



# CITY COUNCIL AGENDA

**OCTOBER 5, 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](http://www.sanjoseca.gov/clerk/agenda.asp). Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2<sup>nd</sup> Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for the final document.

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

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

- **Call to Order and Roll Call**

9:30 a.m. - Closed Session, Call to Order in Council Chambers  
Adjourn to Closed Session in Council Chambers Conference Room, W133

[See Separate Agenda](#) [RDA Agenda](#)

1:30 p.m. - Regular Session, Council Chambers, City Hall

7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 9)**

\* Rev. Rob Kirk, Cambrian Park United Methodist 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.

**THE SAN JOSÉ FINANCING AUTHORITY WILL MEET IN A JOINT SESSION TO BE HEARD IMMEDIATELY FOLLOWING THE CONSENT CALENDAR**

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

\* **SEE NEW ITEM 2.14 “Agreement with NASA Ames Research Center. . .” TO BE ADDED UNDER ORDERS OF THE DAY WHICH REQUIRES A 2/3’s VOTE.**

- **Closed Session Report**

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a proclamation declaring October 7, 2010 “Disability Awareness Day” in the City of San José. (Constant)
- 1.2 Presentation of a proclamation declaring the Month of October 2010 “Domestic Violence Awareness Month” in the City of San José. (Constant/Campos)
- 1.3 Presentation of a proclamation declaring the Month of October as “Filipino History Month” in the City of San José. (Chu/Liccardo)  
\* (Rules Committee referral 9/29/10)
- 1.4 Presentation of a gift from the Mayor of the Chinese City of Dezhou to Mayor Reed and the City Council by Mary Tucker, who as a representative of the City of San José attended the International Solar Cities Congress held in Dezhou on September 15-17, 2010. (Environmental Services)  
\* (Rules Committee referral 9/29/10)

# 2. CONSENT CALENDAR

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

- 2.1 **Approval of Minutes.**
- 2.2 **Final adoption of ordinances.**

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28814 – Rezoning certain real property situated on the south side of Wabash Avenue, approximately 550 feet west of Archer Street to R-2 Two-Family Residence Zoning District. C09-034 [Presentation](#)
- (b) ORD. NO. 28815 – Rezoning certain real property situated on the east side of Senter Road, approximately 610 feet southerly of Tully Road (2500 Senter Road) to A(PD) Planned Development Zoning District. PDC09-033 [Presentation](#)

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

**Recommendation:** Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of September 15, 2010.](#) (Mayor)
- (b) [Rules and Open Government Committee Report of September 8, 2010.](#) (Mayor)  
\* [Deferred from 9/28/10 – Item 2.3(a)]
- (c) [Public Safety, Finance and Strategic Support Committee of September 16, 2010.](#) (Nguyen)  
\* [Deferred from 9/28/10 – Item 2.3(c)]

## 2. CONSENT CALENDAR

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### 2.4 Mayor and Council Excused Absence Requests.

**Recommendation:**

- (a) [Request for an excused absence for Councilmember Constant from the Joint City Council/Redevelopment Agency/Santa Clara County Board of Supervisors Meeting on October 15, 2010 due to Authorized City Business: American Leadership Forum Silicon Valley in San José, CA. \(Constant\)](#)  
\* (Rules Committee referral 9/29/10)
- (b) [Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on September 29, 2010 due to Authorized City Business: Silicon Valley Leadership Group's CEO/Senior Officer Advocacy Trip to Washington, D.C. \(Mayor\)](#)  
\* (Rules Committee referral 9/29/10)

### 2.5 City Council Travel Reports.

### 2.6 [Agreement with Alaska Air Group for New Air Service.](#)

- \* **Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute a Focus City Agreement with Alaska Air Group, with a retroactive commencement date of March 10, 2010, to implement the terms and conditions of the Focus City Promotional Fee Waiver Incentive Program for new air service at Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, File No. PP10-152. (Airport)

### 2.7 [Actions Related to the On-the-Job Training \(OJT\) National Emergency Program.](#)

**Recommendation:**

- (a) Adopt a [resolution](#) authorizing the City Manager to accept the OJT National Emergency Grant (NEG) Grant award in the amount of \$725,462;
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund (290) for 2010-2011 for the initial grant awards received as follows:
  - (1) Increase the estimate for Earned Revenue by \$478,000 and
  - (2) Establish an appropriation to the Office of Economic Development for the OJT NEG grant award in the amount of \$478,000.

