



# CITY COUNCIL AGENDA

**APRIL 16, 2013**

**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  
JOHNNY KHAMIS

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.

You may speak to the City Council about any discussion 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. 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
  - 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 4)**  
Tony Salazar, Hope Services

- **Pledge of Allegiance**

- **Orders of the Day**

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

**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 proclamation recognizing the Week of April 14-20 as “National Library Week” in the City of San José. (Chu)
- 1.2 Presentation of a proclamation declaring April 22, 2013 as “Earth Day” in the City of San José. (Chu)
- 1.3 Presentation of a commendation to the Association for Viet Arts (AVA), which, as the first nonprofit Vietnamese arts organization in the Bay Area, has fostered excellence in Vietnamese American performing, visual, and literary arts and enriched the cultural landscape of this region. (Nguyen)  
**TO BE HEARD IN THE EVENING**
- 1.4 Presentation of a proclamation declaring the Month of April as “National Autism Awareness Month” in the City of San José. (Rocha)  
**TO BE HEARD IN THE EVENING**
- 1.5 Presentation of a commendation to Good Karma Bikes for their contribution to the Transportation for Transformation movement. (Liccardo)  
\* (Rules Committee referral 4/10/13)
- 1.6 Presentation of a commendation to the nominees of the Outstanding Contributor to Childcare Awards for their exceptional contributions to the needs of young children and their families particularly within quality, licensed child care. (Oliverio)  
**TO BE HEARD IN THE EVENING**  
\* (Rules Committee referral 4/10/13)

## 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. CONSENT CALENDAR

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### 2.3 Approval of Council Committee Reports.

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

- (a) [Rules and Open Government Committee Report of November 7, 2012.](#) (Mayor)
- (b) [Rules and Open Government Committee Report of November 14, 2012.](#) (Mayor)
- (c) [Rules in Lieu Report of November 20, 2012.](#) (City Clerk)
- (d) [Rules and Open Government Committee Report of November 28, 2012.](#) (Mayor)

### 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 [Agreement with Los Esteros Critical Energy Facility, LLC.](#) [Supplemental Memorandum](#)

**Recommendation:** Approve the [easement modification agreement](#) with Los Esteros Critical Energy Facility, LLC, extending the length of the existing permanent easement for ingress and egress to connect existing Los Esteros Critical Energy Facility, LLC facilities to Pacific Gas and Electric Company's sub-station facility. CEQA: Los Esteros Critical Energy Facility EIR, File No. PDCSH01-088, (Resolution No. 70259). Council District 4. (Economic Development)

### 2.8 [Report on Bids and Award of Contract for the Circuit Breaker Replacement Project.](#)

[Supplemental Memorandum](#)

**Recommendation:**

- (a) Award the construction contract for the 115KV Circuit Breaker Replacement Project to the low bidder, Clyde G. Steagall, Inc., Lomas, CA in the amount of \$344,927; and
  - (b) Approve a contingency in the amount of \$34,493.
- CEQA: Exempt, File No. PP12-089. (Environmental Services)

### 2.9 [Report on Bids and Award of Contract for Repairs and Installation of Water Services and Mains.](#)

[Supplemental Memorandum](#)

**Recommendation:**

- (a) Report on bids and award of contract for 7146-Repairs and Installation of Water Services and Mains: 2013, to the lowest responsive bidder, San José Water Company, for the initial term of May 2013 through May 2015, in an amount not to exceed \$2,087,117.
- (b) Adopt a resolution authorizing the Director of Environmental Services to exercise two options: one option to extend the term for an additional one-year after the initial term for an amount not to exceed \$1,043,558, and a second option to extend the term for an additional year after the first option year for an amount not to exceed \$1,043,558.

CEQA: Exempt, File No. PP12-108. (Environmental Services/Public Works)

## 2. CONSENT CALENDAR

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### 2.10 [Park Trust Fund Annual Report for Fiscal Year 2011-2012.](#)

**Recommendation:** Accept the Park Trust Fund annual report for fiscal year 2011-2012. CEQA: Not a Project, File No. PP10-069(a), Annual reports and assessments. (Parks, Recreation and Neighborhood Services)

### 2.11 [AB 503, Agnews Developmental Center: Transfer of Title. Memo from Mayor Reed and Councilmember Chu](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on April 3, 2013, adopt a [resolution](#) in support of AB 503, Agnews Developmental Center: Transfer of Title. (Chu)  
[Rules Committee referral 4/3/13 – Item G(2)]

