



CITY COUNCIL AGENDA

OCTOBER 4, 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

- * 8:30 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](#)
- 1:30 p.m. - Regular Session, Council Chambers, City Hall

- Invocation (District 9)

- * Branham High School Choir, Directed by Barbara West

- 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 San José Purchasing Manager Gordon Johnson, who passed away unexpectedly on September 4, 2011. Gordon's contributions include the successful completion of numerous complex procurements such as the Commercial Solid Waste and Digester Cleaning Services RFPs for the Environmental Services Department, and Parking Access and Revenue Control System RFP, and the hold-room furniture bid for the new Airport. Gordon was also a longtime leader on the Citywide EP3 team. His flexibility, innovation, teamwork, and great sense of humor will be deeply missed. (Finance)

- Orders of the Day (Cont'd.)

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

- Closed Session Report

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring the Month of October 2011 as “Cybersecurity Awareness Month” in the City of San José. (Constant)
- 1.2 Presentation of a commendation to the First Tee of San José and Fry’s Electronics in recognition and appreciation of their service and commitment to the children of the City of San José for hosting the PGA TOUR Community Day as part of the Frys.com Open week. (Campos)
(Rules Committee referral 9/21/11)
- 1.3 Presentation of a proclamation declaring October 6, 2011 as “Disability Awareness Day” in the City of San José. (Constant)
(Rules Committee referral 9/21/11)
- 1.4 Presentation of a proclamation declaring October 4, 2011 as “Food Allergy Awareness Day” in the City of San José. (Herrera)
* (Rules Committee referral 9/28/11)

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.**
- 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 September 14, 2011.](#) (Mayor)
- (b) [Public Safety, Finance and Strategic Support Committee Report of September 15, 2011.](#) (Constant)
- (c) [Transportation and Environment Committee Report of September 12, 2011.](#) (Liccardo)

2. CONSENT CALENDAR

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 [Settlement in *Murrel v. City of San Jose, et al.*](#)

Recommendation: Approve settlement in the case of Dawn *Murrel v. City of San Jose, et al.*, and authorize the City Attorney to execute a [Settlement Agreement](#) and Release with Dawn Murrel in the amount of \$137,500. CEQA: Not a Project; File No. PP10-066h, Settlement Agreements. (City Attorney's Office)

2.8 [Actions Related to the 2011-2012 DUI Enforcement and Awareness Program.](#)

Recommendation: Approve the following actions:

- (a) Adopt a [resolution](#) to accept the State of California, Office of Traffic Safety 2011-2012 DUI Enforcement and Awareness Program grant in the amount of \$375,000 and authorize the City Manager to execute the related [grant agreement](#) and any additional amendments and related documents without further Council action; and
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund for Fiscal Year 2011-2012:
 - (1) Establish a City-wide appropriation to the Police Department for the 2011-2012 DUI Enforcement and Awareness Program grant in the amount of \$375,000; and
 - (b) (2) Increase the Revenue Estimate from the State of California by \$375,000. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Police/City Manager's Office)

2.9 [Master Agreement with West Yost & Associates, Inc., for Engineering Consultant Services.](#)

Recommendation: Approve a [master agreement](#) with West Yost & Associates, Inc., for engineering consultant services for various sanitary and/or storm sewer projects from the date of execution to June 30, 2014, in an amount not to exceed \$500,000. CEQA: Not a Project, File No. PP10-066(d), Consultant services that will have no effect on the environment. (Public Works)

2.10 Actions Related to Councilmember Constant's Travel to Suwon City, Korea.

Recommendation:

- (a) [Approve travel by Councilmember Constant to Suwon City, Korea on October 4-9, 2011 for the 48th Annual Suwon Hwaseong Cultural Festival as the City's designated representative.](#) Source of Funds: Government of Suwon City, Korea. (Constant)

(Item continued on the next page)