CEQA: Not a Project; File No. PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager's Office)

## 2. CONSENT CALENDAR

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### 2.8 [Agreements to Provide the City's Medical and Childcare Flexible Spending Accounts and Voluntary Insurance Group Plans.](#)

\* **Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to:
  - (1) Negotiate and execute an Agreement with Fringe Benefits Management Company (FBMC) to provide compliance management services for the City's medical and childcare flexible spending accounts, including Internal Revenue Code (IRC) Section 125 plan administration, for the period of January 1, 2011 to December 31, 2011, and to exercise up to three one-year options to renew the Agreement through December 31, 2014, for costs not to exceed \$1,000 for calendar year 2011 and with annual cost adjustments for each subsequent year based on a pre-funding requirement in the flexible spending account program and collective bargaining agreements where applicable, for a total amount not to exceed \$4,000 for a potential four-year term, subject to the appropriation of funds by the City Council and collective bargaining agreements where applicable; and
  - (2) Negotiate and execute any group plan documents, adoption agreements, Business Associate Agreements, or other ancillary agreements with FBMC that are necessary to facilitate the above Agreement for the period of January 1, 2011 through December 31, 2014.
- (b) Adopt a resolution authorizing the City Manager to:
  - (1) Negotiate and execute an Agreement with Fringe Benefits Management Company (FBMC) to provide enrollment, administration and customer services (broker services) in support of the City's voluntary insurance benefits program for employees, retirees, dependents and beneficiaries for the period of January 1, 2011 to December 31, 2011, and to exercise up to three one-year options to renew the Agreement through December 31, 2014, for no cost to City for the potential four-year term; and
  - (2) Negotiate and execute any group plan documents, adoption agreements, Business Associate Agreements, or other ancillary agreements with FBMC that are necessary to facilitate the Agreement for voluntary insurance support services, for the period of January 1, 2011 through December 31, 2014; and
  - (3) Negotiate and execute, through FBMC, any group insurance plan contracts, Business Associate Agreements, or other Agreements with Trustmark Insurance Company (Trustmark) that are necessary to provide voluntary (participant-paid) insurance benefits, including Critical Illness Insurance (with Cancer Rider) group plans and Accident Insurance group plans, for City's employees, retirees, dependents and beneficiaries for the period of January 1, 2011 through December 31, 2014, for no cost to City for the potential four-year term.

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.8 Agreements to Provide the City's Medical and Childcare Flexible Spending Accounts and Voluntary Insurance Group Plans. (Cont'd.)

**Recommendation:**

- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Benefit Fund (Fund 160) for 2010-2011;
- (1) Establish an estimate for Earned Revenue to the Benefit Fund in the amount of \$1,000.
  - (2) Establish an appropriation to the Human Resources Department for Flexible Spending Accounts in the amount of \$1,000.
- (Human Resources/City Manager's Office)

### 2.9 Grant Agreement for the Retiming of Traffic Signals.

**Recommendation:** Approve a Transportation Fund for Clean Air grant agreement with the Santa Clara Valley Transportation Authority in the amount of \$635,000 for the retiming of 164 traffic signals. CEQA: File No. PP10-158. (Transportation)

### 2.10 City Manager's Travel to Seattle, WA.

**Recommendation:** Approve travel for City Manager Debra Figone to Seattle, Washington 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. (City Manager's Office)  
(Rules Committee referral 9/22/10)

