



CITY COUNCIL AGENDA

FEBRUARY 8, 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)**

Dr. Vineet Sharma, Hindu-American Foundation

- **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 Dorothy Santos for her outstanding dedication of service and volunteerism to the Alviso community and the City of San José. (Campos/Chu)

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

* **SEE NEW ITEM 1.4, “Presentation of a commendation to Marina Moustakas...”
TO BE ADDED UNDER ORDERS OF THE DAY**

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the San José Downtown Association in celebration of its 25 years of work to enhance Downtown’s vitality and livability. (Liccardo)
(Rules Committee referral 01/26/11)
- 1.2 Presentation of a proclamation celebrating Lunar New Year in the City of San José.
(Chu/Nguyen)
* (Rules Committee referral 02/02/11)
- 1.3 Presentation of a commendation to SMTC Corporation for providing high-quality, comprehensive manufacturing and assembly solutions for San José companies. (Mayor/Chu/Economic Development)
* (Rules Committee referral 02/02/11)
- 1.4 Presentation of a commendation to Marina Moustakas in recognition of receiving the Hellenic American Professional Society of California’s 2011 Axion Award. (Constant)
* (Orders of the Day)

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.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28878 – Amending Section 4.80.3015 of Chapter 4.80 of Title 4 of the San José Municipal Code to allow administrative expenditures for personal services and nonpersonal expenses under the Housing Trust Fund.
- (b) ORD. NO. 28881 – Establishing Kirk Park/Community Center Rule 20A Underground Utility District along Foxworthy Avenue, between Yucca Avenue and Briarwood Avenue.
- (c) ORD. NO. 28883 – Rezoning certain real property situated at the northwest corner of North 10th Street and East Taylor Street from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC08-036

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of January 19, 2011.](#) (Mayor)
- (b) [Public Safety, Finance and Strategic Support Committee Report of January 20, 2011.](#) (Constant)
- (c) [Community and Economic Development Committee Report of January 24, 2011.](#) (Hererra)

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 [Accept Grant Funds for Agreement with EmcArts for in the New Pathways in the Arts National Initiative.](#)

Recommendation:

- (a) Adopt a [resolution](#) to accept grant funds from various funders in the amount of \$85,000 to provide partial funding for a future agreement between the City and EmcArts to allow the City to participate in the New Pathways in the Arts National Initiative; and
- (b) Adopt the following Appropriation Ordinance and Funding sources resolution amendments in the General Fund for 2010-2011:
 - (1) Establish an appropriation to the Office of Economic Development in the amount of \$85,000 for New Pathways in the Arts.
 - (2) Increase the estimate for Revenue from Local Agencies by \$85,000.

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

2.7 [Application to the US Bureau of Reclamation for a Federal WaterSMART Grant for the Construction of Recycled Water Infrastructure.](#)

Recommendation: Adopt a [resolution](#) authorizing the City Manager to submit an application to the US Bureau of Reclamation for a federal WaterSMART grant through the Title XVI Water Reclamation and Reuse Program (Funding Opportunity Announcement No. R11SF80311), in the amount of \$2,000,000 for the construction of recycled water infrastructure, subject to the concurrence of the Treatment Plant Advisory Committee. CEQA: Not a Project, File No. PP10-068(a) Grant Application (where Council is not obligated to enter into an agreement at the time of application). If the grant application is successful, environmental documentation for the proposed project will be provided. (Environmental Services)

2. CONSENT CALENDAR

2.8 [Agreement with Asbestos Management Group of California, Inc. and Plant Hazardous Services, Inc. for the Removal of Lead and Asbestos at Citywide Facilities.](#)

Recommendation: Adopt a resolution authorizing the Director of Finance to:

- (a) Execute two one-year agreements for the removal of lead and asbestos at citywide facilities with [Asbestos Management Group of California, Inc.](#) (Oakland, CA) and [Plant Hazardous Services, Inc.](#) (El Sobrante, CA), for a total not-to-exceed amount of \$150,000 and \$100,000, respectively.
- (b) Exercise options to extend the agreements for three additional one year terms without further Council action other than the appropriation of funds.

CEQA: Not a Project, PP10-066 (a) approval of open contracts for remediation services with the determination of the need for subsequent environmental review made on a case by case basis for each individual site selected. (Finance)

2.9 **Actions Related to Councilmember Chu's Travel to Modesto, CA.**

Recommendation:

- (a) [Approve travel by Councilmember Chu to Modesto, CA on February 10-11, 2011](#) to attend the regularly scheduled League of California Cities Board of Director's meeting as San José's designated representative. Source of Funds: Mayor & Council Travel Fund. League of California Cities pays for lodging in advance and reimburses the City for other related travel expenses.
- (b) [Request for an excused absence for Councilmember Chu from the Regular Meeting of the Neighborhood Services and Education Committee on February 10, 2011 due to Authorized City Business.](#)

(Chu)

* (Rules Committee referral 02/02/11)

2.10 [Actions Related to Mayor Reed's Travel to Narita, Japan.](#)

Recommendation:

- (a) Approve travel by Mayor Reed to Narita, Japan on February 2-5, 2011 to meet with executives from Japanese airlines in an effort to advocate on behalf of the City and attract air service to the Mineta San José International Airport. Source of Funds: Mayor & Council Travel Fund.
- (b) Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on February 2, 2011 due to Authorized City Business.

