



CITY COUNCIL AGENDA

MARCH 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**

- * 9:00 a.m. - Closed Session, Call to Order in Council Chambers
Open Session, Labor Negotiations Update (See Item 3.2)
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 3)**

- * Symphony Silicon Valley

- **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 Sal Sunseri, who was a beloved resident as well as youth baseball and soccer coach in District 9. (Rocha)

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

- * **SEE NEW ITEM 1.3, “Presentation of a commendation to Ariana Lena...” TO BE ADDED UNDER ORDERS OF THE DAY**

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to San José resident, Juan Valencia, for his courageous efforts to rescue a woman being attacked by two pit bull dogs. (Herrera)
(Deferred from 2/15/11 – Item 1.1)
- 1.2 Presentation of a commendation to the Tzu Chi Foundation for its partnership relationship with Orchard School on education and community service. (Chu)
- 1.3 Presentation of a commendation to Ariana Lena, who was selected as a Student Ambassador for the 2011 People to People Student Ambassador Program. (Nguyen)
* (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.**
- 2.3 **Approval of Council Committee Reports.**

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of February 16, 2011. (Mayor)
- (b) [Public Safety, Finance and Strategic Support Committee Report of February 17, 2011.](#) (Constant)
- (c) Rules and Open Government Committee Report of February 9, 2011. (Mayor)
* [Deferred from 3/1/11 – Item 2.3(d)]

- 2.4 **Mayor and Council Excused Absence Requests.**

- 2.5 **City Council Travel Reports.**

- 2.6 **[Agreement with ACME Building Maintenance for Custodial Services.](#)**

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

- (a) Execute the third amendment to the Custodial Services [Agreement](#) for City Hall with ACME Building Maintenance, Inc. (ACME) to expand the scope of services to include custodial services at the San José Police Department, Mexican Heritage Plaza, and Animal Care Services.

(Item continued on the next page)

2. CONSENT CALENDAR

2.6 Agreement with ACME Building Maintenance for Custodial Services. (Cont'd.)

Recommendation:

- (b) Execute amendments to the agreement as required to add or delete locations without further Council action and subject to the appropriation of funds.
- (c) Execute any amendments required to extend the ACME agreements for City Hall and the Airport for up to four additional months (from July 9, 2011 to November 9, 2011) subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for Maintenance Service. (Finance)

2.7 [Award of Open Purchase Orders for the Repair/Replacement of HVAC Equipment.](#)

Recommendation: Authorize the Director of Finance to:

- (a) Execute two Open Purchase Orders to Environmental Systems, Inc. (Santa Clara, CA) and EMCOR Services (Hayward, CA) in the amounts of \$757,131 and \$504,754, respectively, for Heating, Ventilation, and Air Conditioner (HVAC) Installation Services.
- (b) Shift funding between the two Purchase Orders such that the total compensation of the two Purchase Orders does not exceed \$1,261,885.00.

CEQA: Exempt, File No. PP11-005. (Finance)

2.8 [Amendments to City Pay Plan.](#)

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

- (a) Amend the City of San José Pay Plan effective March 8, 2011 to create the following classification:
 - (1) Environmental Sustainability Manager (8206).
- (b) Amend the City of San José Pay Plan effective March 8, 2011 to change the job classification title of:
 - (1) Investment Officer (7504) (formerly titled Retirement Investment Officer)

CEQA: Not a Project, File No. PP10-068 (b), Municipal Code, Title 3. (Human Resources)

2.9 Annual Status Report on Library, Public Safety and Parks and Recreation Bond Programs.

Recommendation:

- (a) [Accept the annual status report on the Safe Neighborhood Parks and Recreation Bond Projects for FY 2009-2010.](#)
- (b) [Accept the annual status report on the Branch Library Bond Projects for FY 2009-2010.](#)

[Deferred from 1/25/11 – Item 2.15 and 3/1/11 – Item 2.6]

(Item continued on the next page)

2. CONSENT CALENDAR

2.9 Annual Status Report on Library, Public Safety and Parks and Recreation Bond Programs. (Cont'd.)

Recommendation:

- (c) [Accept the annual status report on the Public Safety Bond Program for FY 2009-2010.](#)

CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (Citizen Oversight Committee for the Library Bond Projects/Citizen Oversight Committee for the Public Safety Bond Program/Citizen Oversight Committee for the Parks and Recreation Bond Projects)

