



CITY COUNCIL AGENDA

MARCH 15, 2011

AMENDED AGENDA

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

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

- **Call to Order and Roll Call**
 - 9:00 a.m. - Closed Session, Call to Order in Council Chambers
 - Open Session, Labor Negotiations Update (See Item 3.2)
 - Adjourn to Closed Session in Council Chambers Conference Room, W133
 - [See Separate Agenda](#) [See RDA Agenda](#)
 - 1:30 p.m. - Regular Session, Council Chambers, City Hall
 - 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 3)**
 - * Rev. Daryl L. Lavway, Grace Baptist Church

- **Pledge of Allegiance**

- **Orders of the Day**

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

**ITEM 9.1 IS TO BE CONSIDERED IN A JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY BOARD SESSION.**

Item 9.1, The Mayor's March Budget Message Hearing, will open and Council will hear public comment during the afternoon session. The item will be continued to the evening session for Council to hear additional public comment. To be heard first in the evening.

ADJOURNMENT: This meeting will be adjourned in memory of Arya V. Pathria, know affectionately as "Dr. Laugh" was a longtime San José resident and community activist. (Herrera)

- Orders of the Day (Cont'd.)

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 IMMEDIATELY FOLLOWING THE CONSENT CALENDAR**

- Closed Session Report

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation from Valley Christian High School and its students for their achievement in putting the first student-designed, automated and self-contained experiment on the International Space Station. (Pyle/Kalra)
 - 1.2 Presentation of a commendation to IBM in recognition of their 100 years of innovation and contributions to the City of San José and Silicon Valley. (Chu/Liccardo/Kalra)
 - 1.3 Presentation of a proclamation declaring the month of March 2011 as “Peace Corps Month” in the City of San José in honor of the organization’s 50th anniversary. (Mayor)
 - 1.4 Presentation of a commendation to Washington Camina Contigo for empowering parents to unite and make the Guadalupe-Washington neighborhood a safe and beautiful place to live. (Liccardo)
- * (Rules Committee referral 3/09/11)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) [Joint City Council/San José Financing Authority Minutes of October 5, 2010.](#)

2.2 Final adoption of ordinances.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of February 23, 2011.](#) (Mayor)
- (b) [Community and Economic Development Committee Report of February 28, 2011.](#) (Herrera)
- (c) [Rules and Open Government Committee Report of February 16, 2011.](#) (Mayor)
* [Deferred from 3/8/11 – Item 2.3(a)]
- (d) [Rules and Open Government Committee Report of February 9, 2011.](#) (Mayor)
* [Deferred from 3/1/11 – Item 2.3(d) and 3/8/11 – Item 2.3(c)]

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 [Grant Application for Edenvale Trail Project Feasibility Study.](#)

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

- (a) Authorizes the City Manager, or designee, to submit a grant application in an amount not to exceed \$200,000 to the State of California under the Community Based Transportation Planning grant program for the feasibility study of Edenvale Trail (“Project”);
- (b) Certifies that the City will have available the required local match of \$75,000 and any additional funds necessary to complete the Project prior to commencement of any work on the Project included in the application;
- (c) Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines for the Project;
- (d) Delegates the authority to the City Manager, or designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project; and
- (e) Authorizes the City Manager, or designee, to resubmit the grant application in subsequent years for the same amount and grant requirements described in this memorandum if the City is unsuccessful with the initial grant application.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15262, Planning and Feasibility Studies; File No. PP10-066(d). (Parks, Recreation and Neighborhood Services)

2.8 [Grant Application for Three Creeks Trail Master Plan.](#)

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

- (a) Authorizes the City Manager, or designee, to submit a grant application in an amount not to exceed \$300,000 to the State of California under the Community Based Transportation Planning grant program for the preparation of a Master Plan for the Three Creeks Trail (“Project”);

(Item continued on the next page)

2. CONSENT CALENDAR

2.8 Grant Application for Three Creeks Trail Master Plan. (Cont'd.)

Recommendation:

- (b) Certifies that the City will provide \$340,000 towards the Project;
- (c) Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines for the Project;
- (d) Delegates the authority to the City Manager, or designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project; and
- (e) Authorizes the City Manager, or designee, to resubmit the grant application in subsequent years for the same amount and grant requirements described in this memorandum if the City is unsuccessful in receiving a grant award with the initial grant application and to negotiate and execute any necessary documents to effectuate the grant.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15262, Planning and Feasibility Studies; File No. PP10-066(d). (Parks, Recreation and Neighborhood Services)

