



# CITY COUNCIL AGENDA

**SEPTEMBER 20, 2011**

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](http://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, 2<sup>nd</sup> 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](mailto: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  
1:30 p.m. - Regular Session, Council Chambers, City Hall
- **Invocation (District 8)**  
Evergreen Singers singing “Peace on Earth”
- **Pledge of Allegiance**
- **Orders of the Day**

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

**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

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- 1.1 Presentation of a commendation to Rolanda Pierre-Dixon for her 30 years of service in the Santa Clara County District Attorney's Office working to end domestic violence and her role as a founding member of the City's Family/Domestic Violence Advisory Board. (Constant/Pyle)
- 1.2 Presentation of a proclamation declaring the Week of September 18-24, 2011 as "Geek Week" in the City of San José. (Herrera)

# 2. CONSENT CALENDAR

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**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 7, 2011. (Mayor)
- (b) Neighborhood Services and Education Committee Report of September 8, 2011. (Pyle)

- 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 **[Appropriation Ordinance and Funding Sources Resolution Amendments in Various Funds to Rebudget Funds to 2011-2012 to Complete Projects.](#)**

**Recommendation:**

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #7 (Fund 385):
  - (1) Increase the Beginning Fund Balance by \$291,000; and
  - (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$291,000.

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.7 Appropriation Ordinance and Funding Sources Resolution Amendments in Various Funds to Rebudget Funds to 2011-2012 to Complete Projects. (Cont'd.)

#### **Recommendation:**

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #9 (Fund 388):
  - (1) Increase the Beginning Fund Balance by \$237,000; and
  - (2) Increase the Paul Moore Park Playground Renovation appropriation to the Parks, Recreation, and Neighborhood Services Department by \$237,000.
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #6 (Fund 384):
  - (1) Increase the Beginning Fund Balance by \$200,000; and
  - (2) Increase the Bascom Community Center – Multi-Service appropriation to the Parks, Recreation, and Neighborhood Services Department by \$200,000.
- (d) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Parks and Recreation Bond Projects Fund (Fund 471):
  - (1) Increase the Beginning Fund Balance by \$160,000; and
  - (2) Increase the Bascom Community Center – Multi-Service appropriation to the Parks, Recreation, and Neighborhood Services Department by \$160,000.
- (e) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):
  - (1) Increase the Beginning Fund Balance by \$122,000; and
  - (2) Increase the Japanese Friendship Garden Koi Fish Filtration System appropriation to the Parks, Recreation, and Neighborhood Services Department by \$122,000.
- (f) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund (Fund 375):
  - (1) Increase the Beginning Fund Balance by \$99,000; and
  - (2) Increase the Seven Trees Community Center – Multi-Service appropriation to the Parks, Recreation, and Neighborhood Services Department by \$99,000.
- (g) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Branch Libraries Bond Projects Fund (Fund 472):
  - (1) Increase the Beginning Fund Balance by \$55,000; and
  - (2) Increase the Seven Trees Branch appropriation to the Library Department by \$55,000.

CEQA: Not a Project, File No. PP10-067(a), appropriation ordinance. (City Manager's Office)

## 2. CONSENT CALENDAR

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### 2.8 [Agreement with the Santa Clara Valley Water District for Operation and Maintenance of Recreational Facilities at Almaden Lake Park.](#)

**Recommendation:** Approve a [Joint Use Agreement](#) with the Santa Clara Valley Water District for operation and maintenance of recreational facilities at Almaden Lake Park for a term of 25 years. CEQA: Not a Project, File No. PP10-066(g), memorandum of understanding. Council District 10. (Parks, Recreation and Neighborhood Services)

## 3. STRATEGIC SUPPORT SERVICES

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

### 3.2 Labor Negotiations Update

**Recommendation:** Accept Labor Negotiations Update.  
**TO BE HEARD AT 9:00 A.M.**

### 3.3 Agreement with Magellan Health Services for the Employee Assistance Program, Critical Incident Stress Management and Substance Abuse Treatment.