### 2.11 City Positions on the November 2, 2010 California General Election Ballot – Propositions 19, 23, and 26.

**Recommendation:** As recommended by the Rules and Open Government Committee on September 29, 2010, approve the recommended City positions for Propositions on the November 2, 2010 California General Election ballot:

- (a) Adopt an Oppose Position for Proposition 19. Legalizes Marijuana Under California But Not Federal Law, Permits Local Governments To Regulate And Tax Commercial Production, Distribution, And Sale Of Marijuana. Initiative Statute.
- (b) Adopt an Oppose Position for Proposition 23. Suspends Implementation of Air Pollution Control Law (AB 32) Requiring Major Source of Emissions to Report and Reduce Greenhouse Gas emissions that Cause Global Warming Until Unemployment Drops to 5.5 Percent of Less for Full Year. Initiative Statute.
- (c) Adopt an Oppose Position for Proposition 26. Requires that Certain State and Local Fees be Approved by Two-Thirds Vote. Fees Include Those That Address Adverse Impacts on Society or the Environment Caused by the Fee-Payer's Business. Initiative Constitutional.

(City Manager's Office)

\* [Rules Committee referral 9/29/10 – Item H(3)]

## 2. CONSENT CALENDAR

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### 2.12 [Report on the Recruitment and Application Process for the Appointment of Public Members to the Police and Fire and Federated Retirement Boards.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on September 29, 2010, approve the application for appointment of public members to the Boards of Administration of the Police and Fire Department Retirement Plan (Police and Fire Retirement Board) and the Federated City Employees' Retirement System (Federated Board) as amended. (City Clerk)

\* [Rules Committee referral 9/29/10 – Item H(4)]

### 2.13 [District 8 Day in the Park.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on September 29, 2010:

- (a) Approve the District 8 “Day in the Park” as a City 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 9/29/10 – Item H(5)]

### 2.14 [Agreement with NASA Ames Research Center for Utilization of Moffet Federal Airfield for Enforcement and Emergency Response Capabilities.](#)

**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 negotiate and execute an extension to the Reimbursable Space Act Agreement with NASA Ames Research Center for Utilization of Moffett Federal Airfield for Enforcement and Emergency Response Capabilities, for an extension period not to exceed two years, with a space fee not to exceed \$16,000 per year and fuel cost in the amount of federal government cost plus 14.7%.

(General Services/Police)

\* (Orders of the Day)

## 3. STRATEGIC SUPPORT SERVICES

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

### 3. STRATEGIC SUPPORT SERVICES

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3.2 [Response to Santa Clara County Civil Grand Jury Report entitled “Should the City Council Continue to Subsidize Team San José’s Increasing Losses?”](#)

[Attachment – Memo from mayor Reed and Councilmember Constant](#)

**Recommendation:** Approve the response to the Santa Clara County Civil Grand Jury Report entitled “Should the City Council Continue to Subsidize Team San José’s Increasing Losses?” CEQA: Not a Project, File No.PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. Council District 3. (Economic Development) (Deferred from 8/24/10 – Item 3.2 and 9/14/10 – Item 3.2)

**RECOMMEND DEFERRAL TO 10/19/10 PER ADMINISTRATION**

3.3 [Response to the Santa Clara County Civil Grand Jury Report entitled “Cities Must Rein in Unsustainable Employee Costs.”](#)

[Presentation](#)

**Recommendation:** Approve the response to the 2009-2010 Santa Clara County Civil Grand Jury Report entitled “Cities Must Rein in Unsustainable Employee Costs.”

