



# CITY COUNCIL AGENDA

**MARCH 29, 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](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](#) [See RDA Agenda](#)
  - 1:30 p.m. - Regular Session, Council Chambers, City Hall

- **Invocation (District 3)**
- **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 Betty Howard, a life long dedicated community activist, whose positive impact on the East San José community will always be remembered. (Campos)

**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 the Chavez Family Vision in recognition of their work to ensure the continuation of Cesar Chavez’s legacy for the generations. (Campos)
- 1.2 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)  
\* **RECOMMEND DEFERRAL TO 4/5/11 PER DISTRICT 1**
- 1.3 Presentation of a proclamation recognizing the Iranian New Year “Nowruz” in the City of San José. (Nguyen/Pyle)  
\* (Rules Committee referral 3/23/11)
- 1.4 Presentation of a proclamation recognizing the Assyrian New Year “Akitu” in the City of San José. (Nguyen/Pyle)  
\* (Rules Committee referral 3/23/11)

# 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.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28898 – 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

## 2.3 Approval of Council Committee Reports.

**Recommendation:** Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of March 9, 2011. (Mayor)  
(b) Public Safety, Finance and Strategic Support Committee Report of March 17, 2011. (Constant)

## 2. CONSENT CALENDAR

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### 2.4 Mayor and Council Excused Absence Requests.

**Recommendation:**

- (a) [Request for an excused absence for Councilmember Constant from the Regular Meeting of the Rules and Open Government Committee on March 23, 2011.](#)  
(Constant)

\* (Rules Committee referral 03/23/11)

### 2.5 City Council Travel Reports.

### 2.6 Report from the Council Liaison to the Retirement Boards.

### 2.7 [Agreement with Couch Guy Incorporated for the Lease of Real Property Located at 108 Paseo de San Antonio.](#)

**Recommendation:** Adopt a resolution authorizing the City Manager to execute an [agreement](#) with Couch Guy Incorporated, a California corporation, for the lease of real property located at 108 Paseo de San Antonio for purposes of operating a retail store, for total rental revenue to City as follows: Year 1 \$17,856; Year 2 \$18,972; Year 3 \$20,646; Year 4 \$22,381.38; Year 5 \$23,019.34; Year 6 \$23,676.44 for total compensation to City of \$126,551.16. Council District 3. CEQA: Exempt, File No. PP10-066(f), lease of existing space for same use. (Economic Development)

\* **RECOMMEND DEFERRAL TO 5/3/11 PER ADMINISTRATION**

### 2.8 [Agreement with AmeriPride Uniform Service for Uniform Rental and Laundry Services.](#)

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

- (a) To execute the Second Amendment to the [Agreement](#) with AmeriPride Services, Inc. (Petaluma, CA) for Uniform Rental and Laundry Services to add a fifth one-year option to renew the Agreement for a total cost not to exceed \$250,000;, and  
(b) To exercise the fifth one-year option to renew.

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

### 2.9 [Semi-Annual Recommendation Follow-up Report on all Outstanding Audit Recommendations for the Six Months Ended December 31, 2010.](#) [Attachment – Semi-Annual Recommendation Follow Up Report](#)

**Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on March 17, 2011, accept the Semi-Annual Recommendation Follow-up Report on all outstanding audit recommendations for the six months ended December 31, 2010. (City Auditor)

\* [Public Safety, Finance and Strategic Support Committee referral 3/17/11 – Item D(1)]

## 2. CONSENT CALENDAR

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### 2.10 Actions Related to the San José Environmental Innovation Center Project.

**Recommendation:**

- (a) Reject all bids received for the San José Environmental Innovation Center Project; and
  - (b) Authorize the Director of Public Works to re-advertise and re-bid the project.
- CEQA: Negative Declaration, File No. PP09-138. Council District 3. (Public Works)  
\* (Rules Committee referral 03/23/11)

### 2.11 Great American Litter Pickup.

**Recommendation:** As recommended by the Rules and Open Government Committee on March 23, 2011:

- (a) Approve the Great American Litter Pickup Event as a City Council sponsored Special Event; and
- (b) Approve and Accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (City Clerk)

\* [Rules Committee referral 03/23/11 – Item H(2)]

### 2.12 Cities Association of Santa Clara County Expenditure Review.

**Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on March 17, 2011, accept the Cities Association of Santa Clara County Expenditure Review: Fiscal Years Ending June 30, 2010 & 2009. (City Auditor)

\* [Public Safety, Finance and Strategic Support Committee referral 3/17/11 – Item D(3)]

## 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.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 [Actions Related to the Installation of a Fuel Cell Based Energy Saver System for the Ice Centre.](#)

**Recommendation:**

- (a) Approve a first amendment to the Amended and Restated Lease and Management [Agreement](#) to provide \$2,000,000 from the Ice Center Revenue Fund to Silicon Valley Sports and Entertainment, Inc., on behalf of San Jose Arena Management, Manager of the Ice Centre of San Jose, for the purchase and installation of a fuel cell based Energy Saver System for the Ice Centre.
- (b) Adopt the following Appropriation Ordinance amendments in the Ice Centre Revenue Fund (Fund 432):
  - (1) Establish an appropriation to the Finance Department in the amount of \$2,000,000 for Fuel Cell Equipment, and
  - (2) Decrease the Ending Fund Balance by \$2,000,000.

