

# CITY COUNCIL AGENDA

**DECEMBER 14, 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 Tuesday at 7 p.m. as needed, 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**
- \* 9:00 a.m. - Closed Session, Call to Order in Council Chambers  
Adjourn to Closed Session in Council Chambers Conference Room, W133  
[See Separate Agenda](#) [See RDA Agenda](#)
- \* 10:00 a.m.- Regular Session, Council Chambers, City Hall, *Council will recess at 12:00 Noon and reconvene at 1:30 p.m.*
- 1:30 p.m. - Regular Session, Council Chambers, City Hall

- **Invocation (Mayor)**  
Delorme McKee-Stovall, Manager, Santa Clara County Office of Human Relations

- **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 Le Van Ba, founder of Lee's Sandwiches. Le Van Ba was a successful businessman in Vietnam when war forced his family to start over from scratch. Arriving in San Jose in 1980, Le and his children within three years had launched Lee's Sandwiches, a chain that now has more than 30 Vietnamese sandwich shops in California, plus locations in four other states. Le Van Ba was a pillar of strength and determination for his family; he will be missed in the community. (Nguyen)

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

- Orders of the Day (Cont'd.)
- \* **REDEVELOPMENT AGENCY AGENDA TO BE HEARD IMMEDIATELY FOLLOWING ITEM 3.3**
- Closed Session Report

## **1. CEREMONIAL ITEMS**

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- 1.1** Presentation of a commendation to La Raza Roundtable de California for their commitment to ensure social justice, education, and leadership development while improving the quality of life in San José. (Herrera)
- \* **TO BE HEARD AT 1:30 P.M.**

## **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 may 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. 28855 – Repealing Sections 11.72.020, 11.72.030, 11.72.040, 11.72.050, 11.72.060 and 11.72.070 of Chapter 11.72 of Title 11 of the San José Municipal Code and amending Section 11.72.150 of Chapter 11.72 of Title 11 to eliminate bicycle licensing requirements.
- (b) ORD. NO. 28858 – Amending Title 20 of the San José Municipal Code to add a new Chapter 20.75, Pedestrian Oriented Zoning Districts, establish the Main Street Districts within that Chapter, establish parking and loading requirements for Main Street Districts, and make other related changes to Chapter 20.10, General Provisions and Zoning Districts, Chapter 20.40, Commercial Zoning Districts, Chapter 20.80, Specific Use Regulations, Chapter 20.175, Commercial and Industrial Common Interest Development Regulations, and 20.200, Definitions, all to better align with and further support the Pedestrian Oriented Zoning Districts.
- (c) ORD. NO. 28859 – Amending Sections 9.10.1100, 9.10.1200, and 9.10.1210 of Chapter 9.10 of Title 9 of the San José Municipal Code to limit the ability to establish residential solid waste service accounts to the owner and their agents.

## 2. CONSENT CALENDAR

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### 2.2 Final adoption of ordinances. (Cont'd.)

**Recommendation:** Final adoption of ordinances.

- \* (d) [ORD. NO. 28861](#) – (1) Amending Sections 12.06.210 and 12.06.540 of the San José Municipal Code to clarify how to calculate increases based on the Consumer Price Index; (2) Eliminating contribution limitations to Independent Committees by repealing Part 3 of Chapter 12.06; (3) Amending Section 12.06.910 to clarify the reporting requirements for Independent Committees; (4) Amending Section 12.06.920 to clarify the type of information to be provided in the City Clerk’s report; and (5) Amending Section 12.06.1010 to clarify the notices and reports required.
  
- \* (e) [ORD. NO. 28862 – Amending Parts 3 and 5 of Chapter 25.11 of Title 25 of the San José Municipal Code to revise the method for determining minimum compensation and amending Parts 15 and 17 regarding administration and administrative enforcement for the Airport Living Wage and Labor Standards. Ordinance](#)
  
- \* (f) [ORD. NO. 28864 – Rezoning certain real property situated on the south side of Aborn Road between Alessandro Drive and Ruby Avenue, from A\(PD\) Planned Development Zoning District to A\(PD\) Planned Development Zoning District. PDC10-001](#)
  
- \* (g) [ORD. NO. 28865 – Rezoning certain real property situated on the west side of South Monroe Street, approximately 400 feet north of Tisch Way and approximately 270 feet north of Tisch Way between South Baywood and Dudley Avenues, from the CG Commercial General and R-M Multiple Residence Zoning Districts to the A\(PD\) Planned Development Zoning District. PDC10-018](#)
  