CEQA: Not a Project, File No.PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. (City Manager’s Office)

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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4.1 [Public Hearing on an Ordinance Amending Title 20 of the San José Municipal Code Clarifying Setback Regulations for Industrial Districts and Allowing Utility Providers to Sign Development Permit Applications.](#)

**Recommendation:** Conduct a public hearing and consider an [ordinance](#) amending Title 20 of the San José Municipal Code to amend Chapter 20.50 to add a new Part 4 clarifying setback regulations for the Industrial Districts, to amend Sections 20.100.110 and 20.100.1210 of Chapter 20.100 to allow Utility Providers to sign Development Permit Applications for utility work occurring entirely within public services easements or public utility easements, to amend Section 20.200.700 of Chapter 20.200 to clarify the definition of Front Lot Line, and to make other related, technical and nonsubstantive conforming amendments to said Title 20. CEQA: Exempt, File No. PP10-150. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (6-0-1-0)  
Citywide

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.2 Rezoning real property located on the northwest side of Saratoga Avenue.

#### Presentation

**Recommendation:** Conduct a public hearing and consider an [ordinance](#) rezoning the real property located on the northwest side of Saratoga Avenue, 900 feet northeasterly of Graves Avenue (1471 Saratoga Avenue), from the A(PD) Planned Development Zoning District to the CO(PD) Planned Development Zoning District to allow medical office uses in an existing office facility on a 2.36 gross acre site (Jack F. and Wilburta E. Taylor Trustee, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

[PDC10-011](#) – District 1

\* **DROP, TO BE RENOTICED FOR 10/19/10**

### 4.3 Actions Related to the RFP for the San José McEnery Convention Center Expansion and Renovation Project.

#### Presentation

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

- (a) Approving the final rankings of the five design-build entities that responded to the RFP for the San José McEnery Convention Center Expansion and Renovation Project; and;
- (b) Authorizing the Public Works Director to negotiate a design-build contract for the Project as follows:
  - (1) Begin negotiating with the highest ranked contractor, Hunt Construction Group;
  - (2) Begin negotiating with the next highest ranked contractor, Turner Construction, if after having negotiated with Hunt, the Director determines that the City's interests are best served by beginning negotiations with the next highest ranked contractor; and
  - (3) Begin negotiating with each of the other contractors in order of their ranking as the Director determines is appropriate.

CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002. (Public Works)

### 4.4 Delegation of Authority to City Manager regarding conducting a TEFRA Hearing for SunPower Corporation related to bonds to benefit SunPower Corporation.

**Recommendation:** Adopt a [resolution](#) delegating to the City Manager and the City Manager's authorized designees the authority to conduct a Tax Equity and Equality Act ("TEFRA") Hearing related to the revenue bonds proposed to be issued by the California Enterprise Development Authority to benefit SunPower Corporation and/or a related entity. CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (Economic Development)

\* (Rules Committee referral 9/29/10)

## 5. NEIGHBORHOOD SERVICES

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### 5.1 [Grant Applications for Coyote Creek Trail Project - Highway 237 Bikeway to Tasman Drive.](#)

**Recommendation:**

- (a) Adopt a [resolution](#) that:
- (1) Authorizes the City Manager, or designee, to submit a grant application in an amount not to exceed \$1,055,000 to the Metropolitan Transportation Commission (MTC) under the Community Design and Transportation (CDT) Capital Grant program for the Coyote Creek Trail (Highway 237 Bikeway to Tasman Drive) Project (Project);
  - (2) Certifies that the City will have available, prior to commencement of any work on the Project included in the application, the required local match of \$350,000 and any additional sufficient funds required to complete the Project;
  - (3) Certifies that the City has or will have sufficient funds to operate and maintain the Project;
  - (4) Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines for the Project;
  - (5) Delegates the authority to the City Manager, or designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project; and
  - (6) Once constructed, keeps the Coyote Creek trail segment between Highway 237 Bikeway and Tasman Drive open 24 hours a day, seven days a week, for the life of the trail, except during emergencies, maintenance, and unforeseeable circumstances, as required by the Valley Transportation Authority (VTA)/MTC for the receipt of the grant funds.
- (b) Adopt a [resolution](#) that:
- (1) Authorizes the City Manager, or designee, to submit a grant application in an amount not to exceed \$350,000 to the State of California Natural Resources Agency under the Environmental Enhancement and Mitigation Program (EEMP) grant funding for the Project to be used as the local match for the grant in Recommendation A above;
  - (2) Certifies that City agrees to comply with assurances in the EEMP application as set forth in this memorandum and the proposed resolution;
  - (3) Certifies that the City has or will have sufficient funds to operate and maintain the Project; and
  - (4) Subject to the City receiving the CDT grant set forth in Recommendation A above, delegates the authority to the City Manager, or designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project.

