



CITY COUNCIL AGENDA

MAY 25, 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**
9:30 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 5)**
Mt. Pleasant High School Guitar Ensemble

- **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.

THE SAN JOSÉ FINANCING AUTHORITY WILL MEET IN A JOINT SESSION FOLLOWING THE AFTERNOON COUNCIL SESSION

* **SEE NEW ITEM 8.2, “2010 Assistance to Firefighters Grant Application”, TO BE ADDED UNDER ORDERS OF THE DAY.**

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation by PG&E of an energy conservation incentive rebate check for \$133,869 to Mineta San José International Airport for the energy-efficient design of the Terminal B Concourse under the PG&E “Savings by Design” program. (Airport/Public Works)

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 May 5, 2010. (Mayor)

(b) Neighborhood Services and Education Committee Report of May 13, 2010.
(Campos)

(c) Transportation and Environment Committee Report of May 3, 2010. (Liccardo)

* [Deferred from 5/18/10 – Item 2.3(a)]

* **RECOMMEND DEFERRAL TO 6/8/10 PER CITY CLERK**

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 [Advertising Plan for HP Pavilion.](#)

Recommendation: Approve the biennial advertising plan for HP Pavilion at San José as submitted by HP Pavilion Management and reviewed by the San José Arena Authority. CEQA: Not a Project. (City Manager’s Office)

2.7 [Schedule of Fees and Charges for Use of City Hall and City Hall Plaza.](#)

Recommendation: Adopt resolutions amending the Schedule of Fees and Charges for Use of City Hall and City Hall Plaza, superseding Resolution No. 74982, and approving a revision to Council Policy 7-2 related to use of City Hall to allow for meetings by other government agencies in the Council Chambers without charge at which business affecting the City of San José will be discussed. CEQA: Not a Project, File No. PP10-068(b) General Procedure and Policy Making. Council District 3. SNI: University. (General Services) [Resolution 1](#) [Resolution 2](#)

2. CONSENT CALENDAR

2.8 [Agreement for the Transportation Incident Management Center.](#)

Recommendation: Approve an [agreement](#) with Siemens Industry, Inc. for consultant services for the system design and implementation of the Transportation Incident Management Center for the period of the date of execution to December 30, 2013 and in a total amount not to exceed \$997,700. CEQA: File No. PP02-07-193, Resolution No. 68905. Council District 3. (Transportation)

2.9 [Travel Request for City Clerk Lee Price.](#)

Recommendation: Approve travel for City Clerk Lee Price to Riverside, California on June 8 -11, 2010 to provide election training services at Technical Track for City Clerks. Source of Funds: Technical Track for City Clerks. (City Clerk)

* (Rules Committee referral 5/19/10)

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.](#) [Supplemental Memo from the City Manager](#) [Presentation](#)

Recommendation:

- (a) 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.
- (b) Adopt a resolution modifying the City of San Jose Executive Home Loan Program and repealing [Resolution](#) No. 69478.

(City Manager's Office)

[Public Safety, Finance and Strategic Support Committee referral 4/15/10 – Item D(7)]
(Deferred from 5/4/10 – Item 3.2 and 5/18/10 – Item 3.2)

3.3 [Declaration of Surplus Construction Funds and Authorization of Fund Transfers and Disbursements for Expired Special Assessment Districts.](#)

[Presentation](#)

Recommendation:

- (a) Adopt a [resolution](#) to take the following actions for the disposition of balances remaining in expired special assessment district funds:
 - (1) Declare surplus construction funds for special assessment districts 83-180SJ (Tenth-Senter) and 87-201SJ (N. 1st St.-E. Tasman Refunding) and authorize the use of these funds for the maintenance of improvements funded by these districts;
 - (2) Authorize the liquidation of surplus construction and administrative funds, and transfer to the General Fund;

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.3 Declaration of Surplus Construction Funds and Authorization of Fund Transfers and Disbursements for Expired Special Assessment Districts. (Cont'd.)

Recommendation:

- (a) (3) Authorize the disbursement of excess assessment and bond reserve funds to past assessees; and
- (4) Authorize the disposition of excess water main repayment funds, including the disbursement of a portion of the funds to past assessees and the liquidation and transfer to the General Fund of the remaining portion of the funds.
- (b) Adopt the following FY 2009-10 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
 - (1) Increase the revenue estimate for Transfers and Reimbursements by \$4,496,200;
 - (2) Increase the Economic Uncertainty Reserve by \$3,533,814;
 - (3) Establish a transfer to the Improvement District No. 99-218SJ (Hellyer-Piercy) construction fund in an amount not to exceed \$448,198 to account for prior year ineligible expenses;
 - (4) Establish a transfer to the Community Facilities District No. 6 (Great Oaks-Route 85) construction fund in the amount of \$96,674 to account for prior year ineligible expenses;
 - (5) Establish a Tenth-Senter Maintenance Project Reserve in the amount of \$214,540;
 - (6) Establish a N. 1st Street-E. Tasman Maintenance Project Reserve in the amount of \$72,974; and
 - (7) Establish a City-wide appropriation to the Finance Department for Inactive Improvement District Funds Close-Out Administration in the amount of \$130,000.