- \* (h) [ORD. NO. 28866 – Rezoning certain real property situated at 405 North Third Street from the R-M Multiple Residence Zoning District to the A\(PD\) Planned Development Zoning District to allow up to four residential units \(total\) on a 0.17 gross acre site. PDC08-033](#)

### 2.3 Approval of Council Committee Reports.

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

- (a) Community and Economic Development Committee Report of November 29, 2010. (Pyle)
- \* **RECOMMEND DEFERRAL TO 1/11/11 PER CITY CLERK**

### 2.4 Mayor and Council Excused Absence Requests.

**Recommendation:**

- (a) [Request for an excused absence for Councilmember Nguyen from the Closed and Regular City Council Meetings on November 30, 2010 due to illness. \(Nguyen\) \(Rules Committee referral 12/01/10\)](#)

## 2. CONSENT CALENDAR

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### 2.5 City Council Travel Reports.

### 2.6 [Lease of Airport Premises at 1239 Airport Boulevard with Southwest Airlines.](#)

- \* **Recommendation:** Adopt a resolution authorizing the Director of Aviation to:
- (a) Negotiate and execute a First Amendment to the Lease of Airport Premises at 1239 Airport Boulevard (“Lease”) with Southwest Airlines Co. (“Southwest”) to extend the term for 5 years commencing on January 1, 2011, subject to termination by the Director of Aviation (“Director”) with 90 days written notice, with annual revenue to the City of \$111,300; and
  - (b) Negotiate and execute an Amendment to the Lease to extend the term of the Lease for up to an additional 5 years commencing on January 1, 2016, subject to termination by the Director with 90 days written notice.

CEQA: Not a Project, File No. PP10-066(f), Lease of existing space for same use. (Airport)

### 2.7 [Sublease Agreement between SJC Fuel Company, LLC and Wickland Pipelines LLC for a Portion of the Fuel Storage Tank Site.](#)

**Recommendation:**

- (a) Approve a Sublease [Agreement](#) between SJC Fuel Company, LLC and Wickland Pipelines, LLC for a portion of the fuel storage tank site leased premises located at 2500 Seaboard Avenue in San José, for an initial term of 20 years, with automatic one year extensions until terminated by notice from either party to the Sublease Agreement.
- (b) Adopt a [resolution](#) authorizing the Director of Aviation to approve future Sublease Agreements between SJC Fuel Company, LLC and third parties as necessary for the continued operation and modification of the fuel farm.

CEQA: Resolution Nos. 67380, 71451, and 75344, File No. PP10-169. (Airport)

### 2.8 [Settlement Agreement and Release.](#)

**Recommendation:** Approve settlement and authorize payment to Sherretta Henderson, Christina Sanchez, Natasha Burton, Barbara Powell and their attorneys in the total amount of \$70,000 pursuant to a Settlement [Agreement](#) and Release, as considered by the City Council during the Closed Session held on November 30, 2010. CEQA: Not a Project, File No. PP10-066(h), Settlement Agreement. (City Attorney)

## 2. CONSENT CALENDAR

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### 2.9 [Agreement with the National Development Council for New Markets Tax Credit Consulting Services.](#)

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the National Development Council for New Markets Tax Credit consulting services with an initial term from December 15, 2010 through January 31, 2012, and an option to extend up to seven years for compliance and asset management services; for compensation to be contingent on closing of the transaction in an amount not to exceed \$177,500 for the initial term, and \$70,000 for services during the optional period. CEQA: Negative Declaration for the renovation of the EIC was adopted on December 1, 2009, File No. PP09-138. (Environmental Services)

### 2.10 [Agreement with Harvest Power, Inc. for Evaluation and Demonstration of a Biomass-to-Energy Technology Project.](#)

[Attachment – Memo from the Treatment Plant Advisory Committee](#)

- \* **Recommendation:** Adopt a resolution authorizing the City Manager to negotiate an agreement with Harvest Power, Inc. for evaluation and demonstration of a biomass-to-energy technology project at the San José Santa Clara Water Pollution Control Plant to begin February 1, 2011 consistent with the business terms specified in the memorandum to Council. CEQA: Categorical Exemption, File No. PP10-130, CEQA Guidelines Section 15303(d), New Construction and Conversion of Small Structures. (Environmental Services)

### 2.11 [Agreement with the City of Santa Clara for the South Bay Water Recycling Program.](#)

[Attachment – Memo from the Treatment Plant Advisory Committee](#)

**Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute the Eighth Amendment to the construction service agreement with the City of Santa Clara for the South Bay Water Recycling Program, extending the term of the agreement to December 31, 2012, adding a new project to the list of recycled water pipeline projects, and increasing the maximum amount payable by the City of San José by \$1,011,000 to a total maximum amount not to exceed \$34,661,000.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the San José/ Santa Clara Treatment Plant Capital Fund for 2010-2011:
  - (1) Increase the estimate for Earned Revenue by \$511,000;
  - (2) Increase the appropriation for Revised South Bay Action Plan –South Bay Water Recycling Extension by \$1,011,000;
  - (3) Decrease the Ending Fund Balance by \$500,000.

