



CITY COUNCIL AGENDA

MAY 4, 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**
- * 9:00 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 5)**
- * Adelante Academy Folklórico Group

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

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

**ITEMS 9.1 AND 9.2 TO BE CONSIDERED IN A JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY BOARD SESSION.**

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

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring the Month of May 2010 as “Asian Pacific American Heritage Month” in the City of San José. (Chu/Kalra/Nguyen)
- 1.2 Presentation of a commendation to Jose Andres Rocha for his hard work, dedication, accomplishments, and sense of service to our San José community. (Herrera)
- 1.3 Presentation of a proclamation recognizing the week of May 2 – 8, 2010 as “Municipal Clerks Week” in the City of San José. (Mayor/City Clerk)
(Rules Committee referral 4/21/10)
- 1.4 Presentation of a proclamation declaring the Month of May 2010 as “Older Americans Month” in the City of San José. (Constant)
* (Rules Committee referral 4/28/10)

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.**
- 2.3 **Approval of Council Committee Reports.**

Recommendation: Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of April 14 2010.](#) (Mayor)
- (b) [Rules and Open Government Committee Report of April 7, 2010.](#) (Mayor)
* [Deferred from 4/27/10 – Item 2.3(a)]
- (c) [Public Safety, Finance and Strategic Support Committee Special Meeting Report of April 14, 2010.](#) (Nguyen)
* [Deferred from 4/27/10 – Item 2.3(b)]
- (d) [Public Safety, Finance and Strategic Support Committee Report of April 15, 2010.](#) (Nguyen)
* [Deferred from 4/27/10 – Item 2.3(c)]

2. CONSENT CALENDAR

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 April 21, 2010 due to Authorized City Business: Santa Clara County LAFCO Meeting. \(Constant\)](#)
(Rules Committee referral 4/21/10)

- (b) [Request for an excused absence for Councilmember Liccardo from the Closed Session and Regular City Council Meeting on May 4, 2010 due to Authorized City Business: Annual CEO/Senior Officer Legislative trip with Silicon Valley Leadership Group to lobby key federal officials for Federal Transportation Authorization Funding for BART. \(Liccardo\)](#)
* (Rules Committee referral 4/28/10)

2.5 City Council Travel Reports.

2.6 [Open Purchase Orders for Supplies, Materials, Equipment and Services.](#)

Recommendation: Approve the award of open purchase orders for supplies, materials, equipment and services for FY 2009-2010 #7 and authorize the Director of Finance to execute the purchase orders. CEQA: See attachment for CEQA determinations. (Finance)

2.7 [ADA Accessibility Ramps Citywide Project 2010.](#)

Recommendation: Report on bids and award of contract for the ADA Accessibility Ramps for the Citywide Project 2010 to the lowest responsive bidder, SpenCon Construction, to include a contract amount of \$291,599 and approval of a contingency in the amount of \$14,580. CEQA: Exempt, File No. PP08-186. (Transportation)

2.8 [Councilmember Constant's Travel to SeaTac, Washington.](#)

Recommendation: Approve travel by Councilmember Constant to SeaTac, WA on May 27-29, 2010 to attend the National League of Cities' Public Safety and Crime Prevention Steering Committee Meeting. Source of Funds: Mayor & Council Travel Fund. (Constant)
(Rules Committee referral 4/21/10)

2.9 [Councilmember Liccardo's Travel to Washington, D.C.](#)

Recommendation: Approve travel by Councilmember Liccardo to Washington, D.C. on May 4-6, 2010 for the Annual CEO/Senior Officer Legislative trip with Silicon Valley Leadership Group to lobby key federal officials for Federal Transportation Authorization Funding for BART. Source of Funds: Valley Transportation Authority. (Liccardo)
* (Rules Committee referral 4/28/10)

2. CONSENT CALENDAR

2.10 [AB 2256 \(Huffman\), Product Labeling: Flushable Products.](#)

Recommendation: As recommended by the Rules and Open Government Committee on April 28, 2010, approve a support position for AB 2256 (Huffman), Product Labeling: Flushable Products. (Environmental Services)

* [Rules Committee referral 4/28/10 – Item D(1)]

2.11 [West Valley Senior Walk.](#)

Recommendation: As recommended by the Rules and Open Government Committee on April 28, 2010:

- (a) Approve the West Valley Senior Walk sponsored by Districts 1 and 6 as a City Council Sponsored Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(City Clerk)

* [Rules Committee referral 4/28/10 – Item H(2)]

2.12 [2010 CommUnity Resource Fair.](#)

Recommendation: As recommended by the Rules and Open Government Committee on April 28, 2010:

- (a) Approve the 2010 CommUnity Resource Fair as a City Council Sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(City Clerk)

* [Rules Committee referral 4/28/10 – Item H(3)]

2.13 [District 1 Disability Advisory Day.](#)

Recommendation: As recommended by the Rules and Open Government Committee on April 28, 2010:

- (a) Approve the District 1 Disability Advisory Day as a City Council Sponsored Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(City Clerk)

* [Rules Committee referral 4/28/10 – Item H(4)]

3. STRATEGIC SUPPORT SERVICES

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

3.2 [City of San José Executive Home Loan Program.](#)

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on April 15, 2010, accept the report containing recommended changes to the City of San José Executive Home Loan Program. (City Manager's Office)

