



CITY COUNCIL AGENDA

FEBRUARY 1, 2011

AMENDED AGENDA

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
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. Council Meetings are televised live and rebroadcast on Channel 26.

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

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

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

- **Call to Order and Roll Call**

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

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

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

- **Invocation (District 2)**

* Father Jon Pedigo, St. Julie Billiard Parish

- **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 Cynthia Filarca, a committed teacher in the Evergreen Elementary School District for over thirty years and longtime resident of San José, who was dedicated to serving beyond the classroom through her volunteer work in the community. (Herrera)

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

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

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring the month of February 2011 as “American Heart Month” in the City of San José. (Mayor/Council)
(Rules Committee referral 01/19/11)

2. CONSENT CALENDAR

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

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) [Regular Minutes of October 5, 2010.](#)
- (b) [Pavement Maintenance Study Session Minutes of October 12, 2010.](#)
- (c) [Joint City/County Minutes of October 15, 2010.](#)
- (d) [Regular Minutes of October 19, 2010.](#)
- (e) [Regular Minutes of October 26, 2010.](#)

2.2 Final adoption of ordinances.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of January 12, 2011.](#) (Mayor)
- (b) [Rules and Open Government Committee Report of January 5, 2011.](#) (Mayor)

* [Deferred from 1/25/11 – Item 2.3(d)]

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 [Spending Plan for the Supplemental Law Enforcement Services Fund.](#)

Recommendation:

- (a) Approve the proposed 2010-2012 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund for \$1,230,297 and authorize the Chief of Police to amend the spending plan in conformity to the budget priorities set out in this memorandum in the event that State SLES Grant payments are less than expected.

(Item continued on the next page)

2. CONSENT CALENDAR

2.6 Spending Plan for the Supplemental Law Enforcement Services Fund. (Cont'd.)

Recommendation:

(b) Adopt the following 2010-2012 Appropriation Ordinance and Funding Sources Resolution Amendments in the Supplemental Law Enforcement Services Fund (Fund 414):

- (1) Increase the Earned Revenue by \$126,732; and
- (2) Establish a SLES Grant 2010-2012 appropriation for the Police Department in the amount of \$126,732.

CEQA: Not a Project, File No.PP10-067(b). (Police/City Manager's Office)

2.7 [FY 2009-2010 Independent Auditor's Report and the Independent Accountant's Report of the Hayes Mansion Conference Center.](#)

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on December 16, 2010, accept the reports on the activities of the Hayes Mansion for the fiscal year ended June 30, 2010. The reports include:

- (a) The Independent Auditor's Report and Financial Statements;
- (b) The Independent Accountant's Report on applying Agreed-Upon Procedures; and
- (c) The Public Safety, Finance and Strategic Support Committee Report (Management Letter).

(Finance)

[Public Safety, Finance and Strategic Support Committee referral 12/16/10 – Item D(5)]
(Deferred from 1/25/11 – Item 2.16)

2.8 [Project Diversity Screening Committee Appointment.](#)

Recommendation: As recommended by the Rules and Open Government Committee on January 26, 2011, appoint Bob Dhillon to the Project Diversity Screening Committee for a term expiring December 31, 2012. (Herrera)

* [Rules Committee referral 1/26/11 – Item G(1)(a)]

2.9 [Let's Move! Campaign.](#)

Recommendation: As recommended by the Rules and Open Government Committee on January 26, 2011, adopt a [resolution](#) demonstrating the City Council's support for and participation in the National *Let's Move!* Campaign. (Liccardo)

* [Rules Committee referral 1/26/11 – Item H(2)]

2.10 [District 7 Vice Mayor Oath of Office Special Event.](#)

Recommendation: As recommended by the Rules and Open Government Committee on January 26, 2011:

- (a) Approve the District 7 Vice Mayor Oath of Office as a City Council sponsored Special Event; and

(Item continued on the next page)

2. CONSENT CALENDAR

2.10 District 7 Vice Mayor Oath of Office Special Event. (Cont'd.)

Recommendation:

(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

(City Clerk)

* [Rules Committee referral 1/26/11 – Item H(4)]

3. STRATEGIC SUPPORT SERVICES

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

3.2 [Report on Election and Interview for the Appointment of a Fire Retiree Representative to the Board of Administration of the Police and Fire Department Retirement Plan.](#)

Recommendation:

(a) Acknowledge receipt of the following:

- (1) Certification by the City Clerk of results of elections conducted among the retired members of the Police and Fire Department Retirement Plan; and
- (2) Recommendation from the panel convened to interview candidates for the Retiree Representative on the Police and Fire Retirement Board.