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the City and Magellan Health Services of California, Inc. Employer Services for the period of January 1, 2012, through December 31, 2016, for Employee Assistance Program, Critical Incident Stress Management and Substance Abuse Treatment for a total cost that will not exceed \$3,251,140 for the period of January 1, 2012 to December 31, 2016. CEQA: Not a Project, File PP10-066(e), services that involve no physical changes to the environment. (Human Resources)  
**RECOMMEND DEFERRAL TO 09/27/11 PER ADMINISTRATION**

### 3.4 Declaration of Fiscal and Service Level Emergency.

[Fiscal Reform Plan](#)  
[All Memos from Previous Council Meetings](#)

**Recommendation:**

- (a) Discussion and consideration of declaration of a Fiscal and Service Level Emergency. CEQA: Not a Project, File No. PP10-068(b), General Procedure and Policy Making, Municipal Code Title 3.  
[Deferred from 6/24/11 – Item 3.1 and 8/2/11 – Item 3.5(d)]  
**DEFER CONSIDERATION UNTIL AFTER OCTOBER 31, 2011**
- (b) [Status Report on the 2012-2013 General Fund budget, fiscal condition, projected increases in pension costs, and impacts on service delivery.](#)  
[Rules Committee referral 9/7/11 – Item H(2)]

**TO BE HEARD AT 2:00 P.M.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 [Ordinance to Codify City's Development Agreement Regulations.](#)

**Recommendation:** Approve an [ordinance](#) to amend Title 18 (Local Planning) of the San Jose Municipal Code to add a new Chapter 18.02 to codify existing regulations of the City pertaining to the consideration of development agreements. CEQA: Not A Project, File No. PP10-068(c), Municipal Code changes involving no changes to the physical environment. Citywide. (City Attorney's Office)

### 4.2 [Public Hearing and Approval of the FY 2010-2011 Consolidated Annual Performance Evaluation Report.](#)

**Recommendation:**

- (a) Hold a public hearing regarding the approval of the FY 2010-2011 Consolidated Annual Performance Evaluation Report.
- (b) Approve the FY 2010-2011 Consolidated Annual Performance Evaluation Report. CEQA: Not a Project, File No. PP10-069, Annual Report. (Housing)

### 4.3 [Habitat Conservation Plan.](#) [Economic Impact Analysis of the Draft Santa Clara Valley Habitat Plan](#)

**Recommendation:**

- (a) Discuss refinements to the draft Habitat Conservation Plan and alignment to the June 2011 Budget Message;
  - (b) Refer questions and concerns to staff for response; and
  - (c) Continue the discussion to [September 27, 2011](#) for action.
- CEQA: Not a Project, File No. PP10-069. (Planning, Building and Code Enforcement)

### 4.4 [Public Hearing and Special Election on the Community Facilities District No. 14, Raleigh-Charlotte.](#)

**Recommendation:** Hold a public hearing; conduct a special election; and take the following actions related to the formation of Community Facilities District No. 14 (Raleigh-Charlotte):

- (a) Adopt a resolution for each of the following items to:
  - (1) Establish Community Facilities District No. 14 and authorize the levy of a special tax. [resolution](#)
  - (2) Declare the results of the special election; and if approved, direct the recording of the notice of the special tax lien for Community Facilities District No. 14. [resolution](#)

If approved by voters:

- (b) Approve an [ordinance](#) imposing the levy of special taxes for Community Facilities District No. 14 (Raleigh-Charlotte).
- (c) Establish a new fund for Community Facilities District No. 14 (Raleigh-Charlotte).

*(Item continued on the next page)*

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.4 Public Hearing and Special Election on the Community Facilities District No. 14, Raleigh-Charlotte. (Cont'd.)**

#### **Recommendation:**

(d) Adopt the following Appropriation Ordinance and Funding Source Resolution amendments in the Community Facilities District No. 14 (Raleigh-Charlotte) Fund:

- (1) Establish an estimate for Earned Revenue in the amount of \$476,365.
- (2) Establish a Personal Services appropriation for the Department of Parks, Recreation and Neighborhood Services in the amount of \$15,476.
- (3) Establish a Non-Personal/Equipment appropriation for the Department of Parks, Recreation and Neighborhood Services in the amount of \$192,234.
- (4) Establish a Personal Services appropriation for the Department of Transportation in the amount of \$9,191.
- (5) Establish a Non-Personal/Equipment appropriation for the Department of Transportation in the amount of \$67,581.
- (6) Establish an overhead appropriation to the Department of Finance in the amount of \$6,770.
- (7) Establish an Ending Fund Balance in the amount of \$185,113.