CEQA: Addendum to an EIR Resolution 64667, File No. PP10-184. (Environmental Services/City Manager's Office)

## 2. CONSENT CALENDAR

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### 2.12 [Grant Agreement with the California Department of Pesticide Regulation to Adopt Pesticide-Free Maintenance Practices.](#)

**Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute a grant agreement with the California Department of Pesticide Regulation to adopt pesticide-free maintenance practices and construct demonstration sustainable gardens on a portion of the Guadalupe River Park and Gardens, and develop and conduct public outreach and training focused on Integrated Pest Management techniques for the term of December 2010 through May 2013, with a grant to the City in the amount of \$200,000.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for 2010-2011:
  - (1) Increase the estimate in the General Fund for Revenue from the State Government by \$115,000 and
  - (2) Establish a Citywide Pesticide Management Demonstration appropriation to the Environmental Services Department in the amount of \$115,000.

CEQA: Not a Project, File No. PP10-165, minor alterations to land which do not involve removal of healthy, mature, scenic trees. (Environmental Services/Parks, Recreation and Neighborhood Services/City Manager's Office)

### 2.13 [Open Purchase Order for Emergency Tree Services Program.](#)

**Recommendation:** Exercise the final option period and establish an Open Purchase Order for the period December 17, 2010 through December 16, 2011, with a total compensation not to exceed \$550,000. This Purchase Order will provide all labor, materials and equipment necessary for the citywide emergency tree services program managed by the Department of Transportation. Office of Equality Assurance: Living and Prevailing Wages where Prevailing Wage is higher. CEQA: Not a Project, File No. PP10-066(a), Purchase Order/Cooperative Purchase of Supplies, Equipment & Professional Services with no changes in the physical environment. (Finance)

### 2.14 [Agreement with a Google Reseller for a Pilot Google Apps Software Program.](#)

**Recommendation:** Adopt a resolution authorizing the Director of Finance to negotiate and execute an Agreement with a Google Reseller to engage in a pilot program with up to 200 City employees using Google Apps software for a period of up to approximately one year, and accept 200 Google Apps licenses from Google, Inc. at no cost to the City of San José. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for purchase of supplies. (Information Technology)

## 2. CONSENT CALENDAR

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### 2.15 [Report on bids and award of contract for the O'Donnell's Gardens Park Gazebo Design Build Project.](#)

**Recommendation:**

- (a) Report on bids and award of contract for the O'Donnell's Gardens Park Gazebo Design Build Project to the low bidder, Rodan Builders, Inc., in the amount of \$175,300 and approval of a contingency in the amount of \$18,000.
- (b) Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 3 (Fund 380):
  - (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department, for the O'Donnell's Garden Park project in the amount of \$165,000; and
  - (2) Decrease the Ending Fund Balance by \$165,000.

CEQA: Exempt, File No. PP10-182. (Parks, Recreation and Neighborhood Services/Public Works/City Manager's Office)

### 2.16 [Approval of Actions Related to the 2010 COPS Technology Grant.](#)

**Recommendation:**

- (a) Adopt a [resolution](#) accepting the 2010 COPS Technology Program Grant in the amount of \$710,000, and authorizing the City Manager and Chief of Police to execute the Grant [Agreement](#) and all related documents; and to negotiate and execute additional amendments and related documents without further Council action other than appropriation of funds.
- (b) Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund for fiscal year 2010-2011:
  - (1) Establish a City-wide appropriation to the Police Department for the 2010 COPS Technology Program Grant in the amount of \$710,000; and
  - (2) Increase the Earned Revenue Estimate from the Federal Government by \$710,000.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for purchase of supplies. (Police/City Manager's Office)

### 2.17 [Agreement with Denise Duffy & Associates for Environmental Consultant Services.](#)

**Recommendation:** Approve the first amendment to the master [agreement](#) with Denise Duffy & Associates extending the duration from December 31, 2010 to December 31, 2012 for a continuation of ongoing environmental consultant services supporting various City projects, at no additional cost to the City. CEQA: Not a Project, File No. P10-066(d), Consultant Services for Design, Study, Research, Inspection or other professional consulting services to determine the feasibility of a project with no commitment to future action. (Public Works)