2.9 [Grant Application for the Development of an Urban Corridor Plan.](#)

Recommendation:

- (a) Support the application to Caltrans for its Community-Based Transportation Planning Grant.
- (b) Adopt a [resolution](#) authorizing all of the following actions:
 - (1) The Director of Planning, Building and Code Enforcement to file an application on behalf of the City of San Jose to compete for the Caltrans Community-Based Transportation Planning Grant in an amount not to exceed \$300,000 to develop an urban corridor plan for South Bascom Avenue and West San Carlos Street.
 - (2) The City Manager to negotiate and execute all contracts and related documents required for the acceptance of the grant by the City of San Jose, and as may be required by Caltrans for the completion of the grant funded project.

CEQA: Categorical Exemption, File No. PP10-066, Planning and feasibility studies per CEQA guidelines Section 15262. Council District 6. SNI: Burbank/Del Monte. (Planning, Building and Code Enforcement)

2.10 [Construction Contingency for the 2010 Proposition 1B Street Resurfacing Project.](#)

Recommendation: Approve an increase in the construction contingency for the 2010 Proposition 1B Street Resurfacing Project from five percent to ten percent, for an increase of \$141,935 to \$283,970. CEQA: Exempt, File No PP06-066. (Transportation)

2. CONSENT CALENDAR

2.11 [Amendment to the Agreement with Macias, Gini & O'Connell LLP to Provide Annual Financial and Compliance Audits.](#)

Recommendation: Approve a First Amendment to the [Agreement](#) for audit services with Macias, Gini, & O'Connell LLP to provide additional audit services to the Airport for CONRAC Facility Project Expenditures as of June 30, 2010, CFC Program Expenditures through June 30, 2011, and CFC Projected Revenue and Costs as of February 28, 2011, for a total one-time fee not to exceed \$69,230, and authorization for future years' audits for an annual fee not to exceed \$7,500, subject to annual compensation adjustments as stipulated in the agreement, and subject to annual appropriation of funds by the City Council for a total contract amount not to exceed \$2,725,511. (City Auditor)

* (Rules Committee referral 3/09/11)

2.12 [Sponsored Travel to the Osaka New Energy Forum, Osaka, Japan.](#)

Recommendation:

(a) Accept the invitation of the City of Osaka, Japan to send a City representative to the Osaka New Energy Forum in Osaka, Japan from March 20, 2011 to March 27, 2011.

(b) Approve Scott Green as the City's official representative to the Forum.

Source of Funds: The City of Osaka and Japan External Trade Organization. CEQA: Not a Project, File No. PP10-069, Administrative Activities. (Economic Development)

* (Rules Committee referral 3/09/11)

2.13 [Support of an Overlay Approach for the Creation of a New Area Code within the Current 408 Area Code.](#)

Recommendation: Adopt a [resolution](#) in support of an Overlay Approach (Alternative 1) for the creation of a new area code within the current 408 area code. CEQA: Not a project, File Number PP10-069 (a), Staff Reports/Assessments. (City Manager's Office/Information Technology Department)

* (Rules Committee referral 3/09/11)

2.14 [Fourth Annual Westfield Oakridge Winter Walk and Resource Fair for Seniors.](#)

Recommendation: As recommended by the Rules and Open Government Committee on March 9, 2011:

(a) Retroactively approve the Fourth Annual Westfield Oakridge Winter Walk and Resource Fair for Seniors as a City Council sponsored special event; and

(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (City Clerk)

* [Rules Committee referral 3/09/11 – Item H(3)]

3. STRATEGIC SUPPORT SERVICES

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

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.
TO BE HEARD AT 9:00 A.M.

3.3 [Statement of Policy and City Council Questions Related to the Selection of a New Director of Department of Transportation.](#)

Recommendation: Adopt a Statement of Policy and City Council Questions related to the selection of a new Director of Department of Transportation as described in the memorandum to Council, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

3.4 [Elections Commission Interviews.](#)

[Attachment – Memo from the City Attorney](#)

[Attachment – Memo from Code Enforcement](#)

Recommendation:

- (a) Interview applicants and appoint up to three (3) members of the Elections Commission for terms of office expiring March 1, 2015.
- (b) If less than three applicants are appointed, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.