### 2.12 [Councilmember Campos' Travel to Long Beach, CA.](#)

**Recommendation:** Approve travel by Councilmember Campos to Long Beach, CA on April 18-21, 2013 to attend the League of California Cities' Latino Caucus board meeting. Source of Funds: Mayor & Council Travel Fund. (Campos)

\* (Rules Committee referral 4/10/13)

### 2.13 [City Auditor's Travel to Nashville, TN.](#)

**Recommendation:** Approve travel by the City Auditor to Nashville, TN on May 5-7, 2013 to attend the Association of Local Government Auditors (AGLA) 25<sup>th</sup> Annual Conference. Source of Funds: City Auditor's Non Personal Appropriation and Professional Development Funds. (City Auditor)

\* (Rules Committee referral 4/10/13)

### 2.14 [AB 639 \(Perez\) – Veterans Housing & Homeless Prevention Act of 2014.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on April 10, 2013, approve a support position for AB 639 (Perez) – Veterans Housing & Homeless Prevention Act of 2014. (Housing)

\* [Rules Committee referral 4/10/13 – Item G(2)]

### 2.15 [League of California Cities Proposed Amendments to Bylaws.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on April 10, 2013, approve the following positions on amendments to be considered by the League of California Cities (LOCC) membership and responded to by a mail in ballot:

- (a) Approve an oppose position to Amendment #1, Resolutions submitted to the League for presentation to the General Assembly must be concurred in by at least five or more cities or by city official from at least five or more cities; and

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.15 League of California Cities Proposed Amendments to Bylaws. (Cont'd.)

**Recommendation:**

- (b) Approve a support position for Amendment #2, the League Board may take a position on a statewide ballot measure by a 2/3<sup>rd</sup> vote of the Directors present. Currently, the Board may take positions with a simple majority vote.  
(City Manager's Office)

\* [Rules Committee referral 4/10/13 – Item G(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 [Economic Strategy Update and Proposed 18-Month Workplan.](#) [Exhibit A – Economic Strategy 18-Month Implementation Workplan Progress Report \(October 2011 – June 2013\)](#)

[Exhibit B – Economic Strategy 18-Month Implementation Workplan \(May 2013 – December 2014\)](#)

[Map – Trimble and North First Street](#)

[Map – HWY237 and North First Street](#)

[Map – International Business Park](#)

[Memo from Mayor Reed, Vice Mayor Nguyen, Councilmembers Herrera and Liccardo](#)

**Recommendation:** As recommended by the Community and Economic Development Committee on March 25, 2013, accept staff's report on:

- (a) The Accomplishments of Economic Strategy Workplan to date;
- (b) The status and use of development incentives;
- (c) The status of campus development and leasing opportunities; and
- (d) The proposed Economic Strategy Workplan.

CEQA: Not a Project, File No. PP10-066(a), Staff Report. (Economic Development)

[Community and Economic Development Committee referral 3/25/13 – Item D(2)]

(Deferred from 4/9/13 – Item 4.3)

## 5. NEIGHBORHOOD SERVICES

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## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 [Actions Related to the Award of a Ground Lease and Operating Agreement to Signature Flight Support.](#)

[Memo from Councilmember Chu](#)

[Memo from Mayor Reed, Councilmembers Herrera and Liccardo](#)

[Supplemental Memo from the Director of Aviation](#)

Memo's from April 9<sup>th</sup> Below:

[Memo from the Director of Aviation](#)

[Exhibits A – G](#)

[Memo from Mayor Reed and Councilmembers Herrera and Liccardo](#)

[Memo from the Director of Aviation Services](#)

**Recommendation:** Accept report on curfew provisions for fixed base operator agreements at the Norman Y. Mineta San José International Airport, approve curfew provisions for proposed fixed base operator ground lease and operating agreement with Signature Flight Support, and adopt a resolution authorizing the City Manager to execute agreements and amendments as authorized by the City Council on April 9, 2013. CEQA: Airport Master Plan EIR, Resolution Nos. 67380 and 71451, with Addendum, File No. PP13-022. (Airport)

\* (Referred from 4/9/13 – Item 6.1)

**TO BE HEARD FIRST IN THE EVENING IMMEDIATELY FOLLOWING CEREMONIAL ITEMS**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 [Actions Related to Amending Title 15 and Title 20 of the San José Municipal Code Regarding Water Efficient Landscape Standards and Regulations.](#)

[Supplemental Memorandum](#)

