



# **CITY COUNCIL AGENDA**

**MAY 11, 2010**

**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

*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 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](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**  
9:30 a.m. - Closed Session, Call to Order in Council Chambers  
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 5)**  
Linda Vista Elementary School “Into the Woods” Spring Musical Skit

- **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 Wanda Daniel, Recreation Program Specialist, who passed away on April 2, 2010. Wanda’s career spanned nearly 30 years in the Parks, Recreation and Neighborhood Services Department, providing recreation classes and senior services to the community.

**Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.**

**THE SAN JOSÉ FINANCING AUTHORITY WILL MEET IN A JOINT SESSION FOLLOWING THE AFTERNOON COUNCIL SESSION**

- **Closed Session Report**

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a proclamation declaring the month of May 2010 as “Fruit and Veggie Month” in the City of San José. (Kalra)
- 1.2 Presentation of a gift from the Better Living Educational Foundation to the City of San José. (Mayor)
  - \* (Rules Committee referral 5/5/10)
- 1.3 Presentation of a proclamation declaring the Week of May 9 – 15, 2010 as “National Tourism Week” in the City of San José. (Constant)
  - \* (Rules Committee referral 5/5/10)

# 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.

### [Presentation](#)

**Recommendation:** Final adoption of ordinances.

- (a) [ORD. NO. 28711](#) – Rezoning certain real property situated at 1164 McLaughlin Avenue from R-1-8 Single Family Residence to CG Commercial General Zoning District. C09-031

## 2.3 Approval of Council Committee Reports.

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

- (a) Rules and Open Government Committee Report of April 21, 2010. (Mayor)
- (b) [Community and Economic Development Committee of April 26, 2010.](#) (Pyle)

## 2.4 Mayor and Council Excused Absence Requests.

**Recommendation:**

- (a) [Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on April 21, 2010 due to Authorized City Business: Travel to Sacramento, CA as part of the Silicon Valley Leadership Group Advocacy Trip.](#) (Mayor)
- \* (Rules Committee referral 5/5/10)

## 2. CONSENT CALENDAR

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### 2.5 City Council Travel Reports.

### 2.6 [Sale of Easement Over City-Owned Property at Basking Ridge Avenue.](#)

**Recommendation:** Approve an [agreement](#) between the City and Great Oaks Water Company, in the amount of \$3,600.00, for grant of a permanent easement over portions of the City-owned property identified as APN 678-02-035 and located at the southern most terminus of Basking Ridge Avenue, and authorize the Director of General Services to execute all documents necessary to implement the agreement. CEQA: Exempt, File No. PP09-212. (General Services)

### 2.7 [Agreement for the Happy Hollow Park & Zoo Pedestrian Bridge Rebid Project.](#)

**Recommendation:** Approve the second amendment to the [agreement](#) for design consultant services with HNTB Corporation for the Happy Hollow Park & Zoo Pedestrian Bridge Rebid Project, extending the term of the agreement from June 30, 2010 to December 31, 2010, and increasing the amount of compensation by \$50,000 for a total amount not to exceed \$799,000. CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April 2007. (Public Works)

### 2.8 [Workplan for the Rule 20A and Rule 20B \(In-Lieu Fee\) Underground Utility Program.](#)

**Recommendation:** Approve the proposed Fiscal Year 2009/10- 2014/15 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program. CEQA: Mitigated Negative Declaration, File No. PP08-257. (Public Works)

### 2.9 [Pedestrian and Bicycle Project Grants.](#)

**Recommendation:** Adopt a [resolution](#) authorizing the City Manager, or designee, to:

- (a) Submit a request to the Metropolitan Transportation Commission (MTC) for the allocation of Fiscal Year 2010-2011 Transportation Development Act, Article 3 (TDA3) State grant funding in the amount of \$379,423; and
- (b) Accept any grant funding from MTC and negotiate and execute any grant documents to effectuate the grant.

