



CITY COUNCIL AGENDA

FEBRUARY 10, 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.

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: Chirco. (Excused)

1:34 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Chirco. (Excused)

7:02 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Chirco, Nguyen. (Excused)
- **Invocation (District 2)**
Reverend Jethroe Moore, Rehoboth Christian Center presented an inspirational prayer.
- **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 2.1 and 3.2 deferred to 2/24/09.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Almaden Pop Warner Pee Wee football team for winning the national championship and earning the title of 2008 Tomlin Champions. (Pyle)
Heard in the evening.
Mayor Reed and Council Member Pyle recognized and commended the Almaden Pop Warner Pee Wee football team for winning the national championship and earning the title of 2008 Tomlin Champions.
- 1.2 Presentation of a commendation to James Robbins, former Executive Director of the City of San José Environmental Business Cluster, the first environmental incubator in the United States, for his dedication and commitment to managing the operations of the incubator since its inception in 1994 through his retirement in January 2009, and for creating the largest private technology commercialization program for clean energy start-up companies in the country. (Mayor)
(Rules Committee referral 2/4/09)
Mayor Reed, Redevelopment Agency Executive Director Harry S. Mavrogenes and Redevelopment Agency Deputy Executive Director John Weis recognized and commended James Robbins, former Executive Director of the City of San José Environmental Business Cluster for his dedication and commitment to managing the operations of the incubator since its inception in 1994 through his retirement in January 2009.
- 1.3 Presentation of a proclamation declaring February 13, 2009 as “NAACP Day” in the City of San José in celebration of the 100 year anniversary of the founding of this vital organization. (Mayor/Council)
(Rules Committee referral 2/4/09)
Mayor Reed and the City Council recognized February 13, 2009 as “NAACP Day” in the City of San José and presented the plaque to Reverend Jethroe Moore.
- 1.4 Presentation of a proclamation declaring the month of February as “Black History Month” in the City of San José. (Mayor/Council)
(Rules Committee referral 2/4/09)
Mayor Reed, Council Member Nguyen and the City Council recognized February 2009 as “Black History Month” in the City of San José. Mayor Reed presented the plaque to Everett Bobby Gasper, African American Community Service Agency. Members of the Iola Williams Senior Center were also present.
- 1.5 Presentation of a commendation to the Administrative Hearing Officers with the Rental Rights Program in recognition of exemplary mediation service to landlords and tenants in the City of San José. (Housing)
(Orders of the Day)
Mayor Reed and Director of Housing Leslye Krutko recognized and commended the Administrative Hearing Officers for exemplary mediation service to landlords and tenants in the City of San José.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of October 7, 2008
- (b) Special Meeting Minutes of October 14, 2008
- (c) Regular Minutes of October 21, 2008
- (d) Joint Council/City of San José Financing Authority Minutes of October 21, 2008
- (e) Historic Preservation Study Session Minutes of October 23, 2008
- (f) Regular Minutes of October 28, 2008

Deferred to 2/24/09 per Orders of the Day.

2.2 Final adoption of ordinances.

There were none.

2.3 Annual Status Report on Library, Public Safety and Parks and Recreation Bond Programs.

Recommendation:

- (a) Accept the annual status report on the Safe Neighborhood Parks and Recreation Bond Projects for FY2007-2008.
- (b) Accept the annual status report on the Branch Library Bond Projects for FY07-08.
- (c) Accept the annual financial report on the Public Safety Bond Program for FY2007-2008.

CEQA: Not a Project. (Citizen Oversight Committee for the Library Bond Projects/
Citizen Oversight Committee for the Public Safety Bond Program/Citizen Oversight
Committee for the Parks and Recreation Bond Projects)

(Deferred from 1/27/09 – Item 2.15)

Accepted.

2.4 Agreement with Management Partners.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a second amendment to the continuation agreement with Management Partners to extend the term of the agreement from June 30, 2009 to June 30, 2010; expand the scope of services; and increase total compensation by \$220,000 from \$397,200 to \$617,200.

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

Resolution No. 74785 adopted.