**Recommendation:** Consideration of an [ordinance](#) of the City of San José amending Section 15.10.290 of Chapter 15.10 of Title 15 (Public Utilities), Chapter 15.11 of Title 15 in its entirety, and Section 20.100.440 of Chapter 20.100 of Title 20 (The Zoning Ordinance) of the San José Municipal Code, all to modify the Water Efficient Landscape Standards for New and Rehabilitated Landscaping and to establish Water Efficient Landscape Regulations pursuant to State Law and to make other technical, formatting, or other nonsubstantive changes with those Chapters of Title 15 and Title 20. CEQA: Final Program Environmental Impact Report (EIR) for the envision San José 2040 General Plan, EIR Resolution No. 76041 (File No. PP12-100). Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement) (Deferred from 3/26/13 – Item 7.1)

### 7.2 [Burrowing Owl Habitat Improvements at Water Pollution Control Plant.](#)

[Supplemental Memorandum](#)

**Recommendation:** As recommended by the Transportation and Environment Committee on April 8, 2013, accept the progress report highlighting habitat improvement activities for the Western Burrowing Owl on San José/Santa Clara Water Pollution Control Plant (WPCP) bufferlands that began in 2012. CEQA: Not a Project, File No. PP10-069(a), Informational Memos that involve no approvals of any City actions. (Environmental Services)

\* [Transportation and Environment Committee referral 4/8/13 – Item D(5)]

## 8. PUBLIC SAFETY SERVICES

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## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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### 9.1 [Designation of Chief Financial Officer for the Successor Agency to the Redevelopment Agency.](#)

\* **Recommendation:** Approve the designation of the City’s Director of Finance as the Chief Financial Officer of the Successor Agency to the Redevelopment Agency of the City of San José. CEQA: Not a Project, File No. PP10-069, City organizational and administrative activities. (Successor Agency)

- **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.*

- **Council will recess until 7:00 p.m.**

## 10. GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearings at this time.

## 11. PUBLIC HEARINGS

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(To be heard by the City Council at 7:00 p.m.)

**Notice to the public:** There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) 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 will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

### 11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar at this time.

### 11.2 [ADMINISTRATIVE HEARING and Consideration of an APPEAL of the Planning Commission's Decision to Deny a Conditional Use Permit. Attachment](#)

[Supplemental Memo from the Director of PBCE](#)

[Memo from Councilmembers Constant and Campos](#)

**Recommendation:** Conduct an ADMINISTRATIVE HEARING and consider an APPEAL of the Planning Commission's decision to deny a Conditional Use Permit to allow the development of an approximately 3,911 square-foot public eating establishment with a drive-through use on an approximately 13.1 gross-acre parcel in the CN-Commercial Neighborhood Zoning District, located at/on the east side of Miller Avenue approximately 350 feet southerly of Bollinger Road within the Orchard Farm Center Shopping Center (6148 Bollinger Road) (Christopher Marchese Trustee & Et Al, Owner/McDonald's, Developer). CEQA: Mitigated Negative Declaration, File No. CP11-026 and H12-001. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial.

[CP11-026](#) – District 1

### 11.3 [ADMINISTRATIVE HEARING and Consideration of a Planned Development Permit and Determination of Public Convenience or Necessity to Allow the Off-Sale of Alcohol.](#)

\* **Recommendation:** Conduct an ADMINISTRATIVE HEARING and consider a Planned Development Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol (wine) in association with wine pairing events and classes within an existing 1,484 square foot restaurant (Savory Kitchen), located on the south side of The Alameda between Wilson Avenue and Bush Street (754 The Alameda) (Bay Apartment Communities Inc, Owner). Council District 6. CEQA: Final Supplemental EIR, "Westpark Apartments," Resolution No. 68748. Planning Commission recommends approval (6-0-1).

[PD12-049/ABC12-015](#) – District 6



## 11. PUBLIC HEARINGS

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### 11.4 [Rezoning Real Property Located Between Race Street and Grand Avenue.](#)

- \* **Recommendation:** Consideration of an [ordinance](#) rezoning the real property located between Race Street and Grand Avenue, approximately 300 feet southerly of Park Avenue (253 Race Street) from the CP-Commercial Pedestrian Zoning District to the A(PD) Planned Development Zoning District to allow for the development of up to 70 attached residential units and 13,080 square feet of ground floor commercial space on a 2.3 gross acre site. CEQA: Mitigated Negative Declaration, [Resolution](#) to be adopted. Planning Commission recommends approval (6-0-1).  
[PDC11-005](#) – District 6

- **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.*
- **Adjournment**

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

3. Addressing the Council, 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.