*(Item continued on the next page)*

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Grant Applications for Coyote Creek Trail Project - Highway 237 Bikeway to Tasman Drive. (Cont'd.)

**Recommendation:**

- (c) Adopt a [resolution](#) that:
  - (1) Subject to funding shortfall to complete the Project based on the combined grants set forth above, authorizes the City Manager, or designee, to submit a grant application in an amount up to \$300,000 to the Santa Clara County Open Space Authority under the 20% Funding Program for the Project; and
  - (2) Delegates the authority to the City Manager, or designee, to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project.

CEQA: Categorically Exempt, File No. PP10-144. (Parks, Recreation and Neighborhood Services)

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 High Speed Rail Project.

- \* **Recommendation:** Approve a Cooperation Agreement with the California High Speed Rail Authority addressing the design of an aerial alignment in the Downtown San Jose area. CEQA: Not a Project, File No. PP10-066(e), agreement involving no physical change to the environment. The recommended actions are advisory to the CHSRA. The CHSRA is in the process of preparing an EIR for the High-Speed Train project. (Transportation)  
**RECOMMEND DEFERRAL TO 10/19/10 PER 9/22/10 RULES AND OPEN GOVERNMENT COMMITTEE**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 [Actions Related to Fuel Cell System Power Production.](#)

- \* **Recommendation:** Accept the report on the Request for Proposals for a Power Purchase and Site Lease Agreement for Fuel Cell System Power Production and adopt a resolution authorizing the Director of Finance to execute a Power Purchase Agreement, Site Lease and other necessary documents, with UTS Bio-Energy SJ-1, LLC (UTS) (Encinitas, CA) to purchase fuel cell energy at the San José/Santa Clara Water Pollution Control Plant for a 20 year term. CEQA: Exempt, File No. PP10-112. (Environmental Services/Finance)  
**RECOMMEND DEFERRAL TO 10/19/10 PER ADMINISTRATION**

## **8. PUBLIC SAFETY SERVICES**

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

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*See Item 8.1 “Public Hearing on the Agency’s FY 2010-11 Capital and Operating Budgets and the 2011-2013 Spending Plan” 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 or Redevelopment Agency Board.*

- **Continue RDA Board Meeting**

- **Council will recess until 7:00 p.m.**

## 10. GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearing at this time.

## 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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(To be heard by the City Council at 7:00 p.m.)

**Notice to the public:** There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) 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 Public Hearings Consent Calendar (Item 11.1) and considered separately.

### 11.1 Public Hearings on Consent Calendar.

**Recommendation:**

- (a) [Consider an ordinance rezoning the real property generally bounded by](#) Penitencia Creek Road to the north, Toyon Avenue to the east, Golf Drive to the south, and Gridley Street to the west from County of Santa Clara to R-1-8 Single Family Residence (approx. 106 gross acres) and A Agriculture zoning District (approx. 13 gross acres) on an approximately 119 gross acre unincorporated island consisting of approximately 630 parcels (Multiple Owners). CEQA: San José 2020 General Plan EIR, Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
[C10-012](#) – District 5 [Ordinance](#) [Ordinance 2](#) [Presentation](#)
- (b) [Consider an ordinance rezoning the real property generally bounded by Patt](#) Avenue, McKee Road, North White Road, and a line 150 feet westerly of Francis Drive from County of Santa Clara to R-1-8 Single Family Residence Zoning District on an approximately 31 gross acre unincorporated County island consisting of approximately 115 parcels (Multiple Owners). CEQA: San José 2020 General Plan EIR, Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. [Ordinance](#) [Presentation](#)

[C10-013](#) – District 5

# 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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## 11.1 Public Hearings on Consent Calendar. (Cont'd.)