CEQA: Not a Project. (Finance)

3.4 [Appointment to Fill an Unanticipated Vacancy on the Police and Fire Retirement Board.](#)

Recommendation: Consider an appointment to fill an unscheduled vacancy for the active Fire Department Employee Member of the Board of Administration of the Police and Fire Department Retirement Plan. (City Clerk)

(Rules Committee referral 5/12/10)

* **TO BE HEARD LAST**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Mexican Heritage Plaza Conceptual Model and Work Plan and Agreement with the Alum Rock Union Elementary School District.](#)

[Attachment – Memo from Mayor Reed and Councilmembers Campos and Kalra](#)

[Attachment – Letter from the Mexican Heritage Plaza Steering Committee Presentation](#)

Recommendation:

- (a) [As recommended by the Community and Economic Development Committee on April 26, 2010, accept the report on the transition plan for Mexican Heritage Plaza. \(General Services\)](#)
[Community and Economic Development Committee referral 4/26/10 – Item D(2)]
- (b) Approve the Mexican Heritage Plaza Steering Committee’s recommendations for:
 - (1) The conceptual model of a School of Arts & Culture at the Mexican Heritage Plaza.
 - (2) A Phase II work plan to: analyze financial modeling; begin fundraising and leadership development, and plan and prototype the types of programming and curriculum to be offered.
- (c) Council direction to staff to present, based on the Phase II work:
 - (1) A progress report to the Community & Economic Development Committee by January 2011.
 - (2) Meaningful opportunities for community input.
 - (3) Specific recommendations related to financial (including the level of future City financial support), programming, and operational issues as part of the 2011-2012 Proposed Operating Budget.
- (d) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the Alum Rock Union Elementary School District to convert the second floor office space at the Mexican Heritage Plaza to classrooms and operate during the 2010-2011 school year.

CEQA: File No. PP10-097. Council District 5. SNI: Mayfair. (General Services/Economic Development)

5. NEIGHBORHOOD SERVICES

5.1 [Citywide Aquatics Program Status Report.](#)

Recommendation: Accept staff report on the status of the 2010 Summer Aquatics Program. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Airport Competitiveness Strategic Plan.](#) [Supplemental – Memo from the Director of Aviation](#)

Recommendation: As recommended by the Rules and Open Government Committee on May 5, 2010, approve the strategic planning principles for the Airport that will guide the staff and Council decisions on the individual components of the Airport competitiveness strategic plan. (Airport)

[Rules Committee referral 5/5/10 – Item H(4)]

6.2 [Award of Contract for the Taxiway W Reconstruction Project at the Norman Y. Mineta San José International Airport](#)

Recommendation:

- (a) Adopt a [resolution](#) authorizing the Director of Public Works to determine the lowest responsive and responsible bidder for the Taxiway W Reconstruction Project at the Norman Y. Mineta San José International Airport and to either: (i) award the contract to the lowest responsive and responsible bidder in an amount not to exceed \$8,500,000, contingent upon award and execution of an Airport Improvement Program (AIP) Grant from the Federal Aviation Administration; or (ii) reject all bids and re-bid the Project.

- (b) Approve a contingency equal to fifteen percent of the award amount.

CEQA: Resolution Nos. 67380 and 71451, File No. PP10-065. (Airport/Public Works)

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 [Memorandum of Understanding to Submit a Joint Response to the County Ambulance RFP.](#)

[Supplemental – Memo from the City Manager’s Office and Fire Department Presentation](#)

- * **Recommendation:** Adopt a [resolution](#) authorizing the City Manager to negotiate and execute a [Memorandum of Understanding](#) with American Medical Response West to submit an integrated Request for Proposal response to the “Advanced Life Support First Response and Paramedic Ambulance Transportation for the County’s Exclusive Operating Areas.” CEQA: Not a Project, File No. PP10-066, Agreements/Contracts; services that involve no physical changes to the environment. (Fire/City Manager’s Office)

- * **TO BE HEARD IMMEDIATELY FOLLOWING THE CONSENT CALENDAR**

8. PUBLIC SAFETY SERVICES

8.2 [2010 Assistance to Firefighters Grant Application.](#)

Recommendation:

- (a) Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.
- (b) Adopt a [resolution](#) authorizing the City Manager to apply for the Federal Emergency Management Agency's 2010 Assistance to Firefighters Grant Program for funding to replace the Fire Department's Cardiac Monitor/Defibrillator inventory and to be the host agency on a regional application for a Live Burn Training Trailer. CEQA: Not a Project, File No. PP10-068(a), Grant Application. (Fire)

* (Orders of the Day)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Item 8.1 "Agency Board and City Council action related to implementation of the West San Carlos/Steven Creek CBID" 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**
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, Redevelopment Agency Board or City of San José Financing Authority.
- **Continue RDA Board Meeting**
- **Adjournment**

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
FINANCING AUTHORITY/AGENDA**

1:30 P.M.

TUESDAY, MAY 25, 2010

CHAMBERS

- 1. Call to Order and Roll Call**
- 2. [Actions Related to the City of San José Financing Authority’s Lease Revenue Bonds, Series 2008 ABCDE Letter of Credit Renewal.](#)
[Attachment – Conflict of Interest Form](#)
Recommendation:
 - (a) Adopt a [resolution](#) of the City Council to:
 - (1) Authorize the negotiation, execution and delivery of the amendments to the Letter of Credit and Reimbursement Agreements related to the City of San José Financing Authority’s Lease Revenue Bonds, Series ABCDE (Various Projects) in order to extend the term of these agreements and to authorize other related actions.
 - (b) Adopt a [resolution](#) of the City of San José Financing Authority Board to:
 - (2) Authorize the negotiation, execution and delivery of the amendments to the Letter of Credit and Reimbursement Agreements related to the City of San José Financing Authority’s Lease Revenue Bonds, Series ABCDE (Various Projects) in order to extend the term of these agreements and to authorize other related actions.

CEQA: Not a Project. (Finance)**
- 3. Open Forum** *(to be heard with Open Forum for the City of San José and San José Redevelopment Agency Board)*
- 4. Adjourn the San José Financing Authority.**

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.