(b) At the City Council's discretion:

- (1) Appoint one retiree member to the Board of Administration of the Police and Fire Department Retirement Plan to a term expiring November 30, 2014; or
- (2) If an appointment is not made, direct the City Clerk to conduct a new process to recommend the appointment of a retired member as necessary.

CEQA: Not a Project. (City Clerk)

* **RECOMMEND DEFERRAL TO 2/8/11 PER CITY CLERK**

3.3 [Audit of Police Department Staffing.](#)

[Attachment – City Auditor's Report](#)

[Attachment – Patrol Deployment Alternatives \(379 pages\)](#)

[Presentation](#)

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on December 16, 2010, accept the audit of Police Department Staffing. (City Auditor)

[Public Safety, Finance and Strategic Support Committee referral 12/16/10 – Item D(7)]
(Deferred from 1/25/11 – Item 3.5)

3.4 [Appeals Hearing Board Interviews.](#)

[Attachment – Memo from the City Attorney](#)

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

Recommendation: Interview applicants and consider an appointment to the Appeals Hearing Board filling an unexpired term ending December 31, 2011. (City Clerk)
(Rules Committee referral 01/19/11)

3. STRATEGIC SUPPORT SERVICES

3.5 Tax Qualification Ordinances for Retirement Plans.

Recommendation:

- (a) Approve an [ordinance](#) amending Chapter 3.28 of Title 3 of the San José Municipal Code to incorporate provisions related to primary purpose of the Federated City Employees Retirement Plan, use of retirement plan assets, prohibited retirement plan transactions, pension benefit vesting, pension benefit and contribution limits, required benefit payments, permissive purchases of service credit, rollover of employee contributions into other tax qualified plans and accounts, permissive retirement plan investment vehicles, qualified domestic relations orders and contributions, benefits, service credit for qualified military service, date of establishment of medical benefits account, and to make other technical amendments related to Internal Revenue Code provisions for qualified governmental retirement plans.
- (b) Approve an [ordinance](#) amending Chapter 3.36 of Title 3 of the San José Municipal Code to incorporate provisions related to primary purpose of the Police and Fire Department Retirement Plan, use of retirement plan assets, prohibited retirement plan transactions, pension benefit vesting, pension benefit and contribution limits, required benefit payments, permissive purchases of service credit, rollover of employee contributions into other tax qualified plans and accounts, permissive retirement plan investment vehicles, qualified domestic relations orders and contributions, benefits, service credit for qualified military service, date of establishment of medical benefits account, and to make other technical amendments related to Internal Revenue Code provisions for qualified governmental retirement plans.

CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Attorney's Office)

* (Deferred from 1/25/11 – Item 3.3)

3.6 Labor Negotiations Update.

[Presentation](#)

Recommendation: Accept Labor Negotiations Update. (City Manager's Office)

* (Rules Committee referral 01/26/11)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Cultural Connection: San José's Cultural Plan for 2011-2020.

