



CITY COUNCIL AGENDA

SEPTEMBER 16, 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
DAVID D CORTESE, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

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

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

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

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

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

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

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

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. 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.

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**
9:31 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Campos. (Excused)

1:31 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Campos. (Excused)

7:00 p.m. - Employment Lands Study Session
Canceled.
- **Invocation (District 8)**
The Center for Spiritual Enlightenment presented prayers for 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, with Items 3.2 and 3.5 deferred to 9/23/08.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

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

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none.
- 2.2 **Final adoption of ordinances.**
There were none.

2. CONSENT CALENDAR

2.3 Approve Travel for Independent Police Auditor.

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

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

(Independent Police Auditor)

(Deferred from 8/26/08 – Item 2.9)

Approved.

Independent Police Auditor directed to provide a report on the travel via memorandum upon return.

Noes: Constant, Oliverio; Reed.

2.4 California Integrated Waste Management Board Household Hazardous Waste Grant Application.

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

Resolution No. 74581 adopted.

2.5 Donation of City Owned Property to the County of Santa Clara.

Recommendation: Adopt a resolution to:

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

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

Resolution No. 74582 adopted.

2. CONSENT CALENDAR

2.6 Amendment to an Agreement for Architectural Consultant Services for the East San José Carnegie Branch Library Project.

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

Approved.

2.7 Coyote Creek Trail Project from Los Lagos Golf Course to Tully Road.

Recommendation:

(a) Report on bids and award of a contract for the Coyote Creek Trail project (Los Lagos Golf Course to Tully Road) to the low bidder, Grade Tech, Inc., in the amount of \$739,000, and approval of a contingency in the amount of \$147,800.

Approved.

(b) Adopt a resolution incorporating environmental mitigation measures set forth in the Mitigation Monitoring and Reporting program for the project.

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

Resolution No. 74583 adopted.

2.8 Amendment to Agreement for Landscaping Architectural Services for the Roosevelt Skate Park.

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

Approved.

2.9 Contract for the Gary Albertson Parkway.

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

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)
City Manager Debra Figone provided an update on the State budget, the City's investment policy and introduced the new Chief Information Officer, Steve Ferguson.

3.2 Report of the Rules and Open Government Committee – September 3, 2008
Mayor Reed, Chair
Deferred to 9/23/08 per Orders of the Day.

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

3.4 Response to the Civil Grand Jury Report titled San José Finance Department Practices Cost Taxpayers Money.

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

3.5 Report of the Rules and Open Government Committee – August 27, 2008
Mayor Reed, Chair
Deferred to 9/23/08 per Orders of the Day.

3.6 Resolution Promoting Health Awareness.

Recommendation: As referred by the Rules and Open Government Committee of August 20, 2008, consider the adoption of a resolution promoting health awareness and recognizing that the City Council is empowered to encourage and be a role model for fitness, physical activity, nutrition and wellness to the residents and employees of the City of San José. (Williams)
[Rules Committee referral 8/20/08 – Item g(3)]
(Deferred from 9/9/08 – Item 3.7)
Resolution No. 74585 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Consolidated Annual Performance Evaluation Report FY 2007-2008.

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

Approved.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee Council Member Chirco, Chair

No Report.

5.2 Renaming of Lundy Post Office.

Recommendation: As referred by the Rules and Open Government Committee of August 20, 2008, consider the adoption of a resolution in support of renaming the Main Post Office on Lundy Avenue as the “Gordon N. Chan Post Office”. (Chu)

[Rules Committee referral 8/20/08 – Item G(1)]

Heard immediately following Consent Calendar.

Resolution No. 74584 adopted, as amended, to include the option of the name “Gordon N. and Anita Chan Post Office”.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee Council Member Williams, Chair.

No Report.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Actions Related to Security Guard Services for the Water Pollution Control Plant.

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

- (a) Execute an agreement with First Alarm Security & Patrol, Inc. (Aptos, CA) for security guard services for a one-year term and a maximum compensation not to exceed \$188,130.

(Continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Actions Related to Security Guard Services for the Water Pollution Control Plant (Cont'd.)

- (b) Execute amendments to the agreement to add and delete guard services as required subject to appropriation of funds.

Resolution No. 74586 adopted.

Staff directed to have discussions within the next 12 month with Treatment Plant Advisory Committee (TPAC) partner cities and seek approval for living wage; and return to Council with modifications to the living wage ordinance. If applicable, rebid the security guard contract with a living wage requirement.

Noes: Constant, Oliverio.

- (c) Exercise four one-year options to extend the agreement subject to annual appropriation of funds.

CEQA: Not a Project. (Finance)

Not Accepted.

Noes: Constant, Oliverio.

7.2 Public Hearing to Establish a Rule 20A Underground Utility District along Aborn Road.

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

Ordinance No. 28401 passed for publication.

Staff requested to work with Council District 8 Office regarding future mitigation options for trees located along Aborn Road.

7.3 Redesign of the Commercial Solid Waste Franchise.

Recommendations:

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

CEQA: Not a Project. (Environmental Services)

[Transportation and Environment Committee – Item (c)]

(Deferred from 9/9/08 – Item 7.1)

(Action continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.3 Redesign of the Commercial Solid Waste Franchise (Cont'd.)

Approved, as amended, the memorandum from Council Member Chu, dated September 16, 2008, was approved with the following modifications:

- (1) The commercial solid waste collection request for proposals to include the City's Prevailing Wages and Benefits policy for all employees of the material processing plant and hauler collection.
- (2) The commercial solid waste collection request for proposals to include the City's Employee Retention Requirements for employees of the material processing plant and hauler collection.
- (3) The commercial solid waste collection request for proposals to include technical assistance for businesses as part of the service provided; and,

The City Attorney was directed to analyze the changes and to report back to the Transportation and Environment Committee in December.

8. PUBLIC SAFETY SERVICES

8.1 Firefighter Highrise Elevator Ordinance.

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

Dropped.

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>
9995	Terminus of Duckett Wy approximately 420' E of De Anza Blvd.	1	Green Valley Corporation	3 Lots/ 17 Units	SFA/ Detached	Approve

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

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

AWARD:

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

- **Open Forum**

There were none presented.

- **Adjournment**

The Council of the City of San José was adjourned at 4:25 p.m. in memory of Jeanne Haight Reeves who worked at the City of San José as Claims Adjuster for over 13 years. She lost her battle to cancer on September 7, 2008. She had many friends and family in the City of San José and loved her job working with firefighters, police officers and other City employees.