



CITY COUNCIL AGENDA

MARCH 25, 2008

SYNOPSIS

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
JUDY CHIRCO
NANCY PYLE

DAVID D CORTESE, VICE MAYOR

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 on items that are not on the agenda during Open Forum. 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. Council Meetings are televised live and rebroadcast on Channel 26.

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
Absent Council Members: Williams. (Excused)

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Williams. (Excused)
- **Invocation (District 3)**
Reverend Nancy Palmer Jones, First Unitarian Church of San José presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a proclamation declaring the month of April as National Fair Housing Month. (Housing)
Mayor Reed and Director of Housing Leslye Krutko recognized the month of April 2008 as “National Fair Housing”.
- 1.2** Presentation of a commendation to Richard Chavez for his excellent efforts in working within the community and inspiring thousands of farm workers to fight for their human rights. (Cortese/Liccardo/Campos)
(Rules Committee referral 3/19/08)
Mayor Reed, Vice Mayor Cortese, Council Members Liccardo and Campos recognized and commended Richard Chavez for his outstanding encouragement and inspiration to the community members of San José.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Green Vision Study Session Minutes of February 1, 2008.
- (b) Regular Minutes of February 5, 2008.
- (c) Special San José Financing Authority Meeting Minutes of February 15, 2008.
(Deferred from 3/18/08 – Item 2.1)

Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28271 – Amending Title 14 of the San José Municipal Code, the Public Works and Improvements Code, to add a new Chapter 14.31 to set forth procedures for Community Benefit and Improvement Districts.

Ordinance No. 28271 adopted.

2.3 Office of the City Auditor's Report.

Recommendation: Acceptance of the Office of the City Auditor's *Report of Activities for the Period January 16 through February 15, 2008.* (City Auditor)

Report Accepted.

2.4 Extend the San José State University Pilot Homebuyer Program.

Recommendation:

- (a) Adoption of a resolution:
 - (1) Extending the San José State University (SJSU) Pilot Homebuyer Program through FY 2008-2009.
 - (2) Approving a new \$500,000 commitment to the SJSU Homebuyer Program in the Multi-Source Housing Fund (Fund 448).

Resolution No. 74297 adopted.

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund for FY 2007-2008.

- (1) Increase the SJSU Teacher Home Program appropriation by \$650,000.
- (2) Increase the Estimated Earned Revenue by \$650,000.

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

Ordinance No. 28279 adopted.

Resolution No. 74298 adopted.

2. CONSENT CALENDAR

2.5 Funding Commitment to provide Second Mortgages to the Works Development.

Recommendation: Adoption of a resolution approving a funding commitment of up to \$100,000 to provide second mortgages of up to \$50,000 each to low- or moderate-income households for the purchase of one of the remaining two affordable units at The Works Development, located at the corner of Patterson and South Third Streets in the Spartan Keyes Strong Neighborhood Initiative Area. CEQA: Not a Project. Council District 3. SNI: Spartan Keyes. (Housing)

Resolution No. 74299 adopted.

2.6 Report on bids and action related to the Curb Ramp Improvements to Low-to-Moderate Income Areas.

Recommendation: Acceptance of the staff report on bids and award of the contract for the 2007-2008 Curb Ramp Improvements in Low-to-Moderate Income Areas Project (Project) to the lowest responsive bidder, JJR Construction in the amount of \$474,533, and approval of a ten percent (10%) contingency in the amount of \$47,453, for a total contract amount of \$521,986. CEQA: Exempt, File No. PP05-212. Council Districts 3 and 5. SNI: East Valley 680/Mayfair/Delmas Park/Spartan-Keyes & Five Wounds-Brookwood Terrace. (Transportation)

Approved.

2.7 Excused Absence for Council Member Chirco.

Recommendation: Request for an excused absence for Council Member Chirco from the Regular Meeting of the Rules and Open Government Committee on March 5, 2008 due to illness. (Chirco)

(Rules Committee referral 3/12/08)

Excused.