* [Public Safety, Finance and Strategic Support Committee referral 4/15/10 – Item D(7)]

* **RECOMMEND DEFERRAL TO 5/18/10 PER ADMINISTRATION**

3.3 [Audit of the Airport's Parking Management Agreement.](#)

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on April 15, 2010, accept the audit of the Airport's Parking Management Agreement. (City Auditor)

* [Public Safety, Finance and Strategic Support Committee referral 4/15/10 – Item D(8)]

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Final Public Hearing of the Consolidated Plan 2010-2015 and the Annual Action Plan 2010-2011.](#)

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

Recommendation:

- (a) Hold a final public hearing regarding the approval of the City's Consolidated Plan – Five Year Plan 2010-2015 and the Annual Action Plan 2010-2011;
- (b) Adopt the City's Five Year Consolidated Plan for FY 2010-2015;
- (c) Adopt the City's Annual Action Plan FY 2010-2011, including the FY 2010-2011 funding recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program;
- (d) Adopt a resolution authorizing the Director of Housing to negotiate and execute all non-capital agreements and contracts not requiring CEQA/NEPA review and to negotiate all capital project agreements and contracts, including any amendments or modifications, and after CEQA/NEPA review and City Council project approval, to execute all documents for the expenditure of CDBG, ESG, HOME and HOPWA funds on behalf of the City; and
- (e) Adopt a [resolution](#) authorizing the Housing Department to submit the Five Year Consolidated Plan FY 2010-2015 and the Annual Action Plan FY 2010-2011 to the U.S. Department of Housing and Urban Development (HUD), which makes the City eligible to receive and distribute approximately \$16.9 million for FY 2010-2011.

CEQA: Not a Project. (Housing)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [Stevens Creek Boulevard Digital Sign Pilot Program Presentation](#)

Recommendation: Accept staff report and direct staff to revise the proposed Stevens Creek Boulevard Digital Sign Pilot Program parameters as follows:

- (a) Change the physical criteria for parcels that are able to qualify for a digital sign under the Pilot Program from any parcel with 350 linear feet or more of frontage on Stevens Creek Boulevard (as originally proposed by staff) to any parcel with 300 linear feet or more of frontage on Stevens Creek Boulevard or any parcel with less than 300 feet of frontage on Stevens Creek Boulevard which is 5 acres or more in size.
- (b) Remove parcels fronting onto Kiely Boulevard or Saratoga Avenue from the Stevens Creek Boulevard Digital Sign Pilot Program Area.
- (c) Direct the Administration to incorporate the above provisions into an ordinance developed to establish a Stevens Creek Boulevard Digital Sign Pilot Program for consideration by Council.

CEQA: Not a Project, File No. PP10-069, Strategy Development. (Planning, Building and Code Enforcement)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 [Status Report on the Implementation of Public Intoxication Task Force Recommendations.](#)

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on April 15, 2010, accept the status report on the implementation of the Public Intoxication Task Force recommendations. (Police)
[Public Safety, Finance, and Strategic Support Committee referral 4/15/10 – Item D(2)]

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEMS 9.1 AND 9.2 IN A JOINT SESSION

9.1 [City/Agency Loan Agreement Regarding the Hillview Park Play Lot Project.](#)

Recommendation:

- (a) Approval by the City Council and Redevelopment Agency Board of a Cooperation [Agreement](#) that will transfer \$200,000 in funds from the City Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5 to the Redevelopment Agency for the Hillview Play Lot Project and provide that the Agency will contribute \$200,000 to a District 5 park improvement in a future fiscal year, subject to the making of findings required under Health and Safety Code Section 33445 prior to the Agency contribution.
- (b) Adoption by the City Council of Appropriation Ordinance amendments to the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5.
 - (1) Establish a Transfer to the San José Redevelopment Agency for \$200,000; and,
 - (2) Decrease the Ending Fund Balance by \$200,000.

CEQA: Exempt, File No. PP10-062. (City Manager's Office/Redevelopment Agency)

9.2 [Agreements with Macias, Gini & O'Connell LLP to Provide Annual Financial and Compliance Audits.](#)

Recommendation:

- (a) Adopt a resolution of the City Council authorizing the City Auditor to negotiate and execute an agreement with Macias, Gini & O'Connell LLP to perform Annual Financial and Compliance Audit Services for fiscal years ending June 30, 2010, 2011, and 2012, and with two (2) one-year extension options for fiscal years ended June 30, 2013 and 2014, for a fee not to exceed \$495,554 for fiscal years 2010-11 and 2011-12, and with annual increases adjusted by the CPI for each subsequent fiscal year, for a total amount not to exceed \$2,631,455 for the potential five-year term, subject to annual appropriation of funds by the City Council.
- (b) Adopt a resolution of the Redevelopment Agency Board authorizing the Executive Director of the Redevelopment Agency to negotiate and execute an agreement with Macias, Gini & O'Connell LLP to perform Annual Financial and Compliance Audit Services for fiscal years ending June 30, 2010, 2011, and 2012, and with two (2) one-year extension options for fiscal years ended June 30, 2013 and 2014, for a fee not to exceed \$81,375 for fiscal years 2010-11 and 2011-12, and with annual increases adjusted by the CPI for each subsequent fiscal year, for a total amount not to exceed \$432,112 for a potential five-year term, subject to annual appropriation of funds by the Redevelopment Agency Board.

(City Auditor/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.