(Mayor)

* (Rules Committee referral 02/02/11)

2. CONSENT CALENDAR

2.11 [Neighborhoods Commission Appointments.](#)

Recommendation: As recommended by the Rules and Open Government Committee on February 2, 2011, approve the following appointments to the Neighborhoods Commission:

- (a) Norma Callender to fill a vacancy in Council District 2, and David Wilkins as the 1st Alternate and Jerry Lewis as the 2nd Alternate for Council District 2.
- (b) Theodore Johnson to fill a vacancy in Council District 5.
(City Manager's Office)

* [Rules Committee referral 02/02/11 – Item G(1)(a)]

2.12 [Silicon Valley Workforce Investment Network Board Appointment.](#)

Recommendation: As recommended by the Rules and Open Government Committee on February 2, 2011, approve the appointment of Bill Souders, Senior Director of Corporate Affairs for Cisco Systems in San José, to serve as a private-sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law. (Mayor)

* [Rules Committee referral 02/02/11 – Item G(1)(b)]

2.13 [Santa Clara Valley Water District FY 2012 – Joint Advocacy Federal Projects.](#)

Recommendation: As recommended by the Rules and Open Government Committee on February 2, 2011, accept the Santa Clara Valley Water District's (SCVWD) FY 2012 – Joint Advocacy Federal Projects in the City of San José's jurisdiction and approve the City's mutual request for funds through the appropriation process. (City Manager's Office/Environmental Services)

* [Rules Committee referral 02/02/11 – Item H(2)]

3. STRATEGIC SUPPORT SERVICES

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

3.2 [Approval of the 2010-2011 Mid-Year Budget Actions.](#) [Presentation](#)

Recommendation:

- (a) Approve the 2010-2011 Mid-Year Budget Review Report.
- (b) Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) in the 2010-2011 Mid-Year Budget Review.
- (c) Approve the elimination of a Division Manager position and a Supervising Real Property Agent position in the General Services Department and the addition of two Senior Executive Analyst positions in the Office of Economic Development to support Real Estate operations.

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.2 Approval of the 2010-2011 Mid-Year Budget Actions. (Cont'd.)

Recommendation:

- (d) Adopt a [resolution](#) amending the FY 2010-2011 Schedule of Fees and Charges (Resolution No. 72737, as amended) to:
- (1) Eliminate the Card Table Fee of \$24,413 per table per year; and
 - (2) Establish a Cardroom Regulation Fee of \$925,837 per Cardroom per year.
- CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager's Office)

3.3 [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)

(Deferred from 2/1/11 – Item 3.2)

* **RECOMMEND DEFERRAL TO 2/15/11 PER CITY CLERK**

3.4 [Mayor's Budget Prioritization Survey Results.](#) [Attachment – Memo from Mayor Reed](#) [Presentation](#) [Presentation](#)

Recommendation: Accept the Mayor's Budget Prioritization Survey Results. (Mayor)
(Rules Committee referral 01/26/11)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Exclusive Negotiation Agreement with First Community Housing for the Japantown Seniors Affordable Housing Development.](#)

Recommendation: Adopt a resolution authorizing the Director of Housing to negotiate and execute an Exclusive Negotiation Agreement between the City and First Community Housing for the development of the Japantown Seniors affordable housing development to be located on the former City Corporation Yard Parking Lot site located at 675 North Sixth Street just South of East Taylor Street. CEQA: Resolution No. 74384, GP07-03-04, PDC08-010. (Housing)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [Accept a FEMA Grant from the California Emergency Management Agency to Assist with the Creation of a Mobilehome Seismic Retrofit Program.](#)

Recommendation:

- (a) Adopt a [resolution](#) to:
- (1) Authorize the Housing Department to accept a Federal Emergency Management Agency (FEMA) grant of \$3,000,000 from the California Emergency Management Agency to assist with the creation of a mobilehome seismic retrofit program.
 - (2) Authorize the Director of Housing to negotiate and execute agreements to carry out the mobilehome Seismic retrofit work to be performed under this grant.
 - (3) Make findings that the use of Low- and Moderate-Income Housing Funds to provide match funds for seismic rehabilitation outside a redevelopment project area benefits the Agency's redevelopment project areas.
- (b) Adopt the following Appropriation Ordinance amendments in the Low/Moderate Income Housing Fund:
- (1) Establish an appropriation to the Housing Department for the Hazard Mitigation Match project in the amount of \$1,000,000; and
 - (2) Decrease the appropriation to the Housing Department for the Loans, Grants, and Site Acquisition project by \$1,000,000.

CEQA: Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism. Council Districts 2, 7 and 10. SNI: Edenvale/Great Oaks. (Housing/City Manager's Office)

4.3 [Implementation of Economic Strategy Workplan.](#) [Attachment – Executive Summary](#) [Attachment – Implementation Workplan](#) [Attachment – 2010 Strategy Workplan Update](#) [Attachment – Jobs and Revenue Generated by Staff-Assisted Projects Presentation](#)

Recommendation: As recommended by the Community and Economic Development Committee on January 24, 2011, accept the status report on progress implementing the Economic Strategy Workplan for the January 2010 – June 2011 time period. (Economic Development)

[Community and Economic Development Committee referral 1/24/11 – Item D(2)]

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

* *See Item 8.1 “Approval of the Redevelopment Agency’s 2010-11 Mid-Year Budget Review Report” 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**

- **Adjournment**

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

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

1. Public Meeting Decorum:

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

2. Signs, Objects or Symbolic Material:

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

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

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

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