2.8 Council Member Nguyen's Travel to Little Rock, Arkansas.

Recommendation: Approval of travel by Council Member Nguyen to Little Rock, Arkansas on April 22-24, 2008 to participate in the 2008 Young Elected Officials (YEO) Network National Conference. Source of Funds: The Young Elected Officials Network. (Nguyen)

(Rules Committee referral 3/12/08)

Approved.

2. CONSENT CALENDAR

2.9 Excused Absence for Council Member Williams.

Recommendation: Request for an excused absence for Council Member Williams from the Closed Session meeting of the City Council on March 11, 2008 due to Authorized City Business: Attendance at the San Francisco Bay Regional Water Quality Control Board meeting in Oakland, CA to discuss Municipal Regional Stormwater NPDES permits. (Williams)
(Rules Committee referral 3/12/08)

Excused.

2.10 Council Member Campos' Travel to Sacramento, CA.

Recommendation: Approval of travel by Council Member Campos to Sacramento, CA on April 17-18, 2008 to attend the League of California Cities Board of Director's Meeting. Council Member Campos is a League of California Cities Board Member. Source of Funds: Mayor/Council Travel Fund. (Campos)
(Rules Committee referral 3/19/08)

Approved.

2.11 Excused Absence for Council Member Williams.

Recommendation: Request for an excused absence for Council Member Williams from the Closed Session and Regular meeting of the City Council on March 25, 2008 due to Authorized City Business: Leading San José/Okayama, Japan's Sister City delegation to Okayama, Japan for the 50th anniversary celebration of the City of San José and Okayama, Japan's Sister City Relationship. (Williams)
(Rules Committee referral 3/19/08)

Excused.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that the City of San José received \$11 Million from the State (voter approved Proposition 1B funding) to be used towards City street resurfacing.

3.2 Report of the Rules and Open Government Committee Mayor Reed, Chair

(a) Report of the Rules and Open Government Committee of March 12, 2008
Deferred to 4/8/08 per City Clerk.

3. STRATEGIC SUPPORT SERVICES

- 3.3 Report of the Public Safety, Finance and Strategic Support Committee
Council Member Nguyen, Chair
No Report.**

- 3.4 Report on Team San José Conflict Issues.**

Recommendation:

- (a) Accept Report on potential conflict issues arising from overlapping executives and directors of Team San José and the San José Convention and Visitors Bureau.
- (b) Direct the administration and the Attorney's Office to negotiate contracts with each corporation that have clearly stated purposes and performance measures and that their separate funding sources not be commingled or used in a way that conflicted with the City goals for each.

(City Attorney's Office)

Deferred to 4/8/08 per City Attorney.

- 3.5 Campaign Contribution Ordinance regarding Employee Work on Political Campaigns.**

Recommendation: As recommended by the Elections Commission , approve an ordinance amending Section 12.06.050 of Chapter 12.06 of Title 12 of the San José Municipal Code (Campaign Contribution Ordinance) to provide that compensation in any amount by an employer to an employee who spends any compensated time rendering services for political purposes is a contribution or an expenditure if service is rendered at the request, direction, or with the consent of the employer and amending Section 12.06.250 to provide that except to the extent that Chapter 12.06 limits contributions by business entities, the provisions of the Political Reform Act shall apply. (City Attorney's Office)

Ordinance No. 28280 passed for publication.

- 3.6 2007 Community Survey Report.**

Recommendation: Acceptance of the 2007 Community Survey Report. CEQA: Not a Project. (City Manager's Office)

Deferred to 4/8/08 per Administration.

- 3.7 Ordinance regarding the Filing of Disclosure of Fundraising Reports.**

Recommendation: Approval of an ordinance that amends Section 12.16.040 of Chapter 12.16 of Title 12 of the San José Municipal Code to require that disclosure reports for fundraising solicitations be filed by elected City officials in accordance with the deadlines for campaign statements. (City Attorney's Office/City Clerk)

(Deferred from 3/18/08 – Item 3.4)

Ordinance No. 28281 passed for publication, as amended, with disclosure reports to be filed quarterly.

