



# CITY COUNCIL AGENDA

**SEPTEMBER 16, 2008**

**AMENDED AGENDA**

PETE CONSTANT  
FORREST WILLIAMS  
SAM LICCARDO  
KANSEN CHU  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON P. NGUYEN  
DAVID D CORTESE, VICE MAYOR  
JUDY CHIRCO  
NANCY PYLE

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

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 every first and third Tuesday at 7 p.m., 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 and Staff Reports 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.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
9:30 a.m. - Closed Session, Call to Order in Council Chambers  
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. - Employment Lands Study Session CANCELLED

- **Invocation (District 8)**  
Center for Spiritual Enlightenment

- **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.**

- \* **ITEM 5.2 TO BE HEARD IMMEDIATELY FOLLOWING THE CONSENT CALENDAR**

- **Closed Session Report**

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a proclamation declaring September 15-21, 2008 as “Pollution Prevention Week” in the City of San José and presentation of a commendation to the City’s Airport Building Services Supervisor and Building Services Team for incorporating exemplary pollution prevention practices into municipal operations. (Mayor)  
(Rules Committee referral 09/03/08)
- 1.2 Presentation of a commendation to Irene Dalis for her significant contribution in founding Opera San José and presentation of a proclamation declaring September 20, 2008 as “Opera San José Day” in the City of San José. (Mayor/Liccardo/Chu/Williams)  
\* (Rules Committee referral 09/03/08)
- 1.3 Presentation of a proclamation declaring September 22, 2008 as “California Family Day” in the City of San José. (Mayor/Constant)  
(Rules Committee referral 09/03/08)
- 1.4 Presentation of a proclamation declaring September 21, 2008 as the “International Day of Peace” in the City of San José. (Cortese)  
\* (Rules Committee referral 9/10/08)

# 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 will be removed from the Consent Calendar and considered separately.

- 2.1 **Approval of Minutes.**
- 2.2 **Final adoption of ordinances.**
- 2.3 **[Approve Travel for Independent Police Auditor.](#)**

**Recommendation:** Approve travel for Independent Police Auditor Barbara Attard, for two business-related trips:

- (a) To conduct training in investigations and oversight of police misconduct cases for the Police Service Commission in Abuja, Nigeria on November 17-21, 2008.  
Source of Funds: CLEEN Foundation and the Open Society Justice Initiative.
- (b) To attend the NACOLE Annual Conference in Cincinnati, Ohio on October 27-30, 2008. Source of Funds: IPA General Fund Budget.  
(Independent Police Auditor)  
(Deferred from 8/26/08 – Item 2.9)

## 2. CONSENT CALENDAR

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### 2.4 [California Integrated Waste Management Board Household Hazardous Waste Grant Application.](#)

**Recommendation:** Adopt a resolution authorizing the City Manager to submit one grant application to the California Integrated Waste Management Board for an amount up to \$400,000 to support the Environmental Services Department's efforts to construct the Household Hazardous Waste drop-off facility on Las Plumas Avenue. CEQA: Not a Project. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Environmental Services).

### 2.5 [Donation of City Owned Property to the County of Santa Clara.](#)

**Recommendation:** Adopt a resolution to:

- (a) Declare the vacant .05 acres of City-owned property at the southeast corner of Santa Teresa Street and Coleman Avenue surplus to the needs of the City.
- (b) Approve a Donation Agreement between the City and the County of Santa Clara for transfer of the property to the County pursuant to San José Municipal Code Section 4.20.060.
- (c) Authorize the Director of Public Works to execute all documents necessary to complete the transfer of the property.

CEQA: Exempt, File No. PP08-178. Council District 3. (Public Works)

### 2.6 [Amendment to an Agreement for Architectural Consultant Services for the East San José Carnegie Branch Library Project.](#)

- \* **Recommendation:** Approve the first amendment to the agreement with Gould Evans Baum Thornley, Inc. for architectural consultant services for the East San José Carnegie Branch Library Project expanding the scope of services, extending the term of the agreement from July 1, 2009 to January 31, 2010, and increasing the total compensation by \$237,000, from \$800,000 to an amount not-to-exceed \$1,037,000. CEQA: Mitigated Negative Declaration, File No. PP07-107. Historical Preservation Permit HP07-005. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works)

### 2.7 [Coyote Creek Trail Project from Los Lagos Golf Course to Tully Road.](#)

**Recommendation:**

- (a) Report on bids and award of a contract for the Coyote Creek Trail project (Los Lagos Golf Course to Tully Road) to the low bidder, Grade Tech, Inc., in the amount of \$739,000, and approval of a contingency in the amount of \$147,800.
- (b) Adopt a resolution incorporating environmental mitigation measures set forth in the Mitigation Monitoring and Reporting program for the project.

