



CITY COUNCIL AGENDA

APRIL 12, 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)**
Sierramont Middle School Choir
- **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 Douglas Adams McNea, a soft-spoken yet tenacious citizen advocate whose work on behalf of San José's taxpayers and property owners will be gratefully remembered. (Constant)

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 April 2011 as “Arthritis Awareness Month” in the City of San José. (Kalra/Campos)
- 1.2 Presentation of a commendation to Lavante Corporation in recognition of their commitment and contributions to the City of San José and the Silicon Valley. (Kalra)
- 1.3 Presentation of a proclamation declaring the week of April 10-18, 2011 as “National Dispatcher Week” in the City of San José. (Mayor)
- 1.4 Presentation of a proclamation declaring the Month of April 2011 as “Month of the Young Child” in the City of San José. (Pyle)
* (Deferred from 4/5/11 – Item 1.2)
- 1.5 Presentation of a commendation to Hands Across America in recognition of their effort to raise awareness about the importance and accessibility of California Community Colleges locally and throughout the state. (Kalra)
* (Rules Committee referral 04/06/11)

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.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28903 – 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

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of March 23, 2011. (Mayor)
- (b) [Community and Economic Development Committee Report of March 28, 2011.](#) (Herrera)
- (c) Rules and Open Government Committee Report of March 16, 2011. (Mayor)
* [Deferred from 4/5/11 – Item 2.3(a)]
- (d) Rules and Open Government Committee Report of March 9, 2011. (Mayor)
* [Deferred from 3/29/11 – Item 2.3(a) and 4/5/11 – Item 2.3(b)]

2. CONSENT CALENDAR

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) [Request for an excused absence for Vice Mayor Nguyen from the Regular Meeting of the Rules and Open Government Committee on March 30, 2011 due to illness. \(Nguyen\)](#)
* (Rules Committee referral 04/06/11)

- (b) [Request for an excused absence for Councilmember Pyle from the Closed Session and Regular Meeting of the City Council on April 5, 2011 due to the death of a close family member. \(Pyle\)](#)
* (Rules Committee referral 04/06/11)

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 [Agreement with the County of Santa Clara for Countywide Household Hazardous Waste Collection Program.](#)

Recommendation: Approve an:

- (a) [Agreement](#) with the County of Santa Clara for Countywide Household Hazardous Waste Collection Program for 2011-2012 at a cost of \$200,000, subject to appropriation of funds.
- (b) [Agreement](#) with the County of Santa Clara for Countywide AB939 Implementation Fee for 2011-2012.

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

2.8 [Amendment to the Residential Parking Permit Ordinance.](#)

Recommendation: Approve an [ordinance](#) amending Chapter 11.48 of Title 11 of the San José Municipal Code to address the following:

- (a) Establish a new residential permit parking (RPP) zone for the Century-Winchester neighborhood;
- (b) Expand the Arena - Saint Leo's, South University Neighborhood, College Park, and Cahill Park RPP zones;
- (c) Authorize the Director of Transportation (Director) to issue more than three residential parking permits to each group residence located in the Horace Mann and South University permit parking areas;
- (d) Authorize the Director to charge an administrative fee to process cancellation of a parking citation issued for failure to display a valid RPP permit if the individual who received the citation can show proof that he or she had been issued a valid residential parking permit at the time the citation was issued; and

(Item continued on the next page)

2. CONSENT CALENDAR

2.8 Amendment to the Residential Parking Permit Ordinance. (Cont'd.)

Recommendation:

(e) Make administrative corrections to Chapter 11.48 as described in this memorandum.

CEQA: Exempt, File No. PP10-113. Council Districts 1, 3 and 6. SNI: Burbank/Del Monte, Thirteenth Street, University. (Transportation)

2.9 Beautiful Day “Project Restoration” Project.

Recommendation:

(a) Approve the Beautiful Day “Project Restoration” Project 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 04/06/11)

3. STRATEGIC SUPPORT SERVICES

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 Actions Related to Medical Marijuana.