[Attachment – Full Plan](#)

[Attachment – Supporting Documentation/Appendix](#)

[Attachment – Memo from Mayor Reed and Councilmembers Nguyen, Herrera and Liccardo Presentation](#)

Recommendation: Adopt the Cultural Connection: San José's Cultural Plan for 2011-2020. CEQA: Not a Project, File No. PP10-066(e), Services that involved no physical changes to the environment. (Economic Development)

(Deferred from 1/11/10 – Item 4.1 and 1/25/10 – Item 4.1)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Public Hearing and Approval of the Ninth Amendment to the Countywide Nondisposal Facility Element.](#)

Recommendation: Conduct a public hearing and adopt a [resolution](#) approving the Ninth Amendment to the Countywide Nondisposal Facility Element to identify the following nondisposal facilities in San José: the Recology Silicon Valley Processing and Transfer Facility, 1675 Rogers Avenue; Zero Waste Energy Development Company Anaerobic Digestion Facility, 2100 Los Esteros Road; Green Earth Management LLC Kings Row Recycling Facility, 650 Kings Row; Environmental Resource Recovery Inc. (Valley Recycling) Medium Volume Construction Demolition Debris Facility, 1615 B South 7th Street; and Smurfit-Stone Recycling San Jose Facility, 205 East Alma Avenue. CEQA: Statutorily Exempt, CEQA Guidelines Section 15262, Other Statutory Exemptions. (Environmental Services)

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.

- **Continue RDA Board Meeting**

- **Adjournment**

This meeting will be adjourned in memory of Cynthia Filarca, a committed teacher in the Evergreen Elementary School District for over thirty years and longtime resident of San José, who was dedicated to serving beyond the classroom through her volunteer work in the community. (Herrera)

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

1:30 P.M.

TUESDAY, FEBRUARY 1, 2011

CHAMBERS

1. **Call to Order and Roll Call**
2. **[Agreement with The Housing Trust of Santa Clara County for Construction of the Ford and Monterey Special Needs Apartments.](#)**

Recommendation:

- (1) Adopt a [resolution](#) of the City Council:
 - (a) Authorizing the Director of Housing to negotiate and execute an amended consortium agreement with The Housing Trust of Santa Clara County (“HTSCC”) under the Neighborhood Stabilization Program 2 (“NSP2”) in an amount up to \$3,000,000 for construction of the 20-unit Ford and Monterey Special Needs Apartments;
 - (b) Approving a funding commitment to Eden Housing, Inc. (“Eden”), or its designated affiliate for up to \$3,000,000 for a Project construction/permanent loan funded from NSP2 (Fund 448);
 - (c) Approving a pledge of a City owned 3.06 acre land parcel as collateral to secure a \$500,000 predevelopment from the Housing Trust of Santa Clara County to Eden Housing, Inc. or its designated affiliate (“Eden”) and authorizing the Director of Housing to negotiate and execute an intercreditor agreement with HTSCC;
 - (d) Authorizing the Director of Housing to negotiate and execute an agreement with the City of San José Financing Authority related to the ground lease revenues of the Project and ultimate disposition of the Project improvements and the Project site (the “Site”).
- (2) Adopt a [resolution](#) of the City of San José Financing Authority Board:
 - (a) Authorizing the Executive Director of the City of San José Financing Authority, (the “Authority”), or designee, to acquire the Site from the City and negotiate and execute a ground lease of the Site to the Borrower for a term of up to 75 years with an annual rent of \$1.00 for the first 55 years; and,

(Item continued on the next page)

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
FINANCING AUTHORITY/AGENDA (CONT'D.)**

1:30 P.M.

TUESDAY, FEBRUARY 1, 2011

CHAMBERS

- 2. Agreement with The Housing Trust of Santa Clara County for Construction of the Ford and Monterey Special Needs Apartments. (Cont'd.)**

Recommendation:

- (2) (b) Authorizing the Executive Director of the Authority, or designee, to negotiate and execute an agreement with the City of San José related to the ground lease revenues from the Project and the ultimate disposition of the Project Improvements and the Site.

CEQA: Mitigated Negative Declaration, File No. PDC09-022. Council District 2.
(Housing/Finance)

(Rules Committee referral 01/19/11)

* (Deferred from 1/25/11 – Item SJFA #2)

* **DROP**

- 3. Open Forum** (*to be heard with Open Forum for the City of San José and San José Redevelopment Agency Board*)
- 4. Adjourn the San José Financing Authority.**

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
 - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
 - c) Speakers should discuss topics related to City business on the agenda.
 - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
 - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
 - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
 - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.