(City Clerk)

Please note: Appointments to the Elections Commission require 8 or more affirmative votes (2/3).

* (Deferred from 3/8/11 – Item 3.4)

* **TO BE HEARD LAST IN THE AFTERNOON, NO EARLIER THAN 3:00 P.M.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Annual Progress Report on Housing Element.](#)

Recommendation: Accept the Annual Progress Report on the Implementation of the San Jose 2020 General Plan Housing Element covering the period from January 2010 through December 2010. (Housing/Planning, Building and Code Enforcement)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 9.1 IN A JOINT SESSION

9.1 [FY 2011-2012 Mayor's March Budget Message.](#)

Recommendation: Review and discuss the FY 2011-2012 Mayor's March Budget Message. (Mayor)

The Mayor's March Budget Message Hearing will open and Council will hear public comment during the afternoon session. The item will be continued to the evening session for Council to hear additional public comment. To be heard first in the evening.

- **Open Forum**
Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.
- **Continue RDA Board Meeting**
- **Council will recess until 7:00 p.m.**

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

(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.

Recommendation:

- (a) [Consideration of an ordinance conforming prezoning the real property located on the southwest corner of South Bascom Avenue and Maywood Avenue \(APNS: 282-10-073 & 074\) \(945 South Bascom Avenue\) from County to CP Commercial Pedestrian Zoning District to allow commercial uses on a 0.44 gross acre site \(Farakesh, Ali, Owner\). CEQA: San José 2020 General Plan EIR Resolution No. 65459. \[Ordinance C08-046\]\(#\) - District 6](#)

* **RECOMMEND CONTINUANCE TO 3/22/11 PER ADMINISTRATION**

- (b) [Consideration of an ordinance conforming rezoning the real property located on the east side of South Bascom Avenue, approximately 450 feet northerly of Fruitdale Avenue \(840 South Bascom Avenue\) from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses on a 0.37 gross acre site \(Jetco Properties LLC, Owner\). SNI: Burbank/Del Monte. CEQA: San José 2020 General Plan EIR Resolution No. 65459. \[Ordinance C10-024\]\(#\) - 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 or Redevelopment Agency Board.

- **Adjournment**

This meeting will be adjourned in memory of Arya V. Pathria, know affectionately as "Dr. Laugh" was a longtime San José resident and community activist. (Herrera)

JOINT COUNCIL/SAN JOSÉ FINANCING AUTHORITY

2. Authorization of Bond Financing for the Convention Center Project and changes to the Commercial Paper Program. (Cont'd.)

Recommendation:

- (a) (4) Adopt a [resolution](#) to approve and authorize the execution and delivery of a Third Amendment to the [Site Lease](#), a Third Amendment to the [Sublease](#), and other related actions pertaining to the City of San José Financing Authority's Lease Revenue Commercial Paper Program in order to provide for the substitution of certain components of the property under the Site Lease and the Sublease.
- (b) It is recommended that the City of San José Financing Authority Board take the following actions:
 - (1) Adopt a [resolution](#) to authorize the issuance of the City of San José Financing Authority Lease Revenue Bonds, Series 2011A (Convention Center Expansion and Renovation Project) ("Lease Revenue Bonds") in the not-to-exceed principal amount of \$50,000,000 and, together with the 2011 Hotel Tax Bonds, a not-to-exceed combined aggregate principal amount of \$150,000,000 and approve in substantially final form the Official Statement, Trust Agreement, Facility Lease, Site Lease, Continuing Disclosure Certificate, and Bond Purchase Agreement and authorize the Executive Director, or other authorized designees, to execute and deliver these documents and other related documents as necessary in connection with the issuance of the Lease Revenue Bonds.
 - (2) Adopt a [resolution](#) to approve and authorize the execution and delivery of a Third Amendment to the Site Lease, a Third Amendment to the Sublease, a Second Amendment to the [Memorandum of Assignment](#) and other related actions pertaining to the City of San José Financing Authority's Lease Revenue Commercial Paper Program in order to provide for the substitution of certain components of the property under the Site lease and the Sublease.

CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002. (Finance)

3. Open Forum

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.