



CITY COUNCIL AGENDA

NOVEMBER 4, 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**
9:00 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Campos, Cortese. (Excused)

1:31 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Campos, Cortese. (Excused)
- **Invocation (District 10)**
The Presentation of the Colors was made by District 13 American Legion Color Guard. The winner of the Almaden Valley Teen Idol contest, Lauren Colvin, sang America the Beautiful.
- **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 Item 3.3 deferred to 11/18/08 and Ceremonial Item 1.1 added at the request of Council Member Constant.
- **Closed Session Report**
None.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Second Harvest Food Bank and Generations Community Wellness with the presentation of a check for \$500 to aid in hunger relief efforts. (Mayor/Constant/Nguyen)

Mayor Reed and Council Members Constant and Nguyen recognized and commended Second Harvest Food Bank and Generations Community Wellness for their dedication and commitment to the community.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of August 19, 2008
- (b) Regular Minutes of August 26, 2008
- (c) Regular Minutes of August 5, 2008
(Deferred from 10/28/08 – Item 2.1(a))
- (d) Regular Minutes of August 12, 2008
(Deferred from 10/28/08 – Item 2.1(b))

Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28427 – Rezoning certain real property situated on the northwest corner of Tully Road and Kenesta Way (1935 Tully Road) to CN Commercial Neighborhood Zoning District. C07-099
Ordinance No. 28427 adopted.
- (b) ORD. NO. 28428 – Rezoning certain real property situated on the south side of Blossom Hill Road, approximately 300 feet westerly of Snell Avenue to CN Commercial Neighborhood Zoning District. C08-028
Ordinance No. 28428 adopted.
- (c) ORD. NO. 28431 – Amending Chapter 4.76 of Title 4 of the San José Municipal Code by amending Sections 4.76.240 and 4.76.270 to clarify the due date for the initial payment of the business tax and to revise the due date for subsequent payments of the business tax to correspond with the City’s new business tax billing system and by amending Section 4.76.290 to clarify the penalty provisions for late payment and by adding a new Section 4.76.295 to authorize the Director of Finance to waive penalties under certain circumstances; and to provide that the current business tax due dates will apply until such time as the new billing system is successfully implemented.
Ordinance No. 28431 adopted.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (d) ORD. NO. 28436 – Rezoning certain real property situated on the west side of Coleman Avenue between Newhall Street and Brokaw Road from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC08-050

Ordinance No. 28436 adopted.

Recommendation: Re-adoption of ordinances:

- (e) ORD. NO. 28419 – Amending Section 7.20.520 of Chapter 7.20 of Title 7 of the San José Municipal Code to allow residents who obtained a cat or dog license from another jurisdiction and are annexed into the City to transfer the remainder of the license period.

Ordinance No. 28419 adopted.

- (f) ORD. NO. 28420 – Rezoning certain real property situated on the east side of Saratoga Avenue, 300 feet southerly of Los Felice Drive to CO Commercial Office Zoning District. C08-041

Ordinance No. 28420 adopted.

- (g) ORD. NO. 28421 – Rezoning certain real property situated on the west side of Piedmont Road approximately 220 feet north of Suncrest Avenue to A(PD) Planned Development Zoning District. PDC07-021

Ordinance No. 28421 adopted.

- (h) ORD. NO. 28423 – Rezoning certain real property situated at the east side of Entrada Cedros, approximately 200 feet south of Giuffrida Avenue to A(PD) Planned Development Zoning District. PDC07-012

Ordinance No. 28423 adopted.

2.3 Proposed Policy Revisions Governing Guidelines for the Office of Cultural Affairs Granting Programs.

Recommendation: Accept the proposed policy revisions governing grants made through the Office of Cultural Affairs. CEQA: Not a Project. (Economic Development)

Accepted.

2. CONSENT CALENDAR

2.4 Actions for the 2008-2009 Next Generation “Click It or Ticket” Grant.

Recommendation: Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

- (a) Establish an appropriation to the Police Department for the 2008-2009 Next Generation “Click It or Ticket” Grant in the amount of \$45,054;
 - (b) Increase the Earned Revenue Estimate from the State of California by \$45,054.
- CEQA: Not a Project. (Police/City Manager’s Office)

Ordinance No. 28440 adopted.

Resolution No. 74653 adopted.

2.5 Fiscal Actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2008-2009:

- (1) Increase the estimate for Earned Revenue by \$272,055.
- (2) Establish the appropriation to the Office of Economic Development for the Spartan Keyes Public Art Project (PSM 549) in the amount of \$100,000.
- (3) Establish the appropriation to the Department of Transportation for the South First Street Demonstration Project (PSM 551) in the amount of \$25,055.
- (4) Establish the appropriation to the Department of Public Works for the Improvement District 99-218SJ Deferral of Assessment FY08-09 (PSM 552) in the amount of \$147,000.

Ordinance No. 28441 adopted.

Resolution No. 74654 adopted.

- (b) Adopt resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:

- (1) The Spartan Keyes Public Art Project as more specifically described in the memorandum from the Redevelopment Agency, dated August 7, 2008.
- (2) The South First Street Demonstration Project as more specifically described in the memorandum from the Redevelopment Agency, dated August 22, 2008.