## 2. CONSENT CALENDAR

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### 2.18 [Agreement with Gilbane Building Company for Program, Project and Construction Management Consultant Services.](#)

**Recommendation:** Approve the second amendment to the master [agreement](#) with Gilbane Building Company extending the duration from December 31, 2010 to December 31, 2012 for a continuation of ongoing program, project and construction management consultant services supporting various City projects, at no additional cost to the City. CEQA: Not a Project, File No. P10-066(d), Consultant Services for Design, Study, Research, Inspection or other professional consulting services to determine the feasibility of a project with no commitment to future action. (Public Works)

### 2.19 [Agreement with Krazan & Associates for Special Inspections and Material Testing Services.](#)

**Recommendation:** Approve the first amendment to the master [agreement](#) with Krazan & Associates extending the duration from December 31, 2010 to December 31, 2012 for a continuation of ongoing special inspections and material testing services supporting various City projects including Safety Bond, at no additional cost to the City. CEQA: Not a Project, File No. P10-066(d), Consultant Services for Design, Study, Research, Inspection or other professional consulting services to determine the feasibility of a project with no commitment to future action. (Public Works)

### 2.20 [Agreement with Portico, Inc. for Project Design and Management Services for the Happy Hollow Park and Zoo Parks Bond Project.](#)

**Recommendation:** Approve the fourth amendment to the master [agreement](#) with Portico, Inc. extending the duration from December 31, 2010 to December 31, 2012 for a continuation of project design and management services for the City's Happy Hollow Park and Zoo Parks Bond Project, at no additional cost to the City. CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April, 2007 and Amended Mitigated Negative Declaration, File No. PP09-023, dated February 6, 2009. (Public Works)

### 2.21 [Agreement with David J. Powers & Associates, Inc. for Environmental Consultant Services.](#)

**Recommendation:** Approve the first amendment to the master [agreement](#) with David J. Powers & Associates, Inc. extending the duration from December 31, 2010 to December 31, 2012 for a continuation of ongoing environmental consultant services supporting various City projects, at no additional cost to the City. CEQA: Not a Project, File No. P10-066(d), Consultant Services for Design, Study, Research, Inspection or other professional consulting services to determine the feasibility of a project with no commitment to future action. (Public Works)

## 2. CONSENT CALENDAR

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### 2.22 [Agreement with URS Corporation Americas for Environmental Consultant Services.](#)

**Recommendation:** Approve the first amendment to the master [agreement](#) with URS Corporation Americas extending the duration from December 31, 2010 to December 31, 2012 for a continuation of ongoing environmental consultant services supporting various City projects, at no additional cost to the City. CEQA: Not a Project, File No. P10-066(d), Consultant Services for Design, Study, Research, Inspection or other professional consulting services to determine the feasibility of a project with no commitment to future action. (Public Works)

### 2.23 [Increase in the Contingency for the San José Environmental Innovation Center – New Electrical Transformer Project.](#)

\* **Recommendation:** Approve an increase in the contingency for the San José Environmental Innovation Center – New Electrical Transformer Project in the amount of \$10,000 for a total contingency of \$21,712. CEQA: Exempt, File No. PP09-138. (Public Works)

### 2.24 [Actions Related to the Paul Moore Park Playground Renovation Project.](#)

**Recommendation:** Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 9 (Fund 388):

- (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department, for the Paul Moore Park Playground Renovation project for \$200,000; and
  - (2) Decrease the Ending Fund Balance by \$200,000.
- CEQA: Exempt, File No. PP10-176. (Public Works/City Manager’s Office)

### 2.25 [Agreement in which the Valley Transportation Authority for Use of a City Senior Civil Engineer.](#)

\* **Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement in which the Valley Transportation Authority (“VTA”) will reimburse the City for all costs up to \$275,000 associated with the VTA’s use of a City Senior Civil Engineer for a fourteen month period of time.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Public Works Program Support Fund:
  - (1) Establish a new appropriation – Valley Transportation Authority Collaboration in the amount of \$160,000.
  - (2) Increase the estimate for Earned Revenue by \$160,000

CEQA: Not a Project, File No. PP10-066 (e) Agreements/Services that involve no physical changes to the environment. (Public Works/City Manager’s Office)

## 2. CONSENT CALENDAR

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### 2.26 Actions Related to the Parking Penalty and Late Payment Penalty Resolution.

