



CITY COUNCIL AGENDA

APRIL 5, 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 4)**
Father Michael Hendrickson from St. Victors Church

- **Pledge of Allegiance**
- **Orders of the Day**

* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

ADJOURNMENT: This meeting will be adjourned in memory of Reverend Father John Asimacopoulos from Saint Nicholas Greek Orthodox Church, who served the Greek Community with distinction for over 50 years.

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

* **THE HOUSING AUTHORITY OF THE CITY OF SAN JOSE WILL MEET FOLLOWING THE REGULAR CITY COUNCIL MEETING**

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation recognizing the Month of April 2011 as “DMV/Donate Life California Month” in the City of San José. (Kalra)
- 1.2 Presentation of a proclamation declaring the Month of April 2011 as “Month of the Young Child” in the City of San José. (Pyle)
- 1.3 Presentation of a proclamation declaring March 25, 2011 as “Greek Independence Day” in the City of San José. (Constant)
 - * (Deferred from 3/22/11 – Item 1.1 and 3/29/11 – Item 1.2)
- 1.4 Presentation of a commendation to the Sikh Gurdwara – San José on the Grand Opening of their new 100,000 sq. ft. temple in Evergreen. (Herrera)
 - * (Rules Committee referral 03/23/11)

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 Meeting Minutes of December 7, 2010.
- (b) Special Meeting Minutes of December 13, 2010 on Medical Marijuana.
- (c) Regular Meeting Minutes of December 14, 2010.
- (d) Special Meeting Minutes of December 16, 2010.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28900 – Amending Section 2.08.1220 of Part 12 Chapter 2.08 of Title 2 of the San José Municipal Code to require Public Members of the Board of Administration of the Police and Fire Retirement Plan who are appointed on or after April 1, 2011 to reside within a fifty mile radius of San José City Hall.
- (b) ORD. NO. 28901 – Rezoning certain real property situated on the east side of South Bascom Avenue, approximately 450 feet northerly of Fruitdale Avenue, to the CN Commercial Neighborhood Zoning District. C10-024
[Presentation](#)

2. CONSENT CALENDAR

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

Recommendation: Final adoption of ordinances.

- (c) [ORD. NO. 28899](#) – Amending Parts 1 and 10 of Chapter 2.08 of Title 2 of the San José Municipal Code to amend Sections 2.08.130, 2.08.1020 and 2.08.1070 to correct clerical errors related to the process for removal of members of the Board of Administration of the Federated City Employees Retirement System and filling vacancies on said board, and to require public members who are appointed to said board on or after April 1, 2011 to reside within a fifty mile radius of San José City Hall.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of March 16, 2011. (Mayor)
(b) Rules and Open Government Committee Report of March 9, 2011. (Mayor)

* [Deferred from 3/29/11 – Item 2.3(a)]

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 [Actions Related to Destination:Home.](#)

Recommendation:

- (a) Adopt a [resolution](#) appointing Director of Housing Leslye Corsiglia to represent the City's interests on the Destination:Home Leadership Board.
(b) Accept the Theory of Change formulated by Destination:Home.
CEQA: Not a Project, File No. PP10-068, General Procedure and Policy Making. (City Manager's Office)

2.8 [Agreement with County to Terminate Hazardous Materials Program.](#)

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an Agreement with the County of Santa Clara, terminating the City's responsibility for specified State hazardous materials programs in the City of San José.
CEQA: Not a Project File No. PP10-066, Agreements. (Fire)

2.9 [Increase in Construction Contingency for the 2010 Proposition 1B Slurry Seal Project.](#)

Recommendation: Approve an increase in the construction contingency for the 2010 Proposition 1B Slurry Seal Project from five percent to ten percent, for an increase from \$160,668 to \$321,336. CEQA: Exempt, File No. PP09-101. (Transportation)

2. CONSENT CALENDAR

2.10 [Increase in Construction Contingency for the 2010 Proposition 1B Slurry Seal Project.](#)

Recommendation: Approve an increase in the construction contingency for the 2010 Proposition 1B Slurry Seal Project from five percent to ten percent, for an increase from \$160,668 to \$321,336. CEQA: Exempt, File No. PP09-101. (Transportation)

2.11 [AB 57 \(Beall\) Metropolitan Transportation Commission.](#)

Recommendation: As recommended by the Rules and Open Government Committee on March 30, 2011, approve a support position for AB 57 (Beall) Metropolitan Transportation Commission. (Transportation)

* [Rules Committee referral 3/30/11 – Item D(1)(b)]

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.