2.10 [Grant Application to Santa Clara Valley Water District Under the 2011 Trails and Open Space Program for the Three Creeks Trail Interim Improvements Project.](#)

Recommendation: Adopt a [resolution](#):

- (a) Authorizing the City Manager, or designee, to submit a grant application in the amount not to exceed \$450,000 to Santa Clara Valley Water District under the 2011 Trails and Open Space Program for the Three Creeks Trail (Los Gatos Creek to Guadalupe River) Interim Improvements project (“Project”) with a local contribution of \$200,000 for a total project cost of \$650,000;
- (b) Certifying that the City has or will have sufficient funds to operate and maintain the Project, provided the City has obtained the necessary property interests in real properties for the Project;
- (c) Agreeing to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines for Project;
- (d) Certifying that the City has reviewed, understands and agrees to the Special Provisions, General Provisions and Financial Provisions contained in the Agreement;
- (e) Delegating the authority to the City Manager, or designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project; and
- (f) Authorizing the City Manager, or designee, to resubmit the grant application in subsequent years for the same amount and grant requirements described in this memorandum if the City is unsuccessful in receiving an award with the initial grant application and to negotiate and execute any documents to effectuate the grant.

CEQA: Exempt, File No. PP02-370. (Parks, Recreation and Neighborhood Services)

2.11 Report from the Council Liaison to the Retirement Boards.

2. CONSENT CALENDAR

2.12 Actions Related to Councilmember Constant's Travel to Washington, D.C.

Recommendation:

- (a) [Approve travel by Councilmember Constant to Washington, D.C. on March 15 – 17, 2011](#) to participate in the Silicon Valley Leadership Group's Annual Washington, D.C. Advocacy Trip. Source of Funds: Mayor & Council Travel Fund & Office Budget. (Constant)
- (b) [Request for an excused absence for Councilmember Constant from the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on March 17, 2011](#) due to Authorized City Business: Silicon Valley Leadership Group Annual Washington, D.C. Advocacy Trip. (Constant)

* (Rules Committee referral 3/2/11)

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

Recommendation:

- (a) Approve travel by Councilmember Kalra to Washington, D.C. on March 15 – 18, 2011 to participate in the Silicon Valley Leadership Group's Annual Washington, D.C. Advocacy Trip. Source of Funds: District 2 Office Funds. (Kalra)
- (b) Request for an excused absence for Councilmember Kalra from the Closed Session, the Regular City Council Meeting and Evening City Council Meeting on March 15, 2011 due to Authorized City Business: Silicon Valley Leadership Group Annual Washington, D.C. Advocacy Trip. (Kalra)

* (Rules Committee referral 3/2/11)

3. STRATEGIC SUPPORT SERVICES

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

3.2 Labor Negotiations Update

[Presentation](#)

Recommendation: Accept Labor Negotiations Update.

* **TO BE HEARD AT 9:00 A.M.**

3. STRATEGIC SUPPORT SERVICES

3.3 [Status Report on the Alternative Service Delivery Evaluation for Workers' Compensation Administration and Employee Health Services.](#)

- * **Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on February 17, 2011, accept the status report on the Alternative Service Delivery Evaluation for Workers' Compensation Administration and Employee Health Services and direct staff to continue to work on the recommendations noted in the report and to expand their comparison of injury rates to other jurisdictions by incorporating in the analysis job classifications and risk factors; include disability pay borne by individual departments in cost analyses; and look at best practices employed by other jurisdictions who approach workers' compensation and wellness from the perspective of treating employees and returning them to work, versus simply the management of claims. (City Manager's Office/Human Resources)
[Public Safety, Finance and Strategic Support Committee referral 2/17/11 – Item D(2)]

3.4 [Elections Commission Interviews.](#) [Attachment – Memo from the City Attorney](#) [Attachment – Memo from Code Enforcement](#)

Recommendation:

- (a) Interview applicants and appoint up to three (3) members of the Elections Commission for terms of office expiring March 1, 2015.
- (b) If less than three applicants are appointed, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.