2. CONSENT CALENDAR

2.10 Actions Related to Councilmember Constant's Travel to Suwon City, Korea. (Cont'd.)

Recommendation:

- (b) [Request for an excused absence for Councilmember Constant from the Closed Session and Regular Meetings of the City Council on October 4, 2011 due to Authorized City Business: Travel to Suwon City, Korea to act as the City's designee to promote economic and cultural ties between the cities of San José and Suwon and to represent San José at the 48th Suwon Hwaseong Cultural Festival.](#)
(Constant)

* (Rules Committee referral 9/28/11)

2.11 [Reappointments to the San José Arena Authority Board.](#)

Recommendation: As recommended by the Rules and Open Government Committee on September 28, 2011, approve the reappointments of Robert Coelho, Bob Leininger, Dan Orloff, and John Veargason to the San José Arena Authority Board. (Mayor)

* [Rules Committee referral 9/28/11 – Item G(1)(a)]

3. STRATEGIC SUPPORT SERVICES

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

3.2 Labor Negotiations Update

[Attachment – Memo from Councilmembers Pyle, Rocha and Oliverio Presentation](#)

Recommendation: Accept Labor Negotiations Update.

* **TO BE HEARD AT 8:30 A.M.**

3.3 [Appeals Hearing Board Interviews.](#)

Recommendation:

- (a) Interview applicants for appointment to the Appeals Hearing Board;
(b) Appoint one member to the Appeals Hearing Board to an unexpired term ending December 31, 2013;
(c) Appoint two members to the Appeals Hearing Board to full three year terms expiring December 31, 2014; and
(d) If any vacancies remain, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90 days.

(City Clerk)

* **TO BE HEARD NO EARLIER THAN 2:30 P.M.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Agreement with the Housing Trust of Santa Clara County for the Neighborhood Stabilization Program.](#)

[Attachment – Memo from Councilmember Campos](#)

Recommendation: Adopt a resolution authorizing the City Manager or designee to:

- (a) Negotiate and execute a first amendment to the Consortium Funding Agreement with The Housing Trust of Santa Clara County under the Neighborhood Stabilization Program 2 (NSP2) to modify the Reporting and Payment Procedures section of the Agreement to authorize the capitalization of interest on NSP2 construction loans made for rental projects to be deemed as an approved use of Program Income; and
- (b) Negotiate and execute any future amendment to the Consortium Funding Agreement for City staffing changes or for reallocation of funds between the Consortium Funding Agreement’s specific activity or strategy allocations.

CEQA: Exempt, File No. PP10-166, Agreements/Contracts. (Housing)

4.2 [Funding for Destination: Home Case Managers and the Continuation of the Downtown Homeless Outreach Program.](#)

[Attachment – Letter from the Department of Housing](#)

Recommendation: Adopt a [resolution](#):

- (a) Approving and authorizing the Director of Housing to negotiate and execute documents for a grant of up to \$300,000 to the Health Trust (the fiscal sponsor of Destination: Home) to cover the costs associated with three case managers who will provide intensive case management services to chronically homeless households; and
- (b) Approving and authorizing the Director of Housing to negotiate and execute documents for a grant of up to \$170,000 to EHC Lifebuilders for the implementation of the San José Downtown Homeless Outreach and Shelter program.

CEQA: Not a Project, File No. PP10-066, Agreements/Contracts. (Housing)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [City of San José Community Choice Aggregation Initial Feasibility Study and Recommendations Results. Presentation](#)

Recommendation: As recommended by the Transportation and Environment Committee on September 12, 2011, accept the report recommending that the City not proceed with further Community Choice Aggregation efforts at this time, but instead, to continue to monitor Community choice Aggregation efforts and return with possible recommendations for a work plan should the key uncertainties and benefits change. Continue to expand and continue collaboration with the California Public Utilities Commission, PG&E, and other stakeholders for the identification and implementation of activities that support the City's achievement of the Green Vision Goal of receiving 100% of its electricity from clean, renewable resources by 2022. Specific opportunities identified include development and/or expansions of Smart Grid, Direct Access and Feed-in-Tariff programs as a means of achieving increased energy renewable sources and economic development programs. CEQA: Not a Project, File No. PP10-069(a), Staff reports that involves no approval of any City actions. (Environmental Services) [Transportation and Environment Committee referral 9/12/11 – Item D(4)]

