate fees retroactive to January 1, 2009.

- (b) Direct the City Manager and City Attorney's Office to present Council with recommended amendments to San Jose Municipal Code Section 11.12.050 to authorize the City Manager to temporarily or permanently appoint staff to perform traffic control in accordance with the requirements of Subdivisions (e) of the California Vehicle Code Section 21100.

CEQA: Statutorily Exempt.(City Manager's Office)

[Community and Economic Development Committee referral 3/22/10 – Item D(3)]

5. NEIGHBORHOOD SERVICES

5.1 [Reduce Citywide Aquatics Program.](#)

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

- * **Recommendation:**

- (a) Council by motion waive the 10-day noticing requirement for the Staff's Revised Recommendation (requires a majority vote).

- * **Revised Recommendation:**

- (b) Direct the City Manager to:

(1) Maintain City capacity to operate no less than two sites during the summer of 2010, with priority given to Camden and Mayfair pools; and

(2) Suspend the remaining Citywide Aquatics Program for a period of 12 months and allow contracting with alternative service provider(s) at the six City-owned pools with a streamlined procurement process utilizing Municipal Code 4.12.235 (Unique Services Purchases) with no impact to the General Fund.

(c) Authorize the City Manager to negotiate and execute agreements with the successful service providers to operate the additional City owned pools.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

(Deferred from 3/30/10 – Item 5.2)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Master Parking Rate Schedule.

Recommendation: Adopt a [resolution](#) to repeal Resolution No. 75132 and set forth the Master Parking Rate Schedule to expand the Parking Incentive Programs to:

- (a) Provide up to two years of free parking for new businesses that enter into a written lease agreement for a downtown office or commercial retail building, up to a maximum of 50 parking permits for each business.
- (b) Provide up to two years of free parking for existing downtown businesses that extend their current written building lease agreement or sign a lease in a new downtown office or commercial retail building, and relocate their parking from a private parking facility to a City parking facility, up to a maximum of 50 parking permits for each business.
- (c) Provide up to two years of 50% discounted parking to existing downtown businesses currently purchasing parking permits to park in a City parking facility who extend their current written building lease agreement or sign a lease in a new downtown office or commercial retail building, up to a maximum of 50 parking permits for each business.
- (d) Authorize the Director of Transportation, or his/her designee, to negotiate and execute parking lease agreements, including amendments thereto, with new and existing businesses based on the parameters outlined in this memorandum.

CEQA: Not a Project. Council District 3. (Transportation)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Public Notices for Sewer Service & Use Charge and Storm Sewer Service Charge.

Recommendation: Direct staff to send notices, in accordance with Proposition 218 requirements, to San José property owners for receipt no later than April 30, 2010, concerning the following proposed Sewer Service and Use Charge and Storm Sewer Service Charge rates increases for the next three years:

- (a) Sewer Service and Use Charge - It is proposed that the residential rate notice provide for an increase of up to 6% for fiscal years 2010-11, 2011-12, and 2012-13 and that the commercial rate notice provide for proposed increases for fiscal years 2010-11, 2011-12, and 2012-13 of approximately 3% to 11% for commercial services, depending on the nature of the sewage discharge.
- (b) Storm Sewer Service Charge - It is proposed that the residential rate notice provide for an increase of up to 4% for fiscal years 2010-11 and 2011-12, and up to 5% in 2012-13 and that the commercial rate notice provide for an increase of up to 5% for fiscal years 2010-11 and 2011-12, and up to 6% in 2012-13.

CEQA: Statutorily Exempt. (Environmental Services)

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **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.