\* **Recommendation:**

- (a) Adopt a [resolution](#) to repeal Resolution No. 75555 and set forth the Schedule of Parking Penalties and Late Payment Penalty for Parking Violations to include a State Trial Court Trust Fund penalty fee in the amount of \$3.00, to increase or decrease certain other parking penalties and make corrections to the schedule, effective January 1, 2011.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
  - (1) Increase the revenue estimate for Fines, Forfeitures and Penalties by \$290,000;
  - (2) Increase the Citywide appropriation to the Department of Transportation for the Parking Citations/Jail Courthouse Fees in the amount of \$290,000.

CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section No. 15273 – Rates, Tolls, Fares and Charges. (Transportation/City Manager’s Office)

### 2.27 Agreement for Elections Commission Evaluator and Investigator Services.

**Recommendation:** Approve an [agreement](#) with Hanson Bridgett to provide legal and investigative services as the Evaluator and Investigator to the San José Elections Commission for a four-year term beginning on January 1, 2011 – January 1, 2015, in an amount not to exceed \$250,000, subject to appropriation of funds. (City Clerk)

### 2.28 Re-appointments to the San José Arena Authority Board.

**Recommendation:** As recommended by the Rules and Open Government Committee on December 8, 2010, re-appoint Bruce Pinsky and Kris McFarland to serve on the San José Arena Authority Board. (Mayor)

\* [Rules Committee referral 12/8/10 – Item G(1)(a)]

### 2.29 2011 Legislative Guiding Principles, Priorities and Advocacy Issues.

**Recommendation:** As recommended by the Rules and Open Government Committee on December 8, 2010, accept the 2011 Legislative Guiding Principles as edited by the Council Committees, and the Legislative Priorities and Advocacy Issues for the first year of the two-year Legislative Session in Sacramento and the 112<sup>th</sup> Congress. (City Manager’s Office)

\* [Rules Committee referral 12/8/10 – Item H(3)]

## 2. CONSENT CALENDAR

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### 2.30 Challenge Day National Conference.

**Recommendation:** As recommended by the Rules and Open Government Committee on December 8, 2010:

- (a) Approve the Challenge Day National Conference as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the Challenge Day National Conference.

(City Clerk)

\* [Rules Committee referral 12/8/10 – Item H(3)]

### 2.31 Agreement with San Jose Convention & Visitors Bureau.

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the existing Second Amended and Restated Agreement between the City of San Jose and the San Jose Convention & Visitors Bureau until February 28, 2011, with a compensation for the extension period not to exceed \$700,000. CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts. (City Manager's Office)

\* (Rules Committee referral 12/8/10)

## 3. STRATEGIC SUPPORT SERVICES

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

### 3.2 Actions Related to the Authority to Award the Convention Center Project. Supplemental – Memo from the Director of Public Works

\* **Recommendation:** Adopt a resolution:

- (a) Finding that the design-build procurement process will result in faster project completion than if the City used a procurement process involving its normal competitive bidding process;
- (b) Subject to the completion of the related bond financing, the appropriation of funds, and the City Council's approval of the spending reduction plan:
  - (1) Authorize the City Manager to negotiate and execute a contract with Hunt Construction for the Convention Center Expansion and Renovation Project in an amount not to exceed \$117,000,000; and
  - (2) Authorize establishing a City-Controlled contingency in the amount of \$3,000,000, and authorize the Director of Public Works to issue all change orders of any cost not to exceed the \$3,000,000 contingency.

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

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 [Actions Related to a Regional Public Safety Interoperable Broadband System.](#)

[Supplemental Memo from Mayor's Senior Policy Advisor Michelle McGurk and Deputy City Manager Deanna Santana](#)

**Recommendation:**

- (a) City Council consideration of a request from the Alameda County Sheriff's Office to participate in a public safety broadband project in partnership with Motorola, Inc.
- (b) Staff recommends the City Council approve Policy Alternatives 2 and 3, as noted in the report:
  - (1) Ask the National Telecommunications and Information Agency to reallocate the funds to the Bay Area cities and counties; and,
  - (2) Adopt a position of Support for the concept of a regional interoperability for public safety communications, along with Guiding Principles for participation in a regional public safety interoperable broadband project.

CEQA: Not a Project, PP10-066(a), Agreements. Additional environmental clearance would be needed if the implementation of this effort would result in a physical change to the environment. (Mayor's Office/City Manager's Office)

\* (Rules Committee referral 12/8/10)

\* **TO BE HEARD FIRST IN THE MORNING**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 [Licensing and Regulating Tobacco Retail Establishments.](#)

[Attachment – Memo from Councilmembers Chu, Kalra and Campos](#)

**Recommendation:**

- (a) Approve an [ordinance](#) amending Title 6 of the San José Municipal Code to add a new Chapter 6.87 to license and regulate establishments engaged in the sale of tobacco and tobacco related products;
- (b) Adopt a [resolution](#) amending the City's Administrative Citation Schedule of Fines to establish fine amounts for violations of certain provisions of Chapter 6.87, and repealing Resolution No. 75065, to be effective January 1, 2011.