3.3 [San Jose Redevelopment Agency Civil Service Staffing Reductions.](#)

Recommendation: Eliminate 2.0 positions (1.0 Principal Accountant, 1.0 Assistant Director) in the Redevelopment Agency, effective April 6, 2011. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

• (Rules Committee referral 03/30/11)

3.4 [Appeals Hearing Board Commissioner Leave of Absence and Interim Appointment.](#)

* **Recommendation:** As referred by the Rules and Open Government Committee on March 30, 2011 and outlined in the attached memorandum previously submitted to and approved by Rules and Open Government Committee, as amended:

- (1) The City Council grants a leave of absence to Troy Overton, a member of the Appeals Hearing Board for the period April 1, 2011 through April 30, 2012.
- (2) The City Council appoints Cynthia Cobb as the interim Commissioner to serve during Commissioner Overton's leave of absence through April 30, 2012.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Purchase of Real Property located at 802 West Home Street.](#)

Recommendation:

- (a) Approve the purchase [agreement](#) with James and Jean McCarthy, as trustees, in the amount of \$1,675,000 for the purchase of land located at 802 West Home Street, San José, CA, (APN No. 264-11-112) for the future expansion of the Del Monte Park; and

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Purchase of Real Property located at 802 West Home Street. (Cont'd.)

Recommendation:

- (b) Adopt a [resolution](#) authorizing the City Manager to execute the purchase agreement and all other documents necessary to complete the transaction, to settle any relocation claims stemming from the City's purchase of this property up to a maximum of \$196,625, and to make the necessary payments to hold the site vacant if the tenants vacate early to a maximum of \$278,375; and
- (c) Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (375):
 - (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$2,150,000 for the West Home Street Land Acquisition; and
 - (2) Decrease the Reserve: Del Monte Park Land Acquisition and Development by \$2,150,000.

CEQA: Exempt, File No. PP08-220. Council District 6. SNI: Burbank/Del Monte. (Economic Development/Parks, Recreation and Neighborhood Services/City Manager's Office)

4.2 [Approval of Neighborhood Housing Services of Silicon Valley's Plan to Address its Homeventure Fund and Home Investment Partnership Obligations.](#)

Recommendation:

- (a) Adopt a [resolution](#):
 - (1) Authorizing the Director of Finance to write-off Neighborhood Housing Services of Silicon Valley's (NHSSV) \$1,300,000 loan from the Low and Moderate Income Housing Fund for past operating expenses and in exchange, accepting NHSSV's commitment to utilize \$1,300,000 in CalHOME grant proceeds within City of San José municipal boundaries;
 - (2) Accepting NHSSV's proposal to repay the City \$1,917 per month over five years for its \$115,000 obligation in HOME Investment Partnership funds;
 - (3) Authorizing the Director of Housing to negotiate and execute all documents related to the fulfillment of the conditions of these recommendations as adopted by the City Council, and;
- (b) Adopt the following Appropriation Ordinance amendments in the Housing Trust Fund:
 - (1) Establish a Transfer to the Home Investment Partnership Program Fund by \$115,000; and
 - (2) Decrease the Ending Fund Balance by \$115,000.
- (c) Adopt of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Home Investment Partnership Program Fund:
 - (1) Increase the revenue estimate for Transfers by \$115,000; and
 - (2) Increase the appropriation to the Housing Department for the Loans and Grants project by \$115,000.

