



CITY COUNCIL AGENDA

MARCH 3, 2009

AMENDED AGENDA

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
ROSE HERRERA
JUDY CHIRCO, VICE MAYOR
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, 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 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

- **Invocation (District 3)**
* Horace Mann 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.

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

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 will 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. 28498** – Amending Chapter 4.70 of Title 4 of the San José Municipal Code, by adding a new Part to establish a cap on the amount of Telecommunications Users Tax paid under this Chapter by service users provided certain conditions are satisfied, which part shall expire on December 31, 2012 unless otherwise extended, shortened, or revised by the City Council.

2.3 [Funding commitment for the San Carlos Bowl Seniors Project.](#)

Recommendation: Adopt a [resolution](#) to:

- (a) Approve a request for early disbursement of \$603,435 of the existing funding commitment to San Carlos Willard Associates, L.P., or its designated affiliate, to finance the shared offsite development costs for the 100-unit San Carlos Bowl Seniors rental project located at 1523-1533 West San Carlos Street; and
- (b) Authorize the Director of Housing to negotiate and execute all documents to effectuate this early disbursement.

CEQA: Exempt, PD04-103. Council District 6. SNI: Burbank/Del Monte. (Housing)

2.4 [Amendment to the Housing Trust Fund.](#)

Recommendation: Adopt a [resolution](#) authorizing the Housing and Community Development Advisory Commission to act as the Housing Trust Fund Oversight Committee for all grants except those needed for emergency situations. CEQA: Not a Project. (Housing)

2.5 [Revisions to Teacher Homebuyer and San José State Faculty and Staff Homebuyer Programs.](#)

* **Recommendation:**

- (a) Adopt a [resolution](#) to modify the Teacher Homebuyer Program, adopted by Council on April 4, 2000, as follows:
 - (1) Decrease the maximum loan amount from \$40,000 to \$35,000 for households earning between 90% and 120% of Area Median Income; and
 - (2) Decrease the maximum loan amount from \$65,000 to \$50,000 for households earning less than 90% of Area Median Income.

(Item continued on the next page)

2. CONSENT CALENDAR

2.5 Revisions to Teacher Homebuyer and San José State Faculty and Staff Homebuyer Programs. (Cont'd.)

Recommendation:

- (b) Adopt the following amendments to the 2008-2009 Appropriation Ordinance in the Low- and Moderate-Income Housing Fund (Fund 443):
 - (1) Increase the Teacher Homebuyer Program Appropriation by \$500,000; and
 - (2) Decrease the Loan Management Appropriation by \$500,000.
- (c) Adopt a [resolution](#) to:
 - (1) Modify the San José State University Faculty and Staff Homebuyer Program, adopted by Council on January 10, 2006, to decrease the maximum loan amount from \$60,000 to \$50,000 for low- and moderate-income households.
 - (2) Authorize the Director of Housing to negotiate and execute any necessary agreements, amendments, or other documents with San José State University, or its affiliate, related to the program modification.

CEQA: Not a Project. (Housing/City Manager's Office)

2.6 [Summary vacation of a portion of a Public Service Easement at 2581 and 2585 Samaritan Drive.](#)

Recommendation: Adopt a [resolution](#) summarily vacating a portion of a 10-foot Public Service Easement at 2581 and 2585 Samaritan Drive, recorded on October 24, 1985, within Parcel B as shown upon that certain Parcel Map in Book 551 of Maps at Pages 1 and 2 of Official Records, Office of the Recorder, County of Santa Clara. CEQA: Mitigated Negative Declaration, PDC08-014. Council District 9. (Public Works)

2.7 [Increase contingency amount for the Convention Center Garage Project.](#)

Recommendation: Approve an increase in the construction contingency funding for the San José Convention Center Garage Project in the amount of \$31,544, increasing the total contingency from \$16,704 to \$48,248. CEQA: Exempt, PP05-187. Council District 3. (Public Works)

2.8 [Excused absences for Councilmember Chu.](#)

Recommendation: Request for excused absences for Councilmember Chu from the City Council Study Session on March 17, 2009 and the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on March 19, 2009 due to Authorized City Business: National League of Cities Congressional City Conference in Washington, D.C. (Chu) (Rules Committee referral 2/18/09)

