



CITY COUNCIL AGENDA

AUGUST 31, 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 7)**
Reverend Edward Kwong, San José Christian Alliance 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.

ADJOURNMENT: This meeting will be adjourned in memory of Maria Elena Montellano, resident of Alviso and beloved owner of Maria Elena's Restaurant who passed away on June 29, 2010. (Chu/Campos)

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 commendation to Lake Cunningham Regional Park Rangers Stephanie Ferris and Fred Cortopassi for performing heroic measures in the work place where they assisted in the rescue of a visitor by saving his life. (Herrera)
- 1.2 Presentation of a proclamation declaring September 8, 2010 as “International Literacy Day” in the City of San José. (Chu)
 - * (Rules Committee referral 8/25/10)

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.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28793 – Rezoning certain real property situated at the southwest corner of West Julian Street and Pleasant Street (350 West Julian Street) from the LI Light Industrial Zoning District to the DC Downtown Core Zoning District. C10-008 [Presentation](#)
- (b) ORD. NO. 28794 – Rezoning certain real property situated at the north side of Berryessa Road, approximately 130 feet west of North Capitol Avenue (2471-2481 Berryessa Road), from CP Commercial Pedestrian to CG Commercial General Zoning District. C10-016 [Presentation](#)
- (c) ORD. NO. 28795 – Rezoning certain real property situated on the east side of Ruby Avenue, approximately 100 feet northerly of Murillo Avenue (2494 Ruby Avenue), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC09-028 [Presentation](#)
- (d) ORD. NO. 28796 – Rezoning certain real property situated at the southwest corner of Foxworthy Avenue and Almaden Expressway (1175 Hillsdale Avenue; APN: 451-06-066 & -068), to A(PD) Planned Development Zoning District. PDC08-015 [Presentation](#)
- (e) ORD. NO. 28797 – Rezoning certain real property situated at the northern terminus of Grand Oak Way, approximately 250 feet northwest of Hematite Court (6776 San Felipe Road), from the A-Agricultural Zoning District to A(PD) Planned Development Zoning District. PDC08-065 [Presentation](#)

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of August 11, 2010.](#) (Mayor)
- (b) [Transportation and Environment Committee Report of August 16, 2010.](#)
(Liccardo)
- (c) [Public Safety, Finance and Strategic Support Committee Report of August 19, 2010.](#) (Nguyen)

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 [Councilmember Herrera's Travel to San Diego, CA.](#)

Recommendation: Approve travel by Councilmember Herrera to San Diego, CA on September 15-17, 2010 to attend the annual League of California Cities Annual Conference & Expo as one of the City's designated representatives. Source of Fund: Office Budget. (Herrera)

* (Rules Committee referral 8/25/10)

2.7 [Actions Related to Councilmember Herrera's Travel to Washington, D.C.](#)

Recommendation:

- (a) Approve Councilmember Herrera's travel to Washington, D.C. on September 28-29, 2010 to participate in the Silicon Valley Leadership Group's "CEO/Senior Officer Advocacy" trip. Source of Funds: Valley Transportation Agency
- (b) Request for an excused absence for Councilmember Herrera from the Regular City Council Meeting on September 28, 2010.

(Herrera)

* (Rules Committee referral 8/25/10)

2.8 [Councilmember Herrera's Travel to Seattle, WA.](#)

Recommendation: Approve Councilmember Herrera's travel to Seattle, WA on October 27-29, 2010 to participate in the annual San José-Silicon Valley Chamber of Commerce City-to-City trip as one of the City's designated representatives. Source of Funds: Mayor/Council Travel Fund. (Herrera)

* (Rules Committee referral 8/25/10)

2. CONSENT CALENDAR

2.9 [Silicon Valley Workforce Investment Board Nominations.](#)

Recommendation: As recommended by the Rules and Open Government Committee on August 25, 2010:

- (a) Appoint Ralph Aceves, Founder, President, and CEO of Ovalpath, Inc., to serve as a private sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law.
- (b) Appoint José A. González, CEO of Infolink, to serve as a private sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law.

