



CITY COUNCIL AGENDA

FEBRUARY 3, 2009

SYNOPSIS

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

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.

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: None.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 2)**
Father Jon Pedigo of St. Julie's Church offered 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 Item 3.3 deferred to 2/10/09.
- **Closed Session Report**
City Attorney Doyle disclosed the following Closed Session actions of February 3, 2009:

Authority to initiate litigation was given in two (2) matters. The names of the action(s) and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action(s) is/are formally commenced.

Council Vote: Ayes: Campos, Chirco, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle, Reed.

Noes: None.
Disqualified: None.
Absent: None.
Vacant: None.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to FIRST 5 of Santa Clara County Executive Director, Jolene Smith. (Chirco)
(Rules Committee referral 01/28/09)
Mayor Reed and Vice Mayor Chirco recognized and commended FIRST 5 of Santa Clara County Executive Director, Jolene Smith, and Early Care And Education Commission Member, Corazon Tomalinas, for their significant contributions to the City of San José.
- 1.2 Presentation of a proclamation declaring February 6th, 2009 as “National Wear Red Day” in the City of San José. (Campos/Kalra)
(Orders of the Day)
Mayor Reed and Council Members Campos and Kalra recognized February 6th, 2009 as “National Wear Red Day” in the City of San José.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None.
- 2.2 **Final adoption of ordinances.**
None.
- 2.3 **Amend agreement with Engineering Economics, Inc. for the Airport.**

Recommendation: Approve a continuation and third amendment to the agreement with Engineering Economics, Inc., for consultant services for quality assurance commissioning of the planned North Concourse project and Central Plant Expansion project at the Norman Y. Mineta San José International Airport, to increase compensation by \$30,000 from \$224,062 for a total maximum compensation not to exceed \$254,062, and to extend the term January 1, 2009 through December 31, 2009. CEQA: Resolution Nos. 67380 and 71451, PP 08-0260. (Airport)

Approved.

2. CONSENT CALENDAR

2.4 Actions related to Airport Concession Disadvantaged Business Enterprise Program.

Recommendation: Adopt a resolution to:

- (a) Approve the City of San José three-year Airport Concession Disadvantaged Business Enterprise (ACDBE) participation plan update in accordance with the regulations of the United States Department of Transportation (USDOT);
- (b) Approve the three-year ACDBE participation target of 9.61% for all Airport concessions, other than car rentals, for the City's fiscal years 2009 through 2011;
- (c) Approve the determination that it is not feasible to establish a Market Area or a three-year ACDBE participation target for car rental concessions for the City's fiscal years 2009 through 2011 at this time; and
- (d) Authorize the City Manager, or her designee, to make revisions and/or submit revisions of the three-year ACDBE participation plan update to the Federal Aviation Administration (FAA) that are necessary to comply with applicable federal regulations and to achieve the objectives of the program.

CEQA: Resolution Nos. 67380 and 71451, PP 08-190. (Airport)

Resolution No. 74777 adopted.

2.5 Preparation for hosting the ICMA 2010 Annual Conference.

Recommendation: Adopt a resolution of support for Administration activities necessary to coordinate the planning and hosting of the International City/County Management Association (ICMA) 2010 Annual Conference. CEQA: Not a Project. (City Manager's Office)

Resolution No. 74778 adopted.

2.6 Amend agreement with GlobalFluency for public relations services.

Recommendation:

- (a) Approve a continuation and second amendment to the agreement with GlobalFluency, Inc., for national and international public relations services, extending the term from January 1, 2009 through August 31, 2009, and increasing compensation by \$100,000, of which \$33,000 will be provided from the San José convention and Visitors Bureau through a separate contribution agreement, for a total contract amount of \$450,000.

Approved.

Noes: Campos.

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

- (1) Increase the appropriation to the Office of Economic Development for Non-Personal/Equipment by \$33,000; and
- (2) Increase the estimate for Other Revenue by \$33,000.