CEQA: Mitigated Negative Declaration, File No. PP04-02-057. Council District 7. (Public Works)

## 2. CONSENT CALENDAR

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### 2.8 [Amendment to Agreement for Landscaping Architectural Services for the Roosevelt Skate Park.](#)

**Recommendation:** Approve the first amendment to the master agreement with Bellinger Foster Steinmetz Landscape Architecture for landscape architectural services increasing the total compensation by \$15,000, for a total agreement amount of \$115,000, in order to fund services for the Roosevelt Skate Park. CEQA: Mitigated Negative Declaration, File No. PP03-397. (Public Works)

### 2.9 [Contract for the Gary Albertson Parkway.](#)

**Recommendation:** Report on bids and award of a contract for the Gary Albertson Parkway project to the low bidder, Watkin & Bortolussi, Inc., in the amount of \$657,176, and approve a contingency in the amount of \$65,700. CEQA: Exempt, File No. PP07-076. Council District 2. (Public Works)

## 3. STRATEGIC SUPPORT SERVICES

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

### 3.2 Report of the Rules and Open Government Committee – September 3, 2008 Mayor Reed, Chair

- (a) City Council (City Clerk)
  - (1) Review September 9, 2008 Final Agenda
  - (2) Review September 16, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) Sacramento Update (verbal report). (City Manager's Office)
    - (b) City Sponsored Legislation for the First Year of the Two-Year 2009-10 Session. (City Manager's Office)
  - (2) Federal
- (d) Meeting Schedule
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committee
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Accept Staff Report on Employee Campaign/Election Nomination Guidelines. (Office of Employee Relations)
  - (2) Recommend a workload analysis for the creation of a waiver process as permitted under Assembly Bill 411. (Cortese)
- (h) Review of additions to Council Committee Agendas
  - (1) Community and Economic Development Committee

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules and Open Government Committee – September 3, 2008 (Cont'd.)

- (h) (2) Neighborhood Services and Education Committee
- (3) Transportation and Environment Committee
- (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force (SRTF)
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

#### 3.3 Report of the Public Safety, Finance and Strategic Support Committee Councilmember Nguyen, Chair – *No Report.*

#### 3.4 [Response to the Civil Grand Jury Report titled San José Finance Department Practices Cost Taxpayers Money.](#)

**Recommendation:** Accept the staff's response to the Civil Grand Jury Report related to the City's Debt Management Program and use of interfund loans. CEQA: Not a Project. (Finance/City Manager's Office)

#### 3.5 Report of the Rules and Open Government Committee – August 27, 2008 Mayor Reed, Chair

- (a) City Council (City Clerk)
  - (1) Review September 2, 2008 Final Agenda  
NONE – MEETING CANCELLED
  - (2) Review September 9, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) Sacramento Update (verbal report). (City Manager's Office)
    - (2) Federal
- (d) Meeting Schedule
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committee
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Downtown Commuter Bicycle Demonstration Project. (Reed/Liccardo/Williams)
  - (2) Recommend to agenda for the September 9, 2008 Council meeting an amendment to Council Resolution 74312 regarding confidentiality notice. (Mayor)

**HEARD BY COUNCIL 9/9/08**

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.5 Report of the Rules and Open Government Committee – August 27, 2008 (Cont'd.) Mayor Reed, Chair

- (h) Review of additions to Council Committee Agendas
    - (1) Community and Economic Development Committee
      - (a) Add an update on the Office of Cultural Affairs Grants Funding Program Strategic Review to the September 22, 2008 CED Committee Agenda.
    - (2) Neighborhood Services and Education Committee
    - (3) Transportation and Environment Committee
    - (4) Public Safety, Finance and Strategic Support Committee
  - (i) Open Government Initiatives
    - (1) Reed Reforms
    - (2) Sunshine Reform Task Force (SRTF)  
Review of SRTF Phase II Report and Recommendations
      - (a) SRTF Phase II Report and Recommendations
      - (b) Staff's Response to Phase II Report and Recommendations of the SRTF.
      - (c) SRTF Chair's Response to the Staff Report responding to Phase II Report and Recommendations of the SRTF.
    - (3) Significant Public Records Act Requests
    - (4) Council Policy Manual Update
  - (j) Open Forum
  - (k) Adjournment
- \* (Deferred from 9/9/08 – Item 3.5)

#### 3.6 Resolution Promoting Health Awareness.

**Recommendation:** As referred by the Rules and Open Government Committee of August 20, 2008, consider the adoption of a resolution promoting health awareness and recognizing that the City Council is empowered to encourage and be a role model for fitness, physical activity, nutrition and wellness to the residents and employees of the City of San José. (Williams)

[Rules Committee referral 8/20/08 – Item G(3)]

\* (Deferred from 9/9/08 – Item 3.7)

\* **TO BE HEARD NO EARLIER THAN 2:00 P.M.**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 Report of the Community & Economic Development Committee Councilmember Pyle, Chair – *No Report.*