### Recommendation:

- (c) [Consider an ordinance rezoning the real property generally bounded by Gay Avenue to the north, North Capitol Avenue to the west, and Alum Rock Avenue to the south, and a line approximately 950 feet southwesterly of North White Road to the east from County of Santa Clara to R-1-8 Single Family Residence Zoning District for an approximately 64 gross acre unincorporated County island consisting of approximately 260 parcels \(Multiple Owners\). CEQA: San José 2020 General Plan EIR, Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.](#) [Ordinance](#) [Presentation](#)  
C10-014 – District 5
- (d) [Consider an ordinance rezoning the real property generally bounded by Florence Avenue, South White Road, Story Road, Lower Silver Creek, and South Capitol Avenue from County of Santa Clara to R-1-8 Single Family Residence Zoning District \(approximately 126 gross acres\) and CN Commercial Neighborhood Zoning District \(approximately 1 acre\) on an approximately 127 gross acre unincorporated County island consisting of approximately 630 parcels \(Multiple Owners\). CEQA: San José 2020 General Plan EIR, Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.](#) [Ordinance](#) [Presentation](#)  
C10-015 – District 5

## 11.2 [Initiation of the Annexation/Reorganization of Penitencia No. 77, McKee No. 136, McKee No. 135, and Capitol No. 57.](#)

### [Attachment – Staff Report](#)

**Recommendation:** Adopt resolutions initiating proceedings and setting November 9, 2010 at 7:00 p.m. for public hearings on the reorganizations of the following territories:

- (a) Penitencia No. 77: A 119 gross acre County island generally bounded by both sides of Golf Drive, the west side of Toyon Avenue, both sides of Penitencia Creek Road and both sides of Gridley Street and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service. [Resolution](#) [Presentation](#)
- (b) McKee No. 136: An approximately 31 gross acre County island generally bounded by Patt Avenue to the north, McKee Road to the south, North White Road to the east, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service. [Resolution](#) [Presentation](#)

*(Item continued on the next page)*

## **11. PUBLIC HEARINGS ON CONSENT CALENDAR**

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### **11.2 Initiation of the Annexation/Reorganization of Penitencia No. 77, McKee No. 136, McKee No. 135, and Capitol No. 57. (Cont'd.)**

#### **Recommendation:**

- (c) McKee No. 135: An approximately 64 gross acre County island generally bounded by Gay Avenue to the north, North Capitol Avenue to the west, Alum Rock Avenue to the south, and a line approximately 950 feet southwesterly of North White Road to the east and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service. [Resolution](#) [Presentation](#)
- (d) Capitol No. 57: An approximately 127 gross acre County island generally bounded by Florence Avenue to the north, South White Road to the east, Story Road and Lower Silver Creek to the south, and South Capitol Avenue to the west and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service. [Resolution](#) [Presentation](#)

CEQA: The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan," and certified on August 16, 1994, by the City of San José City Council. Council Districts 4 and 5. (Planning, Building and Code Enforcement)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## 11. PUBLIC HEARINGS

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### 11.3 **Prezoning Real Property Generally Bounded by Central Park Way, Union Avenue, and Camden Avenue.** [Presentation](#) [Presentation 2](#) [Presentation 3](#) [Supplemental – Memo from the Director of Planning, Building and Code Enforcement](#)