CEQA: Resolution No. 72772, Hitachi Mixed Use Project Fund EIR. Council District 2. (Public Works/City Manager's Office)

## **5. NEIGHBORHOOD SERVICES**

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## **6. TRANSPORTATION & AVIATION SERVICES**

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## **7. ENVIRONMENTAL & UTILITY SERVICES**

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## **8. PUBLIC SAFETY SERVICES**

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## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

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- **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**

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

**1:30 P.M.**

**TUESDAY, SEPTEMBER 20, 2011**

**CHAMBERS**

- 1. Call to Order and Roll Call**
- 2. [Actions Related to the Request for Proposals for a Power Purchase Agreement for Solar Energy Installations on City Facilities and Lands.](#)**

**Recommendation:**

- (a) It is recommended that the City Council take the following actions:
  - (1) Accept the report on the Request for Proposals for a Power Purchase Agreement for Solar Energy Installations on City Facilities and Lands; and
  - (2) Adopt a [resolution](#) approving a [form Power Purchase Agreement](#) and authorizing the City Manager or the Director of Finance to execute Power Purchase Agreements in such form and all related documents with SolarCity Corporation by December 31, 2012, for the following City facilities and subject to the limitations outlined in the staff memorandum to the Council.
    - (a) Almaden Community Center and Library
    - (b) Alum Rock Library
    - (c) Bascom Community Center/Library
    - (d) Berryessa Community Center
    - (e) Berryessa Library
    - (f) Cambrian Library
    - (g) Camden Community Center
    - (h) East San Jose Carnegie Library
    - (i) Edenvale Community Center
    - (j) Edenvale Library
    - (k) Evergreen Library
    - (l) Evergreen Community Center
    - (m) Hillview Library
    - (n) Joyce Ellington Library
    - (o) Kelley Park (Senter Road Lot)
    - (p) Mayfair Community Center
    - (q) Municipal Water Office
    - (r) Pal Sports Centre

*(Item continued on the next page)*

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

**1:30 P.M.**

**TUESDAY, SEPTEMBER 20, 2011**

**CHAMBERS**

**2. Actions Related to the Request for Proposals for a Power Purchase Agreement for Solar Energy Installations on City Facilities and Lands. (Cont'd.)**

**Recommendation:**

- (a) (2) (s) Pearl Library
- (t) Prusch Park
- (u) Roosevelt Community Center
- (v) Santa Teresa Library
- (w) Seven Trees Community Center/ Library
- (x) South Service Yard
- (y) Tully Library
- (z) Vineland Library
- (aa) Willow Glen Community Center
- (bb) Willow Glen Library
- (b) Adopt a resolution authorizing the Director of Finance or designee to negotiate and execute, by June 30, 2013, additional Power Purchase Agreements with SolarCity Corporation at alternative or additional City facilities in the form approved by Council and subject to the limitations (cash flow positive, private activity analysis, financing and landlord consent, parkland and CEQA clearance) outlined in this staff memorandum to Council.
- (c) It is recommended that the City of San José Financing Authority Board take the following actions:
  - (1) Adopt a [resolution](#) to authorize the Executive Director or the Executive Director's authorized designee to consent to the license or sublicense of Evergreen Library, Edenvale Library and Vineland Library and other City facilities that are pledged assets of outstanding City of San José Financing Authority lease revenue bonds or commercial paper program to SolarCity Corporation for the installation of solar photovoltaic systems and to execute a letter acknowledging SolarCity Corporation's ownership and financing interests in the solar photovoltaic systems, subject to the requirements of the applicable governing documents.

CEQA: Exempt, Files No. PP11-064, PP11-065, PP11-066, PP11-067, PP11-068, PP11-069, PP11-070, PP11-071, PP11-072, PP11-073, PP11-074, PP11-075, and PP11-079.  
(Environmental Services/Finance)



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

**1:30 P.M.**

**TUESDAY, SEPTEMBER 20, 2011**

**CHAMBERS**

- 3. Open Forum**
- 4. Adjourn the San José Financing Authority.**

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

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

### **1. Public Meeting Decorum:**

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

### **2. Signs, Objects or Symbolic Material:**

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

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

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
  - b) Meeting attendees are usually given two (2) minutes to speak on any 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.