CEQA: Not a Project; File No. PP10-068(c), Municipal Code or Policy. (City Attorney/Planning, Building and Code Enforcement)

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.2 Agreements for the Airport West Property.

Supplemental – Memo from the Director of the Office of Economic Development

#### **Recommendation:**

- (a) Approve Amendments to Two Amended and Restated Option Agreements and related Purchase Agreements with Coleman Airport Partners, LLC for the property located at 1125 Coleman Avenue. [Contract](#) [Contract](#)
- (b) Approve Amendments to an Amended and Restated Option [Agreement](#) and related Purchase Agreement with FWSH Partners, LLC related to the 14 acres for the Soccer Stadium site located at 1125 Coleman Avenue.

CEQA: EIR Resolution No. 71716, File No. PP08-093 and File No. PDC09-004.  
Council District 3. (Economic Development)

### 4.3 TEFRA Hearing and CSCDA Bond Issuance for the McCreery Courtyards Apartment Project to be located at 1884 Alum Rock Avenue and 71, 73 and 75 McCreery Avenue.

Attachment – Memo from Councilmember Campos

#### **Recommendation:**

- (a) Conduct a Tax Equity and Fiscal Responsibility Act ("TEFRA") Hearing for the issuance of up to \$25,000,000 of Tax-Exempt Multifamily Housing Revenue Bonds (the "Bonds") by the California Statewide Community Development Authority ("CSCDA") for the benefit of the McCreery Courtyard Apartments Project and any future issuance of refunding bonds to refinance the Bonds where federal tax laws would not require additional consideration or approval by the City Council.
- (b) Adopt a [resolution](#) approving the issuance of Tax-Exempt Revenue Bonds by CSCDA in an aggregate principal amount not to exceed \$25,000,000 to be used to provide construction and permanent financing for a 93-unit affordable housing project known as McCreery Courtyard Apartments.

CEQA: Mitigated Negative Declaration and addenda thereto, File No. PDC04-088.  
Council District 5. SNI: Mayfair. (Housing/Finance)

### 4.4 **Actions Related to General Plan Amendments to the South Almaden Valley Urban Reserve and Rancho del Pueblo Golf Course Property.**

#### **Recommendation:**

- (a) [Reject the private request for an Alternative Draft Envision 2040 Land Use/Transportation Diagram designation of Residential Neighborhood allowing urban residential uses in the South Almaden Valley Urban Reserve because it is inconsistent with the Council's prior direction to consider no housing or job growth in the Urban Reserves within the timeframe of the Envision 2040 Plan.](#)  
[Supplemental – Memo from the Director of PBCE](#)
- (b) Direct staff to withdraw the Council initiated General Plan Land Use and corresponding Transportation Diagram amendment for the Rancho del Pueblo Golf Course property located at the northeast corner of King Road and Hermocilla Way.

\* **DROP (b)**

CEQA: Incomplete. (Planning, Building and Code Enforcement/Economic Development)

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.5 [Rezoning real property located at the southwest corner of East Brokaw Road and Old Oakland Road.](#)

[Attachment – Memo from Mayor Reed and Councilmember Chu](#)

**Recommendation:** Conduct a public hearing and consider an [ordinance](#) rezoning the real property located at the southwest corner of East Brokaw Road and Old Oakland Road from the IP Industrial Park and HI Heavy Industrial Zoning Districts to the A(PD) Planned Development Zoning District to allow for the development of up to 650 multi-family residential units and up to 150,000 square feet of commercial uses or up to 300,000 square feet of office/R&D uses on a 29.9 gross acre site (Fox Properties/ Markovits & Fox, Inc., Owner). CEQA: Addendum to the Fox Property General Plan Amendment Environmental Impact Report (EIR). (Planning, Building and Code Enforcement)

[PDC07-010](#) – District 4

### 4.6 [Community Identification and Wayfinding Policy.](#)

[Supplemental – Memo from the Office of the City Manager](#)

\* **Recommendation:** As recommended by the Community and Economic Development Committee on November 29, 2010:

- (a) Adopt a [resolution](#) amending City Council Policy 9-3: Community Identification and Wayfinding (currently “Community Identification Signs and Architectural Gateway Monuments”).
- (b) Adopt a [resolution](#) amending Resolution No. 72737 (Fees and Charges) to:
  - (1) Establish a Wayfinding Banner Application charge of \$535, plus \$89 per hour after 6 hours in the Office of Economic Development for costs associated with the application review and coordination of wayfinding banners in the public right-of-way;
  - (2) Establish a Double Banner Installation charge of \$66 in the Department of Transportation Miscellaneous Charges for costs associated with the installation of one dual set of wayfinding banners on a single street pole with existing banner hardware; and
  - (3) Establish a New Double Banner Hardware Installation charge of \$86 plus cost of materials in the Department of Transportation Miscellaneous Charges for costs associated with the installation of one dual set of wayfinding banners on a single street pole without existing banner hardware.

CEQA: Exempt, File No. PP09-075. (City Manager’s Office)

[Community and Economic Development Committee referral 11/29/10 – Item D(5)]

### 4.7 [Parking Incentive Programs.](#)

[Attachment – Cross Reference Memo from the CED Committee](#)

\* **Recommendation:** Adopt a [resolution](#) to repeal Resolution No. 75445 and set forth the Master Parking Rate Schedule to:

- (a) Expand the Free Parking Incentive program to include non-City and non-Redevelopment Agency operated or funded Incubators (including innovation centers, shared workspace centers or other similar entities) to:

*(Item continued on the next page)*

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.7 Parking Incentive Programs. (Cont'd.)

**Recommendation:**

- (a)
  - (1) Provide up to three years of free parking for Incubators that enter into a written lease agreement for a downtown office or commercial retail building, up to a maximum of 50 parking permits for each Incubator; and
  - (2) Allow the Incubator to “opt out” of the written parking lease terms that require purchasing parking permits during the fully paid portion of the parking lease agreement, if the Incubator maintains its office space in San José.
- (b) Establish the following incentive programs and rate structures to increase flexibility and responsiveness of the Parking Program:
  - (1) Nighttime Monthly permit rate for use between the hours of 5 pm to 6 am, in the range of \$25-\$50 at the Market/San Pedro Square, Second/San Carlos, Third Street, and Fourth Street Garages.
  - (2) Special Event rate for major events in the range of \$5-\$15 at the Market/San Pedro Square, Second/San Carlos, and Third Street Garages.
  - (3) Introductory Monthly rate providing a 25% discount for up to six months for new customers at underutilized parking facilities.
  - (4) University Semester rate for SJSU students in the range of \$150-\$175 per semester at the Fourth Street Garage and Second/San Carlos Garage.

CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section No.15273, Rates, Tolls, Fares and Charges. Council District 3. (Transportation)  
[Community and Economic Development Committee referral 11/29/10 – Item D(7)]

## 5. NEIGHBORHOOD SERVICES

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### 5.1 [Report on the Community Center Reuse and Aquatics Programs.](#)

**Recommendation:** As recommended by the Neighborhood Services and Education Committee on December 9, 2009:

- (a) Accept staff’s report on the status of the Citywide Aquatics Program;
- (b) Adopt a [resolution](#) authorizing the Director of Parks, Recreation and Neighborhood Services to enter into direct negotiations with potential aquatics service providers pursuant to Municipal Code Section 4.12.235, "Unique Services Purchases" for multiple-year terms;
- (c) Accept staff’s report on the status of the 2010 Community Center Reuse Program; and
- (d) Adopt a [resolution](#) amending Council Policy 7-12 (Community Center Reuse).

CEQA: Exempt, File No. PP02-108. (Parks, Recreation and Neighborhood Services)

\* [Neighborhood Services and Education Committee referral 12/9/10 – Item D(3)]

## 6. TRANSPORTATION & AVIATION SERVICES

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## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 Actions Related to the Plant Master Plan Update.

[Attachment – Memo from Mayor Reed and Councilmembers Nguyen and Chu](#)

#### **Recommendation:**

- (a) [As referred by the Transportation and Environment Committee on December 6, 2010](#), accept the Plant Master Plan Update progress report on the development of the draft recommended alternative for the Master Plan for the San José/Santa Clara Water Pollution Control Plant (Plant). CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Environmental Services)  
[Transportation and Environment Committee Referral 12/6/10 – Item D(6)]
- (b) [Direct staff to consider the Milpitas Guiding Principles for San José/ Santa Clara Water Pollution Control Plant Master Plan Reconstruction and Land Use Alternatives \(Milpitas Guiding Principles\)](#), along with other tributary agency, stakeholder and public input, in the final development of the Preferred Alternative for the Plant Master Plan currently scheduled to be presented to Council in April 2011, and to present the Milpitas Guiding Principles, along with other tributary agency and partner input into the Land Use Alternatives Public Input Summary that will be presented to Council along with the recommended Preferred Alternative for the Plant Master Plan. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Environmental Services)  
[Attachment – Memo from the Treatment Plant Advisory Committee](#)