#### 4.2 Consolidated Annual Performance Evaluation Report FY 2007-2008.

[Attachment – Consolidated Annual Performance Evaluation Report](#)  
[Supplemental – Memo from the Director of Housing](#)

**Recommendation:** Approve the 2007-2008 Consolidated Annual Performance Evaluation Report (CAPER). Not a Project. (Housing)

## 5. NEIGHBORHOOD SERVICES

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5.1 **Report of the Neighborhood Services and Education Committee**  
Councilmember Chirco, Chair – *No Report.*

5.2 **[Renaming of Lundy Post Office.](#)**

**Recommendation:** As referred by the Rules and Open Government Committee of August 20, 2008, consider the adoption of a resolution in support of renaming the Main Post Office on Lundy Avenue as the “Gordon N. Chan Post Office”. (Chu)  
[Rules Committee referral 8/20/08 – Item G(1)]

\* **TO BE HEARD IMMEDIATELY FOLLOWING THE CONSENT CALENDAR**

## 6. TRANSPORTATION & AVIATION SERVICES

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6.1 **Report of the Transportation and Environment Committee**  
Councilmember Williams, Chair – *No Report.*

## 7. ENVIRONMENTAL & UTILITY SERVICES

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7.1 **[Actions Related to Security Guard Services for the Water Pollution Control Plant.](#)**

[Supplemental – Letter from the Water Pollution Control Plant](#)

**Recommendation:** Report on Request for Proposal for Security Guard services for the Environmental Services Department Water Pollution Control Plant and adopt a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with First Alarm Security & Patrol, Inc. (Aptos, CA) for security guard services for a one-year term and a maximum compensation not to exceed \$188,130.
- (b) Execute amendments to the agreement to add and delete guard services as required subject to appropriation of funds.
- (c) Exercise four one-year options to extend the agreement subject to annual appropriation of funds.

CEQA: Not a Project. (Finance)

7.2 **[Public Hearing to Establish a Rule 20A Underground Utility District along Aborn Road.](#)**

**Recommendation:** Conduct a Public Hearing and approve [an ordinance](#) to establish a Rule 20A Underground Utility District along Aborn Road, between Pumpherston Way and White Road. CEQA: Exempt, File No. PP08-128. Council District 8. (Public Works)

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.3 [Redesign of the Commercial Solid Waste Franchise.](#)

[Attachment – Memo from Councilmember Chu](#)

**Recommendations:**

- (a) Direct staff to prepare a procurement strategy for Council consideration to solicit proposals for commercial solid waste collection with two or three haulers awarded exclusive franchise agreements for services within geographical districts.
- (b) Approve the scope of the franchise system, with certain exemptions, to include collection of solid waste, recyclables, and organics in bags, carts, front-load bins, roll-off boxes, and compactors.
- (c) Return to the Transportation and Environment Committee in December 2008 with a procurement strategy and final recommendation for the commercial solid waste system redesign, including an implementation plan, terms of an exclusive franchise, an implementation plan for securing processing and disposal capacity, and related policy issues for Council consideration.

CEQA: Not a Project. (Environmental Services)

[Transportation and Environment Committee – Item (c)]

\* (Deferred from 9/9/08 – Item 7.1)

## 8. PUBLIC SAFETY SERVICES

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### 8.1 [Firefighter Highrise Elevator Ordinance.](#)

**Recommendation:** Direct the City Attorney to draft an ordinance amending Section 17.12.630 of the San José Municipal Code to require that new high rise buildings be constructed with at least one elevator installed with additional safety features to provide increased firefighter protection for use in emergencies. CEQA: Not a Project. (Fire)  
[Community and Economic Development referral 8/25/08 – Item (g)]

\* **DROP**

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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- **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>
9995	Terminus of Duckett Way approximately 420 feet east of De Anza Blvd.	1	Green Valley Corporation	3 Lots/ 17 Units	Single Family Attached/ Detached	Approve

- **Notice of City Engineer’s Award of Construction Projects**

\* In accordance with Council Resolution No. 73532, the construction Contract Process Streamlining Policy approved on December 5, 2006, the following is a list of projects that were awarded or rejected by the Director of Public Works in August 2008:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
TDA3 Hedding Street Improvement Project	3	Wattis Construction Company, Inc	\$272,662	8/4/08
Gold Street Storm Pump Station Electrical Upgrade Project	10	F. Connolly Co.	\$609,000	8/12/08
Chateau Drive Storm Drain Improvement Project, Ph II	10	Preston Pipelines, Inc.	\$561,079	8/15/08
Norman Y. Mineta San José International Airport: Terminal Modifications II General Building (Rebid)	Citywide	Rodan Builders, Inc.	\$925,000	8/21/08

- **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**

## **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, unless they are speaking during open forum.
  - 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.