(Mayor)

* [Rules Committee referral 8/25/10 – Items G(1)(a) - G(1)(b)]

2.10 [2010 League of California Cities Resolutions.](#)

Recommendation: As recommended by the Rules and Open Government Committee on August 25, 2010, approve the recommended City positions for six resolutions to be considered at the Annual League of California Cities (LOCC) Conference to be held in San Diego, September 15-17. (City Manager's Office)

* [Rules Committee referral 8/25/10 – Item H(2)]

3. STRATEGIC SUPPORT SERVICES

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

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Contract Amendment for the Neighborhood Stabilization Program.](#)

Recommendation:

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund:
 - (1) Increase the estimate for Earned Revenue by \$1,300,000; and
 - (a) (2) Increase the Neighborhood Stabilization Program appropriation in the Housing Department by \$1,300,000.
- (b) Adopt a resolution to authorize the Director of Housing to negotiate and execute a contract amendment up to an additional \$2,068,859, for a total award of \$5,868,859, with Community Rehabilitation Partners to implement the federally-funded Neighborhood Stabilization Program Single-Family Acquisition, Rehabilitation, and Resale Program.

CEQA: Exempt, File No. PP09-166. Council Districts 2, 3, 5, 7 and 8. SNI: K.O.N.A., Mayfair, Tully Senter, Gateway East, West Evergreen, Spartan Keyes, Five Wounds/ Brookwood Terrace, East Valley/680 Communities, Edenvale/Great Oaks. (Housing/ City Manager's Office)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [Actions Related to the Kings Crossing Apartments.](#) [Supplemental – Memo from the Director of Housing](#) [Presentation](#)

* **Recommendation:**

- (a) Adopt a [resolution](#):
 - (1) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (Kings Crossing Apartments), Series 2010C” in an aggregate principal amount not to exceed \$25,380,000 (the “Governmental Lender Note” or “Note”);
 - (2) Approving a loan of Note proceeds to Kings Crossing, L.P., a California limited partnership created by Charities Housing Development Corporation to finance the construction of the Kings Crossing Apartments located at the corner of N. King Road and Dobbin Drive in San José;
 - (3) Approving in substantially final form the [Borrower Loan Agreement](#), [Funding Loan Agreement](#), Assignment of [Deed of Trust](#), and [Regulatory Agreement and Declaration of Restrictive Covenants](#) (the “Documents”) and;
 - (4) Authorizing the Assistant Director of Finance, Treasury Division Manager, Debt Administrator, and Director of Housing, or their designees, to execute and, as appropriate, to negotiate, execute and deliver these Documents and other related Note documents as necessary.
- (b)
 - (1) Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.
 - (2) Adopt a resolution authorizing the Director of Housing to negotiate and execute an agreement between the City, Kings Crossing L.P., Citibank N.A., and Family Supportive Housing, Inc. memorializing the City's agreement to fund of that portion of a City's conditional grant to Family Supportive Housing, Inc. ("FSH") necessary to pay FSH's share of the shared costs of the work that is needed for both the Kings Crossing L.P. and FSH projects, regardless of an non-construction related default by FSH.

CEQA: EIR Resolution No. 74196, File No. PDC07-015. (Housing/Finance)

4.3 [Public Hearing on Rezoning Real Property located at the northwest corner of Winfield Boulevard and Blossom River Way.](#) [Presentation](#)

Recommendation: Conduct a public hearing and consider an [ordinance](#) rezoning the real property located at the northwest corner of Winfield Boulevard and Blossom River Way (1009 Blossom River Way) to allow for the conversion of some of the existing independent living units to assisted living units at an existing Senior Living Facility on a 7.91 gross acre site (Ventas Inc, Owner). CEQA: Mitigated Negative Declaration. [PDC10-004](#) – District 9

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 [ADMINISTRATIVE HEARING on Appeal and Actions Related to a Proposed Planned Development Zoning for Property Located on the West Side of Guadalupe Mines Road.](#)

[Attachment – Staff Report](#)

[Supplemental – Memo from the Planning Commission](#)

[Attachment – Memo from Councilmember Pyle](#)

[Attachment – Memo from the Director of Planning, Building and Code Enforcement](#)

[Attachment – Memo from Councilmember Pyle](#)

[Presentation 1](#) [Presentation 2](#)

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Recommendation:

- (a) Conduct an ADMINISTRATIVE HEARING and consider adoption of a resolution adopting a Mitigated Negative Declaration for a Planned Development Zoning from A(PD) Planning Development Zoning District to R-1-8(PD) Planned Development Zoning District to allow for the demolitions of four (4) commercials-industrial buildings and the construction of 94 single-family detached residences on a 15.8 gross acre site, located on the west side of Guadalupe Mines Road, approximately 1,130 feet southerly of Via Campagna (6411 Guadalupe Mines Road).
- (b) Conduct a public hearing and consider an [ordinance](#) rezoning the real property located on the west side of Guadalupe Mines Road, approximately 1,130 feet southerly of Via Campagna (6411 Guadalupe Mines Road) from A(PD) Planned Development Zoning District to R-1-8(PD) Planned Development Zoning District to allow for the demolition of 4 commercial/industrial buildings and the construction of 94 single-family detached residences on a 15.8 gross acre site (Brokaw Interests, Owner; Trumark Companies Chris Davenport, Developer). CEQA: Mitigated Negative Declaration to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval with the following conditions and plan revisions to be included in the proposed rezoning:
 - The project shall be fully compliant with the Riparian Corridor Policy with a riparian setback development standard of 100 feet except for a 30-foot riparian setback on the south end of the site (defined by the south edge of “public street A” to the southern property line);
 - All streets are public streets with full cross sections;
 - Oak trees within the area proposed for residential development are reviewed for integration into the development including revised site grading to preserve natural grades; and
 - The net density does not exceed 8.0 housing units per net acre as defined by the General Plan.

(4-1-2, Kamkar Opposed; Cahan and Platten Absent)

[PDC10-005](#) – District 10

(Continued from 8/17/10 – Item 11.4)

TO BE HEARD LAST, NO EARLIER THAN 2:00 P.M.

5. NEIGHBORHOOD SERVICES

5.1 [Amendment to the Development, Operations and Maintenance Agreement with the Viet Heritage Society.](#)

[Attachment – Memo from the Mayor and Councilmember Nguyen](#)

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute a fourth amendment to the agreement with the Viet Heritage Society for the development, maintenance, and operations of the Vietnamese Heritage Garden to:
 - (1) Modify the current project delivery model to reflect a Phased project (Phase Ia, Phase Ib, and Phase II);
 - (2) Define the elements contained within Phases Ia and Ib;
 - (3) Update key project delivery dates;
 - (4) Amend the payment amounts and schedule associated with Phases Ia and Ib; and
 - (5) Modify the period of Viet Heritage Society maintenance responsibility to include the maintenance of Phase Ia through completion of Phase Ib.
- (b) City Council certification that:
 - (1) Funding strategies will be pursued so that the projected funding for the operation and maintenance of the Vietnamese Heritage Garden should be made available beginning in 2011-2012, the first year of operation, and
 - (2) Appropriate efforts will be undertaken so that those funding strategies cover the entire cost of the project, including operation and maintenance costs, as to not require a decrease in existing basic neighborhood services.

CEQA: File No. PP04-228 (Addendum to an EIR). Council District 7. SNI: Tully/Senter. (Parks, Recreation and Neighborhood Services)

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Public Hearing on a Commercial Solid Waste and Recyclables Collection Franchise.](#)

Recommendation: Hold a public hearing on the application of On the Move Trucking and Recycling for a Commercial Solid Waste and Recyclables Collection Franchise, approve the [ordinance](#) granting the franchise, and approve the Commercial Solid Waste and [Recyclables Collection Franchise Agreement](#) for a term from October 27, 2010 to June 30, 2012 with the option of three one-year extensions. CEQA: Exempt, File No. PP08-228. (Environmental Services)

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 [Stormwater Permit Annual Report.](#)

[Presentation](#)

Recommendation: Authorize submittal of the 2009-2010 Stormwater Permit Annual Report and certification to the San Francisco Bay Regional Water Quality Control Board in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit requirements, pursuant to the Federal Clean Water Act. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities. (Environmental Services)

7.3 [Stormwater Permit Implementation.](#)

[Presentation](#)

Recommendation: As recommended by the Transportation and Environment Committee on August 16, 2010:

- (a) Accept the status report on Stormwater Permit Implementation including:
 - (1) Storm Drain Inlet Marking Program
 - (2) Trash Reduction Efforts
 - (3) Regional Coordination
- (b) Direct the City Attorney's office to prepare an ordinance amending Chapters 15.14, 20.95, and 20.100 of the San José Municipal Code as needed to address provisions in the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (Stormwater Permit) related to legal controls on: operation and maintenance of stormwater treatment systems and construction sites.

CEQA: Not a Project, File No. PP10-068(c), revisions to an existing policy. (Environmental Services/Public Works/Planning, Building and Code Enforcement) [Transportation & Environment Committee referral 8/16/10 – Item D(2)]

8. PUBLIC SAFETY SERVICES

8.1 [Response to the Civil Grand Jury Report entitled, "Disaster Preparedness in our County and Cities."](#)

Recommendation: Accept the staff response to the Civil Grand Jury Report entitled, "Disaster Preparedness in our County and Cities." CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities. (Fire)

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.