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

Ordinance No. 28488 adopted.

Resolution No. 74773 adopted.

Noes: Campos.

2. CONSENT CALENDAR

2.7 Agreement for parking access and revenue control system for downtown garages.

Recommendation:

- (a) Adopt a resolution authorizing the Director of Finance to:
 - (1) Execute an agreement with Scheidt and Bachmann USA Inc., for the purchase of a Parking Access and Revenue Control System (PARCS) for the 2nd/San Carlos Garage, and upgrade existing PARCS systems at six City garages and one Redevelopment Agency garage, for a total cost of \$675,148 including all equipment, software, delivery, installation, training, sales tax, and first year of maintenance.
 - (2) Execute change orders in an amount not to exceed a \$67,500 contingency to cover unanticipated changes in the system design and/or installation.
 - (3) Exercise four one-year options for ongoing maintenance and support.

Resolution No. 74779 adopted.

- (b) Adopt the following Appropriation Ordinance amendments in the General Purpose Parking Fund:
 - (1) Increase the appropriation to the Department of Transportation for the Revenue Control Upgrade project by \$28,648.
 - (2) Decrease the Ending Fund Balance by \$28,648.

CEQA: Resolution No. 10947. Council District 3. (Finance/City Manager's Office)
Ordinance No. 28489 adopted.

2.8 Amend the agreement for the San Antonio Tot Lot.

Recommendation:

- (a) Approve a second amendment to Turnkey Parkland Agreement for Tentative Map No. PT04-125 between the City and DKB Homes, LLC, to defer completion of the park improvements relating to the San Antonio Tot Lot from December 30, 2008 to June 30, 2009.

Approved.

- (b) Adopt a resolution authorizing the City Manager to negotiate and execute a third amendment to the Turnkey Parkland Agreement for Tentative Map No. PT04-125 between the City and DKB Homes LLC to defer completion of the park improvements relating to the San Antonio Tot Lot from June 30, 2009 to December 30, 2009, in the event that additional time is required to complete the park improvements.

CEQA: Mitigated Negative Declaration, File No. PP08-134. Council District 5. (Parks, Recreation and Neighborhood Services)

Resolution No. 74780 adopted.

2. CONSENT CALENDAR

2.9 Fiscal actions related to Super Urban Area Security Initiative Grant.

Recommendation:

- (a) Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund:
- (1) Increase the existing city-wide appropriation to the Police Department for the 2007 Super Urban Area Security Initiative (SUASI) – Police Grant in the amount of \$238,659;
 - (2) Increase the Earned Revenue Estimate from the Federal Government by \$238,659;
 - (3) Decrease the existing Police Department Non-Personal/Equipment appropriation in the amount of \$22,000.
 - (4) Decrease the Earned Revenue Estimate from Local Agencies by \$22,000.

Ordinance No. 28490 adopted.

Resolution No. 74774 adopted.

- (b) Adopt a resolution authorizing the City Manager to execute a first amendment to the existing Memorandum of Understanding (MOU) with the City and County of San Francisco to provide an additional \$238,659 from the FY 2007 UASI grant, and to execute additional amendments as needed.

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

Resolution No. 74781 adopted.

2.10 Agreement for Water Facilities for Seven Trees Community Center and Branch Library.

Recommendation:

- (a) Approve an agreement with the San José Water Company for installation of water facilities to serve the new Seven Trees Community Center and Branch Library project, in the amount of \$386,960.

Approved.

- (b) Adopt a resolution delegating authority to the City Manager to negotiate and execute an agreement for the conveyance of a permanent easement to the San José Water Company for the above water facilities installation, and authorizing the Director of Public Works to execute all documents necessary to convey the easement and complete the transaction.

CEQA: Mitigated Negative Declaration, File No. PP06-175. Resolution approved by Council on September 11, 2007. Council District 7. (Public Works)

Resolution No. 74782 adopted.