2.5 Agreement with National Hispanic University for the Early Childhood Education Program.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with National Hispanic University, for an agreement term from July 1, 2008 to August 11, 2011, in the amount of \$221,659 to implement the grant-funded Early Childhood Education Program. CEQA: Not a Project. (Library)

Resolution No. 74786 adopted.

2. CONSENT CALENDAR

2.6 Amend the agreement for sports court surfaces.

Recommendation: Adopt a resolution authorizing the City Manager, or designee, to negotiate and execute a First Amendment to the Turnkey Parkland Agreement for Tentative Map No. PT 05-108 with Hitachi Global Storage Technologies, Inc. ("Developer") to accept an additional warranty with certain terms and conditions for the sports court surfaces that were installed in the 10 acre and 5 acre parks that varied from City approved plans and specifications. CEQA: Resolution No. 72772. Council District 2. (Parks, Recreation and Neighborhood Services)

Resolution No. 74787 adopted.

2.7 Agreement with PG&E for conversion of overhead facilities.

Recommendation: Approve an Agreement to Perform Tariff Schedule Related Work with Pacific Gas and Electric Company for conversion of overhead facilities to underground facilities within the In-Lieu Fee (Rule 20B) Underground Utility District located on Jackson Avenue between Seventh and Ninth Streets and Taylor Street between Seventh and Tenth Streets in an amount not to exceed \$1,446,222. CEQA: Exempt, PP05-148. Council District 1. (Public Works)

Approved.

2.8 Airspace rental agreement with the State of California for the parking lot located at Woz Way and Highway 87.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an airspace rental agreement with the State of California for use of the public parking lot located at Woz Way and Highway 87 (Woz/87 Lot) with an initial term of five (5) years and an option to extend for another five (5) year term. CEQA: Not a Project. Council District 3. (Public Works/Transportation)

Resolution No. 74788 adopted.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone introduced Paul Devrie, New South Wales Australia, who is currently visiting the City of San José, as part of the League of California Cities' Exchange Program.

3.2 Report of the Rules and Open Government Committee – January 21, 2009

Mayor Reed, Chair

Deferred to 2/24/09 per Orders of the Day.

3. STRATEGIC SUPPORT SERVICES

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

3.4 2008-2009 Mid-Year Budget Actions and related actions.

Recommendation:

(a) Approve the 2008-2009 Mid-Year Budget Review Report.

Approved.

(b) Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) in the 2008-2009 Mid-Year Budget Review.

Ordinance No. 28492 adopted.

Resolution No. 74776 adopted.

(c) Approve the net elimination of 88.5 positions, comprised of the elimination of 52.0 positions in the Airport Department, the elimination of 3.0 positions in the Fire Department, the elimination of 2.0 positions in the Police Department, the elimination of 28.5 positions in the Public Works Department, the elimination of 9.0 positions in the Transportation Department, offset by the addition of 6.0 positions in Environmental Services Department as described in Section III of the 2008-2009 Mid-Year Review document.

Approved.

(d) Approve the Arts Commission's recommended revisions to the Arts Stabilization Loan Fund Guidelines, as follows:

- (1) The Arts Stabilization Flexible Fund, a separate appropriation from the Arts Stabilization Loan Fund, and both funded in the General Fund, will be considered for additional funding as part of the City's annual budget process beginning in 2009-2010. The Flexible Fund will no longer be automatically replenished from interest on lines of credit and general investment earnings from the Loan Fund;
- (2) The Flexible Fund can no longer be used to defray costs associated with managing lines of credit issued from the Loan Fund; and
- (3) Organizations receiving a line of credit from the Arts Stabilization Loan Fund will not be eligible to compete in the City's Operating Grant Program, but will be eligible to receive an annual "recovery" grant based on the organization's grant index as computed under the Operating Grant Program guidelines.

Approved.

(e) Direct the City Manager to implement the Arts Stabilization Loan Fund Guidelines, as revised.

Approved.

3. STRATEGIC SUPPORT SERVICES

3.4 2008-2009 Mid-Year Budget Actions and related actions (Cont'd.)