3. STRATEGIC SUPPORT SERVICES

3.8 Report on Request for Proposal for Security Guard Services for several City Departments.

Recommendation:

- (a) Report on Request for Proposal (RFP) for Security Guard services for the Departments of General Services, Transportation, Parks Recreation and Neighborhood Services, Aviation, and Office of Economic Development (Work2Future) and adoption of a resolution authorizing the Director of Finance to:
- (1) Execute an agreement with First Alarm Security & Patrol, Inc. for security guard services for a one year term and a not-to-exceed compensation of \$1,932,500.
 - (2) Execute amendments to the agreement to add and delete guard services as required subject to appropriation of funds.
 - (3) Exercise four one-year options to renew the agreement subject to annual appropriation of funds.

CEQA: Not a Project. (Finance)
(Deferred from 3/18/08 – Item 3.7)

Resolution No. 74302 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee Council Member Pyle, Chair No Report.

4.2 Public Hearing on the draft Consolidated Plan Annual Action Plan for Fiscal Year 2008-2009.

Recommendation: Conduct a Public Hearing on the draft Consolidated Plan Annual Action Plan for FY 2008-2009, which is required by the Department of Housing and Urban Development in order to receive federal Housing and Community Development Funding, and announce that as of March 25, 2008, the draft Action Plan is available to the public for thirty-days for review and comment. CEQA: Not a Project. (Housing)

The Public Hearing was held.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Approval of amendments to the Zoning and Sign Ordinances.

Recommendation: Consideration of an ordinance amending Chapter 20.100 of Title 20 (Zoning Ordinance) and Chapter 23.02 of Title 23 (Sign Ordinance) of the San José Municipal Code to provide for a development permit adjustment for minor work requiring Historic Preservation Permit Adjustments at City Landmark and Historic District sites and structures. CEQA: Not a Project. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). (Planning, Building and Code Enforcement)

Ordinance No. 28282 passed for publication.

4.4 Setting a new Fee Schedule for Tow Services Agreements.

Recommendation:

- (a) Adoption of a resolution superseding Resolution No. 71324 setting the new Fee Schedule for Tow Services agreements to be effective April 1, 2008, providing as follows:
- (1) The City of San José Tow Service charges will not exceed the maximum rates allowed under the 2007-2008 State of California Department of Highway Patrol Tow Services Agreement for the Golden Gate Region - San José Office of \$140 for Basic Tow Services and \$40 for Vehicle Storage.
 - (2) The contractual rates of compensation to the City will be:
 - (a) \$ 60.00 per tow
 - (b) \$ 6.00 per dispatch.

Resolution No. 74303 adopted.

- (b) Adoption of a resolution amending City Council Policy No. 9-08 setting forth revised criteria for the setting of future tow rates to provide that the City of San José Tow Service charges will not exceed the maximum annual rates set by the State of California Department of Highway Patrol Tow Services Agreement for the Golden Gate Region - San José Office.

CEQA: Not a Project. (Planning, Building and Code Enforcement)

Resolution No. 74304 adopted.

4.5 Acceptance of the Report on Measurable Improvement in the Development Permit Process.

Recommendation: Acceptance of the report regarding progress made towards measurable improvement in the development permit process. CEQA: Not a Project. (Planning, Building and Code Enforcement).

Heard first immediately following Consent Calendar.

Report accepted, with Staff requested to report back on status in 6 months to the Community and Economic Development Committee.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.6 Community Identification Signage bearing the name “Little Saigon” along Story Road.

Recommendation: As recommended by the Rules and Open Government Committee of March 19, 2008, and as outlined in the memo previously submitted to and approved by the Rules and Open Government Committee:

- (a) Adoption of a resolution amending Council Policy 9-3, which allows for private parties to fund the construction and installation of Community Signs, to create a streamlined process to permit the prompt installation of temporary Community Signs where the Council has previously made an explicit finding that a particular identifying name has “widespread support” in a relevant community. Any temporary signs will be required to comply with safety and other regulatory requirements imposed by the Department of Planning, Building and Code Enforcement, within their authority under the Sign Ordinance. Such temporary Community Signs will not be permitted to stand longer than 3 years, unless the sign complies with provisions for permanent Community Signs in Council Policy 9-3.