2. CONSENT CALENDAR

2.11 Fiscal actions for Redevelopment Agency Capital Projects.

Recommendation: 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:

- (a) Increase the estimate for Earned Revenue by \$554,611.
- (b) Increase the appropriation to the Department of Public Works for the Winchester Boulevard Signal Modification and Countdown Head Installation Project (PSM 477 Amendment #1) in the amount of \$539,611.
- (c) Increase the appropriation to the Department of Transportation for the Spartan Keyes Sidewalk Improvement Project (PSM 547 Amendment #1) in the amount of \$15,000.

CEQA: Winchester Boulevard Signal Modification and Countdown Head Installation Project: Exempt, File No. PP06-210, PP06-171; Spartan Keyes Sidewalk Improvement Project: Exempt, File No. PP06-105. Council Districts 1, 6 and 7. SNI: Winchester, Spartan Keyes. (Public Works/Transportation/City Manager's Office)

Ordinance No. 28491 adopted.

Resolution No. 74775 adopted.

2.12 Contract for the ADA Accessibility Ramps for the Citywide and Resurfacing Project 2009.

Recommendation: Report on bids and award of contract for the "ADA Accessibility Ramps for the Citywide and Resurfacing Project 2009" to the lowest bidder of SpenCon Construction and approval of a contract amount of \$796,653.50, plus a contingency in the amount of \$79,665 for a total contract amount of \$876,318.50. CEQA: Exempt, File No. PP08-186. Council Districts 1, 2, 4, 5, 6, 7, 8, 9 and 10. (Transportation)

Accepted.

2.13 Excused absence for Vice Mayor Chirco.

Recommendation: Request for an excused absence for Vice Mayor Chirco from the Special Council Meeting of January 20, 2009 due to a medical appointment. (Chirco) (Rules Committee referral 01/21/09)

Excused.

2.14 Retroactive Appointment of Robert Leininger to the Measure "A" Independent Citizens' Oversight Committee.

Recommendation: Approve retroactive appointment to February 2, 2009 of Robert Leininger to serve on the County of Santa Clara's Measure "A" Independent Citizens' Oversight Committee, which will review the expenditure of proceeds for the Hospital Seismic Safety and Medical Facilities ("Measure A") General Obligation Bonds. CEQA: Not a Project. (Economic Development) (Deferred from 1/27/09 – Item 2.5)

Approved.

2. CONSENT CALENDAR

2.15 Excused absence for Vice Mayor Chirco.

Recommendation: Request for excused absences for Vice Mayor Chirco due to illness/surgery from the following meetings:

- (a) Regular Meetings of the Rules and Open Government Committee of February 4, 11 and 18, 2009; and
- (b) Regular Meeting of the City Council on February 10, 2009; and
- (d) Regular Meeting of the Neighborhood Services & Education Committee on February 12, 2009; and
- (c) Study Session Meeting of the City Council on the Green Vision on February 17, 2009. (Chirco)
(Rules Committee referral 01/28/09)

Excused.

2.16 Excused absence for Councilmember Constant.

Recommendation: Request for an excused absence for Councilmember Constant from the Joint City Council/Redevelopment Agency San Pedro Square Study Session on January 20, 2009 due to illness. (Constant)

(Rules Committee referral 01/28/09)

Excused.

2.17 City Clerk's travel to Burlingame, CA.

Recommendation: Approve travel for City Clerk Lee Price to Burlingame, CA on February 4-6, 2009 to provide training services at the Master Municipal Clerk Academy.

Source of Funds: Continuing Education or Public Officials. (City Clerk)

(Rules Committee referral 01/28/09)

Approved.

3. STRATEGIC SUPPORT SERVICES

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

The City Manager reported on publication of the Mid-Year Budget Report, announcing that it will be fully reported on at the February 10, 2009 Council meeting.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – January 14, 2009
Mayor Reed, Chair
Accepted.