- (f) Adopt a resolution repealing Resolution No. 73338 and setting forth the Schedule of Parking Penalties and Late Payment Penalties for Parking Violations to include a courthouse construction parking penalty fee increase of \$3.00 effective March 1, 2009.

Resolution No. 74789 adopted.

- (g) Direct the City Manager to review and evaluate the Schedule of Parking Penalties and Late Payment Penalties for Parking Violations and to report back to Council by June 2009 if additional adjustments are necessary for certain violations.

Approved.

- (h) Adopt Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund to increase the Fines and Forfeitures revenue estimate by \$230,000 and increase the Parking Citations/Jail Courthouse Fees City-Wide appropriation by \$230,000.

Ordinance No. 28494 adopted.

Resolution No. 74790 adopted.

Staff to return to the Transportation and Environment Committee with an analysis and impacts of shutting off street lights, including information on the use of technology to achieve cost savings.

- (i) Direct the City Attorney to prepare an ordinance to amend the Public Entertainment Permit Ordinance to authorize a change in the fee methodology for the Public Entertainment Business Permit charged to Public Entertainment Businesses operating in the Downtown Entertainment Zone to include costs related to police enforcement of the Public Entertainment Permit Ordinance. Actual fee increases will be brought forward as part of the 2009-2010 Proposed Budget process.
- (j) Direct the City Attorney to prepare an ordinance to amend Title 20 of the San José Municipal Code to implement a soft-closing program for the Downtown Entertainment Zone to allow bars and nightclubs to stay open until 2:30 A.M. with a Conditional Use Permit.
- (k) Discuss and provide further direction to the Administration on the City Manager's proposed cost model and structure in order to further inform the proposed ordinance amendments directed above.

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

Items 3.4(i)-(k) deferred to 2/24/09 per Mayor's Office and Orders of the Day.

3. STRATEGIC SUPPORT SERVICES

3.5 Community Budget Priorities Telephone Survey Results.

Recommendation: Presentation of the results of the January 2009 Community Budget Priorities Telephone Survey. CEQA: Not a Project. (Mayor)

Presentation Received. No Council Action Necessary.

3.6 Process to Fill Unanticipated Vacancies on the Police and Fire Retirement Board.

Recommendation: As referred by the Rules and Open Government Committee of February 4, 2009, consider direction to the City Clerk to conduct a process to fill the unscheduled vacancies of the Police and Fire Department employee members on the Board of Administration of the Police and Fire Department Retirement Plan (Police and Fire Retirement Board). (City Clerk)

(Rules Committee referral 2/4/09 – Item 9.1)

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee Council Member Pyle, Chair

No Report.

5. NEIGHBORHOOD SERVICES

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

No Report.

6. TRANSPORTATION & AVIATION SERVICES

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

No Report.

6.2 Public Hearing on Cost of Sidewalk Repair Liens.

Recommendation: Conduct a public hearing and adopt a resolution approving the Report of the Director Finance on the Reimbursement of Cost for Sidewalk Repairs, confirming the assessments contained in the Report and directing the recording of liens on the property tax roll for the cost of sidewalk repairs. CEQA: Not a Project. (Finance)

Resolution No. 74791 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Santa Clara Valley Water District FY2010--Federally Partnered Projects.

Recommendation: As referred by the Rules and Open Government Committee of February 4, 2009, consider support for the Santa Clara Valley Water District's FY2010 Federally partnered projects in the City of San José. (Environmental Services/City Manager's Office)
(Rules Committee referral 2/4/09 – Item 10.2)

Support Approved.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**
 - (1) **Ross Signorino informed the Mayor and City Council that the City of San José is the most “treed” City in the United States as heard on KLIV Radio.**

- **Adjournment**

The Council of the City of San José adjourned the afternoon session at 3:43 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located on the north side of Foxworthy Avenue approximately 100 feet east of Lansford Avenue (1345 Foxworthy Avenue) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to five new single-family residences on a 0.70 gross acre site (Hawkstone Foxworthy LLC, Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-0-1).