2. CONSENT CALENDAR

2.9 Actions Related to Councilmember Constant's Travel to Washington D.C.

Recommendation:

- (a) [Approve travel by Councilmember Constant to Washington, D.C. on March 14-18, 2009](#) to attend the National League of Cities' annual Congressional City Conference and serve on the Public Safety and Crime Prevention Policy and Advocacy Committee. Source of Funds: Mayor & Council Travel Fund.
- (b) [Request for an excused absence for Councilmember Constant from the Closed Session and Regular Meeting of the City Council on March 17, 2009](#) due to Authorized City Business: National League of Cities Annual Congressional City Conference in Washington, D.C.

(Constant)

(Rules Committee referral 2/18/09)

2.10 Actions Related to Councilmember Constant's Travel to Boston, MA.

Recommendation:

- (a) [Approve travel by Councilmember Constant to Boston, MA on October 21-23, 2009](#) to attend San José/Silicon Valley Chamber of Commerce City-to-City Trip. Source of Funds: Mayor & Council Travel Fund.
- (b) [Request for an excused absence for Councilmember Constant from the Closed Session and Regular Meeting of the Rules and Open Government Committee on October 21, 2009](#) due to Authorized City Business: 2009 San José/Silicon Valley Chamber of Commerce Annual City-to-City Trip in Boston, MA.

(Constant)

(Rules Committee referral 2/18/09)

2.11 Excused absences for Mayor Reed.

Recommendation: Request for excused absences for Mayor Reed.

- (a) [Request for an excused absence from the Regular Meeting of the City Council on March 3, 2009](#) due to Authorized City Business: Travel to Washington, D.C. to advocate on behalf of the City.
- (b) [Request for an excused absence from the Regular Meeting of the Rules and Open Government Committee on March 4, 2009](#) due to Authorized City Business: Travel to Washington, D.C. to advocate on behalf of the City.

(Mayor)

(Rules Committee referral 2/18/09)

2.12 [Excused absences for Vice Mayor Chirco.](#)

Recommendation: Request for excused absences for Vice Mayor Chirco from the Closed Session and Regular City Council Meeting on February 24, 2009 and the Regular Meeting of the Rules and Open Government Committee on February 25, 2009 due to: illness. (Chirco)

* (Rules Committee referral 2/25/09)

2. CONSENT CALENDAR

2.13 Mayor Reed's Travel Out of State.

Recommendation: Approve travel by Mayor Reed to Washington, D.C. on March 1-5, 2009 to advocate on behalf of the City. Source of Funds: Mayor's Budget. (Mayor)

* (Rules Committee referral 2/25/09)

3. STRATEGIC SUPPORT SERVICES

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

3.2 Report of the Rules and Open Government Committee – February 4, 2009

Mayor Reed, Chair

- (a) Call to Order and Roll Call
- (b) Review of Agenda
- (c) City Council. (City Clerk)
 - (1) Review February 10, 2009 Final Agenda
 - (a) Add New Items to Final Agenda
 - (b) Assign "Time Certain" to Agenda Items (if needed)
 - (2) Review February 17, 2009 Draft Agenda – Regular Session Cancelled
- (d) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (e) Review of Upcoming Study Session Agenda(s)
- (f) Legislative Update
 - (1) State
 - (a) Sacramento Update (verbal report). (City Manager's Office)
 - (2) Federal
- (g) Meeting Schedules
 - (1) Study Session Schedule. (City Manager's Office)
- (h) The Public Record
- (i) Appointments to Boards, Commissions and Committees
 - (1) Process to Fill Unanticipated Vacancies on the Police and Fire Retirement Board. (City Clerk)
HEARD BY COUNCIL 2/10/09 – ITEM 3.6
- (j) Rules committee Reviews, Recommendations and Approvals
 - (1) City Attorney's Briefing on Human Rights Commission's Request to joint Amicus Brief in Proposition 8 Cases. (City Attorney's Office)
 - (2) Santa Clara Valley Water District FY2010 – Federally Partnered Projects. (City Manager's Office/Environmental Services)
HEARD BY COUNCIL 2/10/09 – ITEM 7.1
 - (3) Use the Healthy Neighborhood Venture Fund to Finance the Crossing Guard Program. (Constant/Herrera/Oliverio)
 - (4) Required Disclosure of Property Interests. (Redevelopment Agency)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – February 4, 2009 (Cont'd.) Mayor Reed, Chair