3.3 Report of the Rules and Open Government Committee – January 21, 2009
Mayor Reed, Chair
Deferred to 2/10/09 per Orders of the Day.

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

3.5 Service Efforts and Accomplishments Report 2007-08.

Recommendation: Accept report on City Government Performance. CEQA: Not a Project. (City Auditor's Office)
Accepted.

3.6 Report of the Rules and Open Government Committee – January 7, 2009
Mayor Reed, Chair
Accepted.

3.7 Clean Tech Summit Recommendations.

Recommendation: Accept the Clean Tech Summit Recommendations as the City's 2009-2010 Clean Tech legislative priorities. (Mayor)
(Rules Committee referral 01/28/09)
Accepted.

3.8 Priority Ranking of the 2009 Legislative Priorities.

Recommendation: As recommended by the Rules and Open Government Committee of January 28, 2009, accept the report describing the criteria for ranking the City's legislative priorities for 2009. (City Manager's Office)
[Rules Committee referral 01/28/09 – Item G(1)]

The Priority Ranking Report was accepted as modified: Tier 2 item "Elimination of the Alternative Minimum Tax (AMT) Penalty on Airport Bonds" to be moved into Tier 1.

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

4.2 Actions related to formation of a Convention Center Facilities District.

Recommendation: Adopt the following resolutions in connection with the formation of a Convention Center Facilities District:

- (a) A resolution of intention to form a Convention Center Facilities District, to authorize the levy of special taxes pursuant to the City of San José Convention Center Facilities District financing procedure, to set a public hearing on Tuesday, March 10, 2009 at 1:30 p.m. regarding formation of the District and authorizing other related actions.

Resolution No. 74783 adopted.

- (b) A resolution to incur bonded indebtedness of the proposed Convention Center Facilities District pursuant to the City of San José Convention Center Facilities District financing procedure in an amount not to exceed \$750,000,000.

CEQA: Resolution No. 72767. (Economic Development)

Resolution No. 74784 adopted.

4.3 Rezoning real property located on the southern portion of the block generally bounded by N. Fifth Street, E. Santa Clara Street, N. Sixth Street, and E. St. John Street.

Recommendation: Consideration of an ordinance rezoning the real property located on the southern portion of the block generally bounded by N. Fifth Street, E. Santa Clara Street, N. Sixth Street, and E. St. John Street from the A(PD) Planned Development Zoning District and R-M Multiple Residence Zoning Districts to the DC Downtown Primary Commercial Zoning District on a 1.76 gross acre site (First United Methodist Church, Owner). SNI: 13th Street. CEQA: Resolution No. 72767. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1).

C08-058 – District 3

(Per Rules Committee 1/21/09, Continued from 1/27/09 – Item 11.2)

Ordinance No 28493 passed for publication.

5. NEIGHBORHOOD SERVICES

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

5. NEIGHBORHOOD SERVICES

5.2 Status of the Distinctive Neighborhood Program.

Recommendation: Review the report on the outcome of the initial public outreach for the Distinctive Neighborhood Program and provide comments for the continued development of the program. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Report reviewed.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee Councilmember Liccardo, Chair

No Report.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

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>
10013	Northeast corner of North King Road and Dobbin Drive	3	San José Transit Village Partners, LLC	4 Lots	Multi-Family Attached	Approve

- **Open Forum**
 - (1) **James Charles urged aggressive participation by San José's small business community in securing contract opportunities generated by the federal stimulus package.**
 - (2) **David Wall offered suggestions on transforming the property formerly slated for Tesla Motors to sustainable agriculture.**
 - (3) **Ross Signorino offered suggestions on water conservation and commended the City for it's good credit rating.**

- **Adjournment**

The Council of the City of San José was adjourned at 3:32 p.m. in memory of Donna Fife, a long time resident and active community member of District 8. (Herrera)