PDC08-048 – District 9

[Continued from 1/27/09 – Item 11.1(b)]

Ordinance No. 28495 passed for publication, as amended, with Staff directed to work with the applicant at the Planned Development Permit stage to address privacy concerns through planting of trees, design modifications or other appropriate measures with special attention to the adjacent property owners' concerns on the northwest corner of the site.

- (b) Consideration of an ordinance rezoning the real property located at the northwest corner of Blossom Hill Road and Poughkeepsie Road (161 Blossom Hill Road) from CN Commercial Neighborhood Zoning District to R-MH Mobilehome Park District to allow mobile home use on a 0.5 gross acre site (Barbaccia Properties Holdings, LLC, Owner). CEQA: Resolution No. 65459.

C08-064 – District 2

Continued to 2/24/09 per Administration.

- (c) Consideration of an ordinance rezoning the real property located on the east side of North 21st Street, approximately 350 feet northerly of East Santa Clara Street (32 N. 21st Street) from A(PD) Planned Development Zoning District to CN Commercial Zoning Neighborhood Zoning District to allow commercial uses on a 0.33 gross acre site (Dironisio Amor, Owner). SNI: Five Wounds/Brookwood Terrace. CEQA: Resolution No. 65459. No Planning Commission action required.

C08-063 – District 3

Ordinance No. 28496 passed for publication.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Rezoning real property located on the northeast corner of Juliet Park Drive and Rosemar Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the northeast corner of Juliet Park Drive and Rosemar Avenue (Tract 8735) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 17 single-family detached residences on a 26.4 gross acre site (Rosemar Enterprises Corp, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-0). PDC06-063 – District 5

(Continued from 1/27/09 – Item 11.3)

Continued to 3/10/09 per District 5.

Note: Mayor Reed appointed Council Member Pyle as Vice Mayor pro tem at 7:18 pm. Mayor Reed left the meeting.

11.3 Rezoning real property located at/on the southwest corner of N. First Street and Skyport Drive and related actions.

Recommendation: Consideration of the following actions related to the real property located on a 3.21 gross acre site, located at/on the southwest corner of N. First Street and Skyport Drive (Green Valley Corp, Owner).

- (a) PDC08-037 – Consideration of an ordinance rezoning the real property from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow 22 additional hotel rooms to a previously approved project for a total of up to 321 hotel rooms.
- (b) PD08-062 – Consideration of a resolution approving a Planned Development Permit to construct a 215,828 square foot 321-room hotel.

Council District 3. CEQA: North San José EIR Resolution No. 72628, and addenda thereto. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0-1).

The memorandum from Council Member Liccardo, dated February 9, 2009, was approved with the following conditions:

- (1) **Conformance of streetscape design with Rincon South Specific Plan as it exists or is amended at the time of the commencement of construction.**
- (2) **Applicant or its lessee provides Eco Passes at no cost to hotel employees.**
- (3) **Applicant or its lessee provides shuttle service for hotel guests to and from business destinations within five miles.**

Ordinance No. 28497 passed for publication, as amended.

Resolution No. 74792 adopted, as amended.

- **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>
10024	S/S Montecito Vista Dr. between Goble/Montecito Vista Ways	7	ROEM Development Corporation	2 Lots/ 242 Units	MFA	Approve

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

- **Open Forum**
There were none presented.

- **Adjournment**
The Council of the City of San José was adjourned at 7:21 p.m.

8. JOINT REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 3:53 p.m. to consider Item 8.1 in a Joint Session.

8.1 Approval of a grant agreement with San José Giants.

Recommendation:

- (a) Approval of a grant agreement by the Redevelopment Agency Board and the City of San José with Baseball Acquisition Company, in an amount not to exceed \$375,000, for improvements to the San José Municipal Stadium.

Approved.

- (b) Adoption of a resolution by the City Council making certain determinations required by law for Redevelopment Agency funding of a public project.

CEQA: Exempt, File No. PP09-015 [SNI]

Resolution No. 74793 adopted.

The Council of the City of San José and Redevelopment Agency Board was adjourned at 3:54 p.m.