CEQA: Exempt, File No. PP11-031. Council District 7. (Economic Development/City Manager's Office)

### 4.2 [Tax-Exempt Multifamily Revenue Bonds to Acquire and Rehabilitate Elena Gardens Apartments TEFRA Hearing.](#)

**Recommendation:**

- (a) Hold a Tax Equity and Fiscal Responsibility Act ("TEFRA") public hearing for the issuance of up to \$23,000,000 of tax-exempt private-activity bonds by the California Municipal Finance Authority ("CMFA") for the acquisition, rehabilitation and improvement of the 168-unit Elena Gardens Apartments affordable housing project, located at 1900 Lakewood Drive, San José, CA (the "Project").
- (b) Adopt a [resolution](#) approving the issuance of Tax-Exempt Revenue Bonds by CMFA in an aggregate principal amount not to exceed \$23,000,000 to be used to finance the Project and pay certain expenses incurred in connection with the issuance of the bonds.

CEQA: Categorically Exempt, File No. PP11-038. (Housing/Finance)

### 4.3 [Public Hearing and Actions Related to the Ford and Monterey Special Needs Apartments and Family Apartments.](#)

**Recommendation:** Hold a public hearing and adopt a [resolution](#):

- (a) Accepting the [Summary 33433 Report](#) pursuant to the California Health and Safety Code Section 33433 for the groundleasing and development of the 3.06 acre City-owned property located at the north side of Ford Road approximately 550 feet east of Monterey Road (the "Site") for the Ford Road and Monterey Special Needs Apartments and Family Apartments (the "Project"), under the terms and conditions of the proposed Disposition and Development Agreement ("DDA");

*(Item continued on the next page)*

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.3 Public Hearing and Actions Related to the Ford and Monterey Special Needs Apartments and Family Apartments. (Cont'd.)

**Recommendation:**

- (b) Approving a [DDA](#) between the City of San Jose and Eden Housing, Inc., or its affiliate, along with a 75-year [Groundlease](#) with Eden Housing, Inc., or its affiliate, of the Site for the Project, and authorizing the Director of Housing to execute the DDA, the Groundlease, and any other documents regarding the leasehold disposition of the property;
- (c) Authorizing the Director of Housing to negotiate and execute an amended consortium agreement with The Housing Trust of Santa Clara County (“HTSCC”) under the Neighborhood Stabilization Program 2 (“NSP2”) in an amount up to \$3,000,000 for construction of the 20-unit Ford and Monterey Special Needs Apartments (“Project” or “Phase I”);
- (d) Approving a funding commitment to Eden Housing, Inc., or its designated affiliate (“Eden”) for up to \$3,000,000 for a Project construction/permanent loan funded from NSP2 (Fund 448);

CEQA: Mitigated Negative Declaration, File No. PDC09-022. (Housing/Finance)

## 5. NEIGHBORHOOD SERVICES

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### 5.1 [Trail Safety Enhancements.](#)

**Recommendation:** Accept staff report and recommend that the City Council:

- (a) Approve the work plan for new signage, striping and mileage markers to be installed along City trails for directional, information and safety guidance as described in the staff memorandum.
- (b) Approve an [ordinance](#) amending Section 7.40.040 of Chapter 7.40 of Title 7 of the San José Municipal Code to require that dogs on City trails be maintained on a leash not to exceed six feet, and that any dogs on trails with a marked centerline be maintained to the right of the centerline.

CEQA: Not a Project, File No. PP10-068, General Policy Making. (Parks, Recreation and Neighborhood Services)

## 6. TRANSPORTATION & AVIATION SERVICES

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## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 [Proposition 218 Noticing Process for Utility Rate Changes.](#)

**Recommendation:** Approve sending Proposition 218 notices for proposed customer rate changes for Recycle Plus, Storm Sewer Service, and Municipal Water beginning 2011-2012, as described in the staff memorandum. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services).

### 7.2 [Approval of the Tier 2 Drought Implementation Plan.](#)

**Recommendation:** Adopt a [resolution](#) approving the Tier 2 Drought Implementation Plan for allocating water among wholesale water customers of San Francisco Public Utilities Commission during water supply shortages of up to 20%. CEQA: Resolution 74998, File No. PP11-010. (Environmental Services)

## 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.*

- **Adjournment**

This meeting will be adjourned in memory of Betty Howard, a life long dedicated community activist, whose positive impact on the East San José community will always be remembered. (Campos)

## **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.