\* **TO BE HEARD NO EARLIER THAN 3:00 P.M.**

### 7.2 [Actions Related to the Single-Use Carryout Bag Ordinance.](#)

[Supplemental - Memo from the City Attorney](#)

[Attachment – Memo from Vice Mayor Chirco and Councilmembers Chu, Liccardo and Nguyen](#)

#### **Recommendation:**

- (a) [Conduct an Administrative Hearing on and consider an Appeal of the Planning Commission’s certification of the Final Environmental Impact Report \(FEIR\) for the proposed Single-Use Carryout Bag Ordinance](#), File No. PP09-193, amending Chapter 9.10 of Title 9 of the City’s Municipal Code to prohibit the free distribution of single-use carryout paper and plastic bags at the point of sale for all commercial retail businesses in San José except restaurants and nonprofit charitable reuse organizations (an exception is proposed for paper bags containing at least 40 percent recycled content, which can be provided to customers for a minimum store charge of \$0.10 upon adoption of the ordinance, with an automatic increase to \$0.25 two years after adoption of the ordinance) and consideration of adoption of a resolution to uphold the Planning Commission’s certification of the FEIR and certify that:
  - (1) The City Council has read and considered the Final EIR; and
  - (2) The Final EIR has been completed in compliance with the California Environmental Quality Act (CEQA); and
  - (3) The Final EIR reflects the independent judgment and analysis of the City of San José; and

*(Item continued on the next page)*

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.2 Actions Related to the Single-Use Carryout Bag Ordinance. (Cont'd.)

**Recommendation:**

(a) (4) The Director of Planning, Building and Code Enforcement shall transmit copies of the Final EIR to any other decision-making body of the City of San José for the project.

(Planning, Building and Code Enforcement)

(b) Approve an [ordinance](#) to add Part 13 to Chapter 9.10 of Title 9 of the San José Municipal Code to ban single-use carryout bags, and prohibit the free distribution of recycled paper bags by retail establishments, to be effective January 1, 2012.

(c) Adopt a [resolution](#) to amend the Administrative Citation Schedule of Fines to establish fines related to Single-Use Carryout Bags and to repeal the prior Administrative Citation Schedule of Fines resolution.

CEQA: Environmental Impact Report, File No. PP09-193. (Environmental Services)

\* **TO BE HEARD NO EARLIER THAN 2:00 P.M.**

### 7.3 [Evergreen Provisions in Solid Waste Service Agreements.](#)

**Recommendation:** As referred by the Transportation and Environment Committee on December 6, 2010, discuss and accept the report on the advantages and disadvantages of a perpetual or “evergreen” agreement for Recycle Plus residential solid waste services.

CEQA: Not a Project, File No. PP10-069. (Environmental Services)

[Transportation and Environment Committee Referral 12/6/10 – Item D(7)]

## 8. PUBLIC SAFETY SERVICES

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### 8.1 [Approval of Actions Related to the 2010 COPS Hiring Grant.](#)

[Attachment – Memo from Mayor Reed and Councilmembers Nguyen and Constant](#)

**Recommendation:** Adopt a [resolution](#) accepting the 2010 COPS Hiring Program Grant in the amount of \$7,187,984 and authorizing the City Manager and Chief of Police to execute the Grant [Agreement](#) and all related documents; and to negotiate and execute additional amendments and related documents without further Council action other than appropriation of funds. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for purchase of supplies. (Police/City Manager’s Office)

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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\* *See Items 8.1 “Acceptance of the Annual Report of Financial Transactions of Community Redevelopment Agencies” and 8.2 “Approval of Amendments to DDAs with North San Pedro Townhomes and San Pedro Life I, LLC, for the North San Pedro Housing site” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting.*

- **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**

- **Adjournment**

This meeting will be adjourned in memory of Le Van Ba, founder of Lee’s Sandwiches. Le Van Ba was a successful businessman in Vietnam when war forced his family to start over from scratch. Arriving in San Jose in 1980, Le and his children within three years had launched Lee's Sandwiches, a chain that now has more than 30 Vietnamese sandwich shops in California, plus locations in four other states. Le Van Ba was a pillar of strength and determination for his family; he will be missed in the community. (Nguyen)

## **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.