Supplemental - Memo from the Office of the City Manager and Budget Office

Supplemental – Memo transmitting Marijuana Maps

Attachment – Memo from Councilmembers Oliverio and Rocha

* **Recommendation:**

(a) Adopt a resolution to initiate amendments to Title 20 of the San José Municipal Code (the Zoning Code) to establish land use regulations pertaining to Medical Marijuana Collectives and to establish a Zoning Verification Certificate process, to forward these proposed Title 20 amendments to the Planning Commission for its report and recommendation, and to set a public hearing date on these proposed amendments to Title 20 before the City Council;

(b) Approve an ordinance of the City of San Jose amending Title 6, Business Licenses and Regulations, of the San Jose Municipal Code to add Parts 1, 2 and 3 of a new Chapter 6.88 to establish a registration process pertaining to Medical Marijuana Collectives;

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.3 Actions Related to Medical Marijuana. (Cont'd.)

Recommendation:

- (c) Approve an ordinance of the City of San Jose amending Title 6, Business Licenses and Regulations, of the San Jose Municipal Code to add Parts 4 through 9 of a new Chapter 6.88 to establish regulations pertaining to Medical Marijuana Collectives and to the individual cultivation and use of medical marijuana; [Ordinance combining \(b\) – Parts 1,2 and 3 of Chapter 6.88 and \(c\), Parts 4-9](#)
- (d) Direct staff to complete a Manager’s Budget Addendum (MBA) to update the FY 2010-2011 budget figures to FY 2011-2012 figures for a cost recovery Operating Fee, Schedule of Fines, and associated staffing plan, to be considered as part of the Mayor’s June Budget Message; and
- (e) Adopt a [resolution](#) to amend the Adopted 2010-2011 Schedule of Fees and Charges Resolution (Resolution 72737, as amended) to add a Medical Marijuana Collective Application Processing Fee at \$4,975 per Collective and to add a Medical Marijuana Investigation Hourly Fee at \$167 per hour.

(City Manager’s Office/Planning, Building and Code Enforcement/Police)

TO BE HEARD LAST

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Actions Related to the Convention Center Facilities District Project Fund.](#)

Recommendation:

- (a) Establish a Convention Center Facilities District Project Fund in the 2010-2011 Appropriation Ordinance.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Convention Center Facilities District Project Fund:
 - (1) Establish an estimate for Earned Revenue of \$120,000,000.
 - (2) Establish an appropriation to the Public Works Department for the Convention Center Expansion and Renovation Project in the amount of \$20,000,000.
 - (3) Establish an appropriation to the Office of Economic Development for the Convention Center Expansion and Renovation – Public Art Project in the amount of \$80,000.
 - (4) Establish a reserve for the Convention Center Expansion and Renovation Project in the amount of \$99,920,000.

CEQA: Resolution No. 72767 and Addenda thereto, File No. PP08-002. Council District 3. (Public Works/City Manager’s Office)

5. NEIGHBORHOOD SERVICES

5.1 Actions Related to the Happy Hollow Park & Zoo Renovation Project.

Recommendation:

- (a) Approve an increase the Happy Hollow Park and Zoo Consolidated Contingency by \$743,000, from \$4,095,450 to a total consolidated contingency amount of \$4,838,450.
- (b) Approve a [Contract Change Order](#) (CCO) No. 21 with Anderson Pacific Engineering Construction, Inc. for the Happy Hollow Pedestrian Bridge Rebid Project, increasing the compensation by \$329,199 for a total contract amount of \$4,024,880 and extending the term of the agreement by 140 calendar days for a new contract completion date of April 1, 2011.
- (c) Adopt a resolution delegating Authority to the City Manager to negotiate and execute a continuation agreement with HNTB Corporation extending the term of the agreement for design consultant services for the Happy Hollow Pedestrian Bridge Rebid Project, through December 31, 2011, and increasing the amount of compensation by \$120,000 for a total not to exceed \$919,000.
- (d) Adopt a resolution delegating authority to the Director of Public Works to negotiate and execute individual contract change orders up to \$250,000 each for the Happy Hollow Pedestrian Bridge Rebid construction contract with Anderson Pacific Engineering Construction, Inc.

CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April, 2007 and Amended Mitigated Negative Declaration, File No. PP09-023, dated February 6, 2009. (Public Works/Parks, Recreation and Neighborhood Services)

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

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>
10022	East Corner of Berryessa and Jackson Avenue	4	Pulte Home Corporation	41/137	SFA	Approve

- **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 Douglas Adams McNea, a soft-spoken yet tenacious citizen advocate whose work on behalf of San José’s taxpayers and property owners will be gratefully remembered. (Constant)

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.