Resolution No. 74308 adopted.

- (b) In light of the City Council’s March 4, 2008 findings that the name “Little Saigon” has widespread support in the Vietnamese-American community, the City Manager will allow for private individuals to fund, construct, and install – relying wholly on private funds – a temporary Community Sign(s) bearing the name “Little Saigon” at or near the intersection of Story and McLaughlin Roads in accordance with Council Policy 9-3.
- (1) That sign or banner will not remain within or over the public right-of-way for a duration of greater than 3 years, and must comply with all reasonable safety and other regulatory requirements imposed by the Department of Planning, Building and Code Enforcement, within their authority under the Sign Ordinance.
- (2) Planning Staff will process whatever application is presented by private individuals seeking to construct a permanent Community Sign, in accordance with existing procedures in Council Policy 9-3.
- (c) In the meantime, City Staff will:
- (1) Conduct required outreach under Council Policy 9-3 and the Sign Ordinance for the permanent installation of such a Community Sign at or near that location; and,
- (2) Continue its work in creating and implementing a process to enable communities to identify and designate a particular district, consistent with the Council’s March 4, 2008 direction.

(Mayor/Cortese/Liccardo/Nguyen)

[Rules Committee referral 3/19/08 – Item (G)(1)]

Approved.

5. NEIGHBORHOOD SERVICES

- 5.1 Report of the Neighborhood Services and Education Committee – March 10, 2008**
Council Member Chirco, Chair
The Neighborhood Services and Education Committee Report and the
Actions of March 10, 2008 were accepted.

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Transportation and Environment Committee**
Council Member Williams, Chair
No Report.

- 6.2 Submission of a grant application to the Federal Aviation Administration.**

Recommendation: Adoption of a resolution authorizing the City Manager to apply for, accept, and execute any necessary documents upon receipt, grants from the Federal Aviation Administration in an amount not to exceed \$14.0 million to be used to partially defray the total estimated costs of \$17.3 million for the South Apron Replacement – Design and South Apron Replacement - Phase 1 Construction Projects at the Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, File No. PP08-029. (Airport)

Resolution No. 74305 adopted.

- 6.3 Amendment to the Airport Shuttle Bus Agreement.**

Recommendation: Adoption of a resolution authorizing the Director of Finance to execute the fourth amendment to the Agreement for the Lease and Maintenance of Airport Shuttle Buses with Penske Truck Leasing Co., L.P. to extend the term of the lease for an additional three month period, from April 1, 2008 to June 30, 2008, increasing total compensation by \$350,000 from \$16,497,145 to a not to exceed amount of \$16,847,145. CEQA: Not a Project. (Finance)

Resolution No. 74306 adopted.

6. TRANSPORTATION & AVIATION SERVICES

6.4 Approval of actions related to the Airport Commercial Paper Extension Program.

Recommendation:

- (a) Hold a Tax Equity and Fiscal Responsibility Act hearing for the expansion of the City's commercial paper note program from a maximum principal amount of \$450 million outstanding at any one time to a maximum principal amount of \$600 million outstanding at any one time and for the issuance as part of a plan of finance of one or more issues of commercial paper notes to finance and refinance costs of facilities and capitalized interest associated with the implementation of the Airport Master Plan at the Norman Y. Mineta San José International Airport, to refund the City's outstanding Airport Revenue Bonds, Series 2004A and Series 2004B previously issued to pay costs of such facilities and to refund or to pay debt service on other obligations of the City issued to pay such costs.

The TEFRA Hearing was held.