- (k) Review of additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (a) Report regarding the Community and Economic Development Committee Special Meeting on the Competition Policy, per Council Direction on January 27, 2009. (Economic Development)
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
- (l) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force (SRTF)
 - (a) Review of SRTF recommendations regarding Public Records: Balancing Test and Drafts & Memoranda.
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
- (m) Open Forum
- (n) Adjournment

3.3 Report of the Public Safety, Finance and Strategic Support Committee – February 19, 2009

Councilmember Nguyen, Chair

- (a) Call to Order and Roll Call
- (b) Review of Workplan
 - (1) Report on Department Business Technologies – Executive Overview of Priority Projects. (Information Technology)
 - (2) Second Quarter Report on Performance Measures for October-December for Police and Fire. (City Manager's Office)
- (c) Reports to Committee
 - (1) Consent Calendar
 - (a) Accept Redevelopment Agency Monthly Financial Reports:
 - (1) Financial Statements
 - (2) Capital Cost Report
 - (3) Cash Flow Projections
 - (2) Second Quarter Report on Performance Measures for October – December for Strategic Support. (City Manager's Office)
 - (3) Report on Infrastructure – Executive Overview Priority Projects. (Information Technology)
 - (4) Report on Second Quarter Revenue Collection Strategic Plan. (Finance)
 - (5) Report on Second Quarter Debt Report. (Finance)
 - (6) Report on Second Quarter Investment Report. (Finance)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.3 Report of the Public Safety, Finance and Strategic Support Committee – February 19, 2009 (Cont'd.)

Councilmember Nguyen, Chair

- (c) (7) The 2007-08 Annual Performance Audit of Team San José, Inc. (City Auditor)

* SEE ITEM 3.5 FOR COUNCIL ACTION TO BE TAKEN

- (d) Open Forum
- (e) Adjournment

3.4 Deferred Compensation Advisory Committee Appointments.

Recommendation: Approve the four-year term appointments, ending on March 1, 2013, as follows:

- (a) Franco Vado to the Deferred Compensation Advisory Committee as the representative nominated by the San José Police Officers Association;
- (b) Robert Sapien as the representative nominated by the San José Firefighters, Local 230 (IAFF); and
- (c) Pascal Roubineau as the representative nominated by the trades unions (Association of Building, Mechanical and Electrical Inspectors (ABMEI), International Brotherhood of Electrical Workers (IBEW), International Union of Operating Engineers, Local No. 3 (OE3).

CEQA: Not a Project. (Human Resources)

* (Rules Committee Referral 2/25/09 – Item 9.1)

3.5 2007-08 Annual Performance Audit of Team San José, Inc.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee of February 19, 2009, ratify the Administration's decision to waive the City's right under the current agreement with Team San José, Inc. for the management of the San José Convention Center and Cultural Facilities to delete the fixed payment of \$150,000 from the management fee for year four of the agreement and authorize the City Manager the exercise this waiver for year five of the agreement.

* [Public Safety, Finance and Strategic Support Committee Referral 2/19/09 – Item 3.3(c)(7)]

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [Funding commitment for site acquisition for the San Antonio Family Apartments.](#)

Recommendation: Adopt a [resolution](#) approving a funding commitment of up to \$5,200,000 of Low- and Moderate-Income Housing Funds (20% Funds) to ROEM Development Corporation (“ROEM”), or its legal affiliate, for a land acquisition loan for future development of the 84-unit San Antonio Family Apartments, an affordable multifamily rental project located at 1350 E. San Antonio Street to be made available to extremely low-income and very low-income households. CEQA: Mitigated Negative Declaration, PDC08-038. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Housing)

5. NEIGHBORHOOD SERVICES

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

6. TRANSPORTATION & AVIATION SERVICES

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

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Notice of City Engineer’s Pending Decision on Final Maps
- Notice of City Engineer’s Award of Construction Projects

- **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.
 - 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.