7.2 [Post-Construction Urban Runoff Management Policy and Related Municipal Code Changes.](#)

[Supplemental – Memo from the Planning Commission](#)

Recommendation: As recommended by the Transportation and Environment Committee on September 12, 2011, accept the report and:

- (a) Adopt a [resolution](#) approving revisions to City Council Policy 6-29: Post-Construction Urban Runoff Management, to bring the Policy into conformance with the requirements of the San Francisco Bay Regional Water Quality Control Board; and
- (b) Approve a Director initiated [ordinance](#) amending Sections 20.95.020, 20.95.110 and 20.95.120 of Chapter 20.25 of Title 20 of the San José Municipal Code to require certain projects, which are defined as uncovered parking areas, restaurants, auto service facilities and retail gasoline outlet projects that create or replace 5,000 square feet or more of impervious surface area to:
 - (1) Use site design and source control measures and numerically-sized Low Impact Development stormwater treatment measures;
 - (2) Require property owners to keep an inspection and maintenance schedule on the project site for all stormwater treatment measures installed pursuant to Policy 6-29 and to make such schedule available to City representatives on demand; and
 - (3) Prohibit alteration, removal or failure to maintain stormwater treatment measures without approval of an Adjustment to a Development Permit.

CEQA: Categorically Exempt, Section 15308, Actions by Regulatory Agencies for Protection of the Environment. (Planning, Building and Code Enforcement)

[Transportation and Environment Committee referral 9/12/11 – Item D(5)]

8. PUBLIC SAFETY SERVICES

8.1 Ordinance Amending Title 16, Gaming Control.

Recommendation: Approve an ordinance amending Chapters 16.06, 16.30, 16.32 and 16.33 of Title 16 of the San José Municipal Code to: provide for review and approval of administrative regulations by the Chief of Police; require the Chief of Police to issue a City Key Employee License for All Key Employee Positions that are licensable by the California Gambling Control Commission; rename the Cardroom Table Fee the Cardroom Regulation Fee; provide a Cardroom License applicant with written explanation of the reasons for delay and an estimated date for completion for a licensing investigation that takes longer than 180 days to complete with 2 month updates until the application is granted, withdrawn or denied; require the Administrator to issue a Temporary Key employee License to each applicant who is issued an Interim State Key Employee License; provide notice and an opportunity for an Administrative Review Hearing prior to revocation of a Temporary Key Employee License; make certain City Key Employee Licenses retroactive to the date that the California Gambling Control Commission issues a State key Employee License; and making conforming and technical amendments. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy (City Attorney's Office)

* **DROP – REFERRED TO THE PUBLIC SAFETY, FINANCE AND STRATEGIC SUPPORT COMMITTEE**

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

* *See Item 8.1 “Adoption of resolutions approving the revised FY 2011-12 Capital and Operating Budgets and corresponding Revenue and Appropriations Resolutions” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.*

● 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>
10057	W/S Cadwallader 500’ S/O Pruntree Lane	8	TRI Pointe Homes, LLC	38 Lots / 38 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 San José Purchasing Manager Gordon Johnson, who passed away unexpectedly on September 4, 2011. Gordon's contributions include the successful completion of numerous complex procurements such as the Commercial Solid Waste and Digester Cleaning Services RFPs for the Environmental Services Department, and Parking Access and Revenue Control System RFP, and the hold-room furniture bid for the new Airport. Gordon was also a longtime leader on the Citywide EP3 team. His flexibility, innovation, teamwork, and great sense of humor will be deeply missed. (Finance)

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 discussion 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.