#### **Recommendation:**

- (a) Consideration of and vote on a Majority Protest to Prezoning C10-010 filed pursuant to Part 5 of Chapter 20.120 of the City’s Zoning Code to protest a rezoning to the R-1-5 Single-Family Residence Zoning District as to approximately 94.5 acres and CN Commercial Neighborhood Zoning District as to approximately 8.5 acres for an approximately 103 gross acre County pocket.  
*Please note: Approval of this item requires 8 or more affirmative votes (2/3).*
- (b) [Consider an ordinance rezoning the real property generally bounded by Central Park Way, Union Avenue, and Camden Avenue from County of Santa Clara to R-1-5 Single Family Residence Zoning District as to approximately 94.75 acres and CN Commercial Neighborhood Zoning District as to approximately 8.24 acres for an approximately 103 gross acre unincorporated County of Santa Clara pocket consisting of approximately 330 parcels \(Owners: Multiple\). CEQA: San José 2020 General Plan EIR, Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval \(5-0-1-1\). \[C10-010 – District 9 Attachment – Staff Report\]\(#\)  
\[Continued from 9/21/10 – Item 11.1\(b\)\]](#)

\* **RECOMMEND CONTINUANCE TO 10/26/10 PER ADMINISTRATION**

### 11.4 [Initiation of the Annexation/Reorganization of Cambrian No. 36.](#) [Supplemental – Memo from the Director of Planning, Building and Code Enforcement](#) [Presentation](#)

- \* **Recommendation:** Adopt a [resolution](#) initiating proceedings and setting December 7, 2010 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Cambrian No. 36 which involves the annexation to the City of San José of approximately 103 gross acres of land generally bounded by Central Park Drive to the north, State Highway 17 to the west, Camden Avenue to the south and Union Avenue to the east, and the detachment of the same from the appropriate special districts, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service and maintain the area within the Central Fire District with the Santa Clara County Fire Department providing first response as currently occurs. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: The environmental impacts of this project were addressed by a Final EIR entitled, “San José 2020 General Plan,” and certified on August 16, 1994, by the City of San José City Council. Council District 9. (Planning, Building and Code Enforcement)

\* **RECOMMEND CONTINUANCE TO 10/26/10 PER ADMINISTRATION**

- **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**

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

**1:30 P.M.**

**TUESDAY, OCTOBER 5, 2010**

**CHAMBERS**

\* *The Joint City Council/San José Financing Authority agenda will be heard immediately following the Consent Calendar.*

**1. Call to Order and Roll Call**

**2. [Actions Related to the City of San José Financing Authority Lease Revenue Bonds, Series 2008 ABCDE \(Various Projects\).](#)**

[Click here to view all attachments for this item](#)

[Conflict of Interest Form for Councilmember Pyle](#)

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

**Recommendation:**

(a) Adopt resolutions of the City Council to:

(1) Approve the Remarketing Memoranda and authorize the negotiation, execution and delivery of Letter of Credit Reimbursement Agreements and associated agreements for the payment of fees relating to the City of San José Financing Authority Lease Revenue Bonds, Series 2008A (Civic Center Refunding Project); Series 2008B (Civic Center Garage Refunding Project); Series 2008C and Series 2008D (Hayes Mansion Refunding Project); and Series 2008E (Ice Centre Refunding Project) and to authorize other related actions.

(2) Authorize the Director of Finance to negotiate and execute an amendment to the agreement with Public Resources Advisory Group (“PRAG”) serving as the City General Financial Advisor to increase the total compensation authorized under the agreement from \$250,000 to \$350,000.

(b) Adopt resolutions of the City of San José Financing Authority Board to:

(1) Approve the Remarketing Memoranda and authorize the negotiation, execution and delivery of Letter of Credit Reimbursement Agreements and associated agreements for the payment of fees and supplemental indentures of trust relating to the City of San José Financing Authority Lease Revenue Bonds, Series 2008A (Civic Center Refunding Project); Series 2008B (Civic Center Garage Refunding Project); Series 2008C and Series 2008D (Hayes Mansion Refunding Project); and Series 2008E (Ice Centre Refunding Project) and authorize other related actions.

CEQA: Not a Project, File No. PP10-066, Agreements/Contracts (New or Amended).  
(Finance)

## **JOINT CITY COUNCIL/FINANCING AUTHORITY**

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- 3. Open Forum**
- 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.