- (b) Adoption of a Resolution of the Council of the City of San José amending Resolution No. 69200, as amended, to increase from \$450 million to \$600 million the maximum principal amount of commercial paper notes that may be outstanding at any one time under Resolution No 69200, as amended; and to provide for the issuance of such notes to finance and refinance project costs and capitalized interest associated with implementing the Airport Master Plan at the Norman Y. Mineta San José International Airport, to refund the City's outstanding Airport Revenue Bonds, Series 2004A and Series 2004B and to refund or to pay debt service on other obligations of the City issued to pay such costs; and Delegating to the Director of Finance and to other Officers of the City authorization to establish terms and conditions for the issuance and payment of said Notes, and to take other necessary actions and to prepare, execute and deliver the necessary documents in connection therewith.

Resolution No. 74300 adopted.

- (c) Adoption of a Resolution authorizing the Director of Finance to negotiate and execute and deliver a Letter of Credit and Reimbursement Agreement with Lloyds TSB Bank plc, acting with its New York Branch, a First Amendment and Supplement to the Issuing and Paying Agent Agreement with Deutsche Bank Trust Company Americas and a Dealer Agreement with each of Citigroup Global Markets Inc., Lehman Brothers Inc. and Morgan Stanley & Co. Incorporated relating to the City's Subordinate Commercial Paper Notes for the Norman Y. Mineta San José International Airport; and other necessary documents in connection therewith; and delegating authority to the Director of Finance and to other officers of the City to establish terms and conditions relating thereto.

CEQA: Not a Project. (Finance)

Heard immediately following Item 4.5.

Resolution No. 74301 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Consultant master agreements for various Capital Improvement Projects at the Water Pollution Control Plant.

Recommendation:

- (a) Approval of consultant master agreements with the following firms for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant for a term commencing upon approval of the agreement and continuing through June 30, 2013 and for the amounts stated below, and providing the City with options to amend the agreements to increase the amounts payable in such amounts as may be approved by Council:
- (1) Black & Veatch in an amount not to exceed \$1 million.
 - (2) Brown and Caldwell in an amount not to exceed \$5 million.
 - (3) Carollo Engineers in an amount not to exceed \$1 million.
 - (4) CH2M HILL in an amount not to exceed \$1 million.
 - (5) Metcalf & Eddy in an amount not to exceed \$1 million.

CEQA: Not a Project. (Environmental Services)

Approved.

8. PUBLIC SAFETY SERVICES

8.1 Report on bids and award of contract for the Police Communication Building Telecom Cabling Upgrades.

Recommendation: Report on bids and award of a design-build contract for the Police Administration Building and Police Communications Building Telecom Cabling Upgrades to the low bidder, SASCO Data Corporation, for the base bid and an Add Alternate in the total amount of \$1,383,797, and approval of a contingency in the amount of \$210,000. CEQA: Exempt, File No. PP07-275. (Public Works/Police/Fire)

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **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>
9968	South side of Rose Avenue, 120 feet east of Nancy Lane	5	Capital Towne House Cooperative, Inc.	8 Lots / 82 Units	Apartment Conversion to Condos	Approve

- **Notice of City Engineer’s Award of Construction Projects**
None.

- **Open Forum**

(1) **Mark Trout expressed religious viewpoints and concerns regarding the medical health of veterans.**

- **Adjournment**

The Council of the City of San José was adjourned at 5:48 p.m.

8. JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 3:59 p.m. to consider Item 8.1 in a Joint Session.

8.1 Approval of an amendment to the OPA with Pacific Properties III for the Sainte Claire Building.

Recommendations:

- (a) Approval by the Redevelopment Agency Board of an amendment to the Owner Participation Agreement (OPA) with Pacific Properties III, to provide additional Agency assistance in the amount of \$100,000 for total Agency assistance under the OPA not to exceed \$3,100,000, for work to be performed by PG&E to improve electrical service for the St. Claire building and for City-owned streetlights in the SoFA District; and,

Approved.

- (b) Adoption of a resolution by the City Council making certain findings required under Health and Safety Code Section 33445.

CEQA: Exempt, File No. PP07-115. [MERGED]

Resolution No. 74307 adopted.

The Council of the City of San José and Redevelopment Agency Board adjourned at 4:00 p.m.