CEQA: Exempt, File No. PP08-186 and PP10-078. (Transportation)

### 2.10 [Bay Area Water Supply and Conservation Agency Re-appointment.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on May 5, 2010, extend the appointment of Mayor Reed to the Bay Area Water Supply and Conservation Agency's San Francisco Bay Area Regional Water System Financing Authority. (Mayor)

\* [Rules Committee referral 5/5/10 – Item A(1)(a)]

### 3. STRATEGIC SUPPORT SERVICES

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

#### 3.2 [Statement of Policy and Questions for Fire Chief.](#)

**Recommendation:** Adopt a Statement of Policy and City Council Questions related to the selection of a new fire Chief as described in this memo, in compliance with City Charter Section 411.1. CEQA: Not a Project. (City Manager's Office)

#### 3.3 [Business Tax Suspension Program.](#)

**Recommendation:**

- (a) Approve an [Ordinance](#) to provide for a temporary business tax suspension program targeted to the first 1,000 applications plus any additional eligible applications submitted by businesses with thirty-five (35) or fewer employees that enter into a new lease or renew an existing lease between January 1 - June 30, 2010 and pay past due obligations owed the City as described in the Ordinance.
- (b) Adoption of the following Funding Sources Resolution amendments in the General Fund:
  - (1) Increase the revenue estimate for Transfers and Reimbursements in the amount of \$406,250 to recognize a transfer from the Low and Moderate Income Housing Fund; and
  - (2) Decrease the revenue estimate for Licenses and Permits by \$406,250 to reflect the estimated loss of Business Tax revenue.
- (c) Adoption of the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Fund:
  - (1) Decrease the Reserve for the Loan Origination and Annual Monitoring Fee in the amount of \$406,250; and
  - (2) Establish a Transfer to the General Fund in the amount of \$406,250.

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

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 [Neglected Vacant or Abandoned Buildings Ordinance.](#)

**Recommendation:** Approve an [ordinance](#) amending Chapter 17.38, of Title 17 of the San José Municipal Code, to:

- (a) Change the title of the Chapter from "Neglected Vacant Houses" to "Maintenance and Rehabilitation of Neglected Vacant or Abandoned Buildings" and expand the provisions of the existing ordinance to include any neglected vacant or abandoned buildings;
- (b) Require all vacant or abandoned buildings to be rehabilitated within 180 calendar days after the building is vacant, unless the building meets certain maintenance or other requirements specified in the ordinance;

*(Item continued on the next page)*

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.1 Neglected Vacant or Abandoned Buildings Ordinance. (Cont'd.)**

**Recommendation:**

- (c) Require all vacant or abandoned historic buildings or structures listed on the National Register of Historic Places, California Register of Historic Resources, or City of San José Register of Historic Landmarks to install and maintain an operating alarm system approved by the City's Fire Marshal; and
- (d) Make other clarifying changes to the ordinance as described in the memorandum to Council.

CEQA: Exempt, File No. PP10-099. (Planning, Building and Code Enforcement)

\* **RECOMMEND DEFERRAL TO 5/18/10 PER ADMINISTRATION**

## **5. NEIGHBORHOOD SERVICES**

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### **5.1 Grant for the Summer Nutrition Collaborative.**

**Recommendation:** Adopt a resolution authorizing the City Manager to submit an application to the YMCA of Santa Clara Valley in an amount not to exceed \$1,500,000 to support the efforts of a Summer Nutrition Collaborative and to negotiate and execute a grant agreement accepting the grant and any collateral documents, and to execute amendments to the grant agreement to extend or modify the grant period or to accept additional grant funds up to twice the original amount under this grant. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

**RECOMMEND DEFERRAL TO 5/18/10 PER ADMINISTRATION**

## **6. TRANSPORTATION & AVIATION SERVICES**

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### **[Award of Contract for the 2010 Proposition 1B Street Resurfacing Project.](#)**