CEQA: Not a Project. (Housing/Finance/City Manager's Office)
(Deferred from 3/22/11 – Item 4.2)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Modification to procedures for the Airport Noise Abatement Office.](#)

* **Recommendation:**

- (a) Adopt a [resolution](#) to provide for the preparation and issuance by the Airport of an Annual Airport Noise Report and to discontinue the current Airport practice of preparing and issuing a Monthly Noise Report.
- (b) Approve an [ordinance](#) amending Section 25.04.570 of Chapter 25.04 of Title 25 of the San José Municipal Code to provide that Airport engine run-up reports will be included in the Monthly Noise Summary on the Airport web site and the Annual Airport Noise Report.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. (Airport)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Actions related to the Report on the Request for Proposals for Commercial Solid Waste System.](#)

[Attachment – Memo from Mayor Reed and Councilmembers Nguyen and Rocha](#)
[Supplemental Memo – Memo from the Directors of ESD and Finance](#)
[Supplemental Memo – Memo from the Directors of ESD and Finance](#)
[Presentation](#)

* **Recommendation:**

- (a) Consider the appeal by Recology Silicon Valley regarding the Commercial Solid Waste System Request for Proposals and adopt a resolution setting forth the decision of the City Council.
- (b) Accept the Report on Request for Proposals; and
- (c) Adopt a resolution authorizing the City Manager to:
 - (1) Negotiate agreements with Allied Waste Industries including exclusive franchise agreements to perform Commercial Solid Waste and Recyclable Material Collection services citywide from July 1, 2012 through June 30, 2027, and a Memorandum of Understanding for transition to the redesigned commercial solid waste system.
 - (2) Negotiate agreements with Zero Waste Energy Development Company including an agreement to perform Commercial Organic Waste Processing services citywide from July 1, 2012 through June 30, 2027, and a Memorandum of Understanding for transition to the redesigned commercial solid waste system.
- (d) Direct staff to return to the City Council in June 2011 with proposed agreements for execution and proposed ordinances or resolutions for adoption, to implement the redesigned commercial solid waste system.

CEQA: Not a Project, File No. PP10-066(e), e. Services that involve no physical changes to the environment. (Environmental Services/Finance)

8. PUBLIC SAFETY SERVICES

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 pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10062	1345 Foxworthy Avenue	9	Hawkstone Foxworthy LLC	5 Lots/ 5 Units	SFD	Approve

- Notice of City Engineer’s Award of Construction Projects

Open Forum

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

Adjournment

This meeting will be adjourned in memory of Reverend Father John Asimacopoulos from Saint Nicholas Greek Orthodox Church, who served the Greek Community with distinction for over 50 years.

**HOUSING AUTHORITY OF
THE CITY OF SAN JOSÉ
AGENDA**

1:30 P.M.

TUESDAY, APRIL 5, 2011

CHAMBERS

1. Call to Order

2. [San José Housing Authority Board of Commissioners.](#)

- * **Recommendation:** Submit a letter to the Housing Authority of the County of Santa Clara supporting the Moving to Work Fiscal Year 2012 Annual Plan with the following changes:
- (a) The Annual Plan be amended to reflect that 200 Section 8 vouchers be set aside for chronically homeless persons in FY 2012, with quarterly reporting on progress to City staff.
 - (b) The Executive Director, or designee, of the City of San Jose Housing Authority, will participate on the evaluation panel for the project-based vouchers that are subject to an open and competitive process and prioritize and score those projects that serve local housing needs. The process for allocating project-based vouchers to developments will include objective selection criteria, selection of experienced developers, and a focus on extremely low-income & low-income households.
 - (c) That HACSC staff demonstrate that project-based vouchers are necessary to make the affordable housing developments feasible if they meet the following conditions: (1) They are being issued to HACSC-owned and HACSC-affiliated affordable housing properties without competition; and (2) The HACSC has already issued project-based vouchers to HACSC-owned and HACSC-affiliated projects to 548 housing units.

3. Open Forum

(To be heard with Open Forum for the City of San José)

4. Adjourn the Housing Authority of the City of San José.

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.