Resolution No. 74656 adopted.

Resolution No. 74657 adopted.

CEQA: Spartan Keyes Public Art Project: Not a Project; South First Street Demonstration Project: Resolution No. 72767, File No. PP08-119; Improvement District 99-218 SJ Deferral of Assessment FY08-09 Project: Not a Project. Council Districts 2, 3 and 7. (Public Works/Transportation/Economic Development/City Manager’s Office)

2. CONSENT CALENDAR

2.6 Actions Related to Councilmember Liccardo's Travel Out of State.

Recommendation:

- (a) Designate Councilmember Liccardo as the City's representative to the CEOs for Cities meeting on November 5-7, 2008.
 - (b) Approve travel by Councilmember Liccardo to Chicago, IL on November 5-7, 2008 to represent the City at the CEOs for Cities meeting regarding a national urban agenda. Source of Funds: Mayor/Council Travel Fund. (Liccardo)
- (Rules Committee referral 10/22/08)

Approved.

2.7 Redevelopment Agency Executive Director's Travel Out of State.

Recommendation: Approve travel by Redevelopment Agency Executive Director Harry Mavrogenes to Orlando, FL on November 11-16, 2008 to participate in the National League of Cities 2008 Congress of Cities and expositions (SNI Award). Source of Funds: Redevelopment Agency. (Redevelopment Agency)

(Rules Committee referral 10/22/08)

Approved.

2.8 Work2Future Board Nomination.

Recommendation: Approve the appointment of David Mills, Program Director of the John S. and James L. Knight Foundation, to serve as a private sector representative on the Work2Future Board of Directors. (Mayor)

[Rules Committee referral 10/29/08 – Item F(1)]

Approved.

2.9 Reappointment to the Civil Service Commission.

Recommendation: Extend the term of Civil Service Commission Member and Vice Chair Sharon Hightower for up to one year, expiring on or before December 1, 2009. (City Clerk)

[Rules Committee referral 10/29/08 – Item F(2)]

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone presented an overview of the General Fund fiscal condition and the economy's impact on our revenue projections.

3.2 Report of the Special Rules and Open Government Committee – October 14, 2008 Mayor Reed, Chair

Report Accepted.

3. STRATEGIC SUPPORT SERVICES

3.3 Report of the Rules and Open Government Committee – October 15, 2008
Mayor Reed, Chair
Deferred to 11/18/08 per Orders of the Day.

3.4 Report of the Rules and Open Government Committee – October 22, 2008
Mayor Reed, Chair
Deferred to 11/18/08 per City Clerk.

3.5 Report of the Public Safety, Finance and Strategic Support Committee
Councilmember Nguyen, Chair
No Report.

3.6 Calling for a Special Recall Election.

Recommendation: Adopt a resolution calling for a Special Recall Election on March 3, 2009. (City Clerk)

Resolution No. 74658 adopted.

Noes: Williams.

3.7 Council Policy entitled “Donation of Surplus Property.”

Recommendation: Adopt a resolution approving a formal Council Policy entitled “Donation of Surplus Personal Property.” CEQA: Not a Project. (Finance)

Deferred to 11/18/08 per Administration.

3.8 Report of the Rules and Open Government Committee – October 1, 2008
Mayor Reed, Chair
Report Accepted.

3.9 Report of the Rules and Open Government Committee – October 8, 2008
Mayor Reed, Chair
Report Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

5. NEIGHBORHOOD SERVICES

- 5.1 Report of the Neighborhood Services and Education Committee
Councilmember Chirco, Chair
No Report.**

6. TRANSPORTATION & AVIATION SERVICES

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

- 6.2 Airport Living Wage.**

Recommendation: Adopt the following 2008-2009 appropriation ordinance amendments in the Airport Maintenance and Operation Fund (523):

- (a) Increase the Personal Services appropriation in the Public Works Department in the amount of \$166,930.
- (b) Increase the Non-Personal/Equipment appropriation in the Public Works Department in the amount of \$22,483.
- (c) Increase the Overhead appropriation in the amount of \$29,587.
- (d) Decrease the Contingency Reserve in the Airport in the amount of \$219,000. (Airport/Public Works/City Manager's Office)

Deferred to 11/18/08 per Administration.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

- 8.1 Actions Related to the South San José Police Substation Construction Contract.**

Recommendation: Adopt a resolution authorizing the Director of Public Works to negotiate and execute individual contract change orders in excess of \$100,000 up to a combined amount not to exceed \$1,500,000 for the work specified in the memorandum for the South San José Police Substation construction contract with S. J. Amoroso Construction Co., Inc. (SJA). CEQA: Mitigated Negative Declaration, PP04-304. (Public Works)

Resolution No. 74660 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Notice of City Engineer's Pending Decision on Final Maps
- Notice of City Engineer's Award of Construction Projects
- Open Forum
Ross Signorino offered his congratulations to the Council and Redevelopment Agency for their success in selling bonds during these financially difficult times.
- Adjournment
The Council of the City of San José adjourned at 2:57 p.m.