**Recommendation:** Report on bids and award of contract for the 2010 Proposition 1B Street Resurfacing Project to the low bidder Top Grade Construction Inc. in the amount of \$2,838,698, and approval of a 5% contingency in the amount of \$141,935. CEQA: Exempt, File No. PP06-066. (Transportation)

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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## **8. PUBLIC SAFETY SERVICES**

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## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

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- **Open Forum**

*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council, Redevelopment Agency Board, or the City of San José Financing Authority.*

- **Adjournment**

This meeting will be adjourned in memory of Wanda Daniel, Recreation Program Specialist, who passed away on April 2, 2010. Wanda's career spanned nearly 30 years in the Parks, Recreation and Neighborhood Services Department, providing recreation classes and senior services to the community.

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/  
FINANCING AUTHORITY AGENDA**

**1:30 P.M.**

**TUESDAY, MAY 11, 2010**

**CHAMBERS**

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**1. Call to Order and Roll Call**

**2. [Approval of the Issuance of Bonds, Loan of Bond Proceeds, Authorization of a Ground Lease, and Related Documents, for the Fourth Street Apartments Project. Supplemental – Memo from the Housing Department and the Finance Department](#)**

**\* Recommendation:**

- (a) Adopt a [resolution](#) of the City Council to:
- (1) Authorize the issuance of two series of tax-exempt multifamily housing revenue bonds designated as “City of San José Multifamily Housing Revenue Bonds (Fourth Street Apartments Project), Series 2010A-1” and , “City of San José Multifamily Housing Revenue Bonds (Fourth Street Apartments Project), Series 2010A-2” in a combined aggregate principal amount not to exceed \$26,775,000 (the “Bonds”);
  - (2) Approve a loan of Bond proceeds to Fourth Street Apartments, L.P. (the “Borrower”), a California limited partnership created by First Community Housing, Inc. (the “Developer”) to finance the construction of Fourth Street Apartments located at 1460 North Fourth Street in San José (the “Site”);
  - (3) Approve in substantially final form the [Trust Indenture](#), [Loan Agreement](#), [Supplemental Agreement](#) and Regulatory Agreement and Declaration of Restrictive [Covenants](#); and
  - (4) Authorize the City Manager, Assistant Director of Finance, Treasury Division Manager, Debt Administrator, and Director of Housing, or their designees, to execute and, as appropriate, to negotiate, execute and deliver these Bond documents and other related Bond documents as necessary.
- (b) Adopt a [resolution](#) of the City of San José Financing Authority Board to:
- (1) Authorize the Executive Director of the City of San José Financing Authority, or designee, to acquire the Site from the Borrower and negotiate and execute a Ground Lease of the Site back to the Borrower for a term of up to 75 years with an annual rent of \$1.00 for the first 65 years, to be increased at the time of full repayment of the City’s construction/permanent loan; and

*(Item continued on the next page)*

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/  
FINANCING AUTHORITY AGENDA  
(CONT'D.)**

**1:30 P.M.**

**TUESDAY, MAY 11, 2010**

**CHAMBERS**

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- 2. Approval of the Issuance of Bonds, Loan of Bond Proceeds, Authorization of a Ground Lease, and Related Documents, for the Fourth Street Apartments Project. (Cont'd.)**

**Recommendation:**

- (b) (2) Authorize the Executive Director of the City of San José Financing Authority, or designee:
- (a) To negotiate and execute an agreement with the City of San José related to the ground lease revenues from the Project and the ultimate disposition of the Project Improvements and the Site, and
  - (b) To negotiate and execute a Declaration of Restrictive Covenants for the Development and Operation of Affordable Housing, given to and on behalf of the California Department of Housing and Community Development (HCD), an agency of the State of California, and any other documents reasonably required by HCD.

CEQA: Addendum to Final EIR for the North San José Area Development Policy, Resolution No. 72768, File No. PCD06-022. (Finance/Housing)

- 3. Open Forum** (*to be heard with Open Forum for the City of San José and San José Redevelopment Agency Board*)
- 4. Adjourn the San José Financing Authority.**

## **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.