(City Clerk)

- * **Please note:** *Appointments to the Elections Commission require 8 or more affirmative votes (2/3).*

- * **TO BE HEARD LAST IN THE AFTERNOON, NO EARLIER THAN 2:30 P.M.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Annual Status Report on the Citywide Capital Improvement Program.](#) [Presentation](#)

Recommendation:

- (a) Accept the Annual Status Report on the Citywide Capital Improvement Program.
- (b) Streamline the process of procuring public works professional services for architectural, landscape architectural, engineering, environmental, land surveying, and construction management firms (collectively "Public Works Professional Service Contracts") by doing each of the following:
 - (1) Approve an [ordinance](#) that amends Title 4 of the San José Municipal Code as follows:
 - (a) Deletes from Section 4.04.020 the exclusion of Public Works Professional Service Contracts from the definition of "services" so that - as with other consultant agreements - the City Manager can execute such contracts up to a maximum amount of \$250,000.

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Annual Status Report on the Citywide Capital Improvement Program. (Cont'd.)

Recommendation:

- (b) (1) (b) Delete from Section 4.12.055 the exclusion of Public Works Professional Service Contracts from the definition of "services" so that these contracts are subject to the same procurement requirements as other consultant service agreements.
- (c) Delete Subdivision C of Section 4.12.110, which would no longer be necessary to make the small and local business preferences applicable to Public Works Professional Service Contracts.
- (2) Adopt a [resolution](#) rescinding Council Policy 8-15 ("Qualification Based Consultant Selection (QBCS) Policy"), which sets forth a separate administrative process for procuring Public Works Professional Service Contracts.

CEQA: Not a Project, File No. PP10-069 (a) Annual Reports. Council District: Citywide. (Public Works)

4.2 [Public Hearing on an APPEAL of the Planning Director's Environmental Determination.](#)

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

*

Recommendation:

- (a) Conduct an Administrative Hearing on and Consideration of an Appeal of the Planning Director's use of an addendum (File No. PD10-025) to the Foster Towers Initial Study (File No. PDC06-130) prepared in connection with the use of the Final Environmental Impact Report for the Vision North San José Area Development Policy (FEIR), approved under Resolution No. 72768, as environmental clearance for the Director's approval of Planned Development Permit File No. PD 10-025 for the Garden City Casino relocation project, implementing that certain rezoning adopted by City Council on May 25, 2010 (PDC10-003).
- (b) Adopt a resolution finding that:
 - (1) The City Council has read and considered the Addendum to the Foster Towers Initial Study (File No. PDC06-130) prepared in connection with File No. PD10-025 implementing PD Rezoning PDC10-003, as well as the FEIR; and
 - (2) The FEIR, together with the Addendum (File No. PD10-025) has been prepared and completed in compliance with the California Environmental Quality Act of 1970, together with state and local implementation guidelines ; and
 - (3) The FEIR, together with the Addendum (File No. PD10-025) reflects the independent judgment and analysis of the City of San José; and
 - (4) Preparation of a subsequent or supplemental Environmental Impact Report is not required because no new environmental impacts have been identified and no new mitigation measures are required; and

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Public Hearing on an APPEAL of the Planning Director's Environmental Determination. (Cont'd.)

*** Recommendation:**

(b) (5) The Director of Planning, Building and Code Enforcement shall transmit copies of the FEIR and the Addendum to any other decision-making body of the City of San José for the project.

CEQA: Resolution to be adopted.

PDC10-025 – Council District 3.

(Continued from 3/1/11 – Item 4.1)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 [Amendment to the Urban Area Security Initiative Memorandum of Understanding.](#)

Recommendation: Adopt a resolution authorizing the City Manager to execute an amendment to extend the term of the joint [Memorandum of Understanding](#) with the City and County of San Francisco, City of Oakland, Alameda County, and Santa Clara County as partners in the San Francisco Bay Urban Area Security Initiative grant program from December 31, 2010 to June 30, 2011. CEQA: Not a Project, File No. PP10-067(g), Memorandum of Understanding. (Fire/City Manager's Office)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Notice of City Engineer’s Pending Decision on Final Maps**

* In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10071	E/S of S. White Road approximately 400 feet South of Cunningham Avenue	8	Ponderosa Homes II, Inc.	16 Lots / 14 Units	SFDR

- **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 Sal Sunseri, who was a beloved resident as well as youth baseball and soccer coach in District 9. (Rocha)

CITY OF SAN JOSÉ 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 JOSÉ 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.