



CITY COUNCIL AGENDA

MARCH 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, Staff Reports and some associated documents 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. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

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: Reed.

1:30 p.m. Regular Session, Council Chambers, City Hall
Absent Council Members: Reed.
- **Invocation (District 3)**
The Horace Mann Choir performed “A Song of Peace”.
- **Pledge of Allegiance**
Vice Mayor Chirco, accompanied by students from Horace Mann Elementary, led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and Amended Agenda were approved, with Item 2.3 deferred to 3/10/09. Council Member Constant acknowledged today as “National Square Root Day”.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

None presented.

2. CONSENT CALENDAR

2.1 **Approval of Minutes.**
None.

2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28498 – Amending Chapter 4.70 of Title 4 of the San José Municipal Code, by adding a new Part to establish a cap on the amount of Telecommunications Users Tax paid under this Chapter by service users provided certain conditions are satisfied, which part shall expire on December 31, 2012 unless otherwise extended, shortened, or revised by the City Council.

Ordinance No. 28498 adopted.

2.3 **Funding commitment for the San Carlos Bowl Seniors Project.**

Recommendation: Adopt a resolution to:

- (a) Approve a request for early disbursement of \$603,435 of the existing funding commitment to San Carlos Willard Associates, L.P., or its designated affiliate, to finance the shared offsite development costs for the 100-unit San Carlos Bowl Seniors rental project located at 1523-1533 West San Carlos Street; and
- (b) Authorize the Director of Housing to negotiate and execute all documents to effectuate this early disbursement.

CEQA: Exempt, PD04-103. Council District 6. SNI: Burbank/Del Monte. (Housing)
Deferred to 3/10/09 per Orders of the Day.

2.4 **Amendment to the Housing Trust Fund.**

Recommendation: Adopt a resolution authorizing the Housing and Community Development Advisory Commission to act as the Housing Trust Fund Oversight Committee for all grants except those needed for emergency situations. CEQA: Not a Project. (Housing)

Resolution No. 74810 adopted.

2. CONSENT CALENDAR

2.5 Revisions to Teacher Homebuyer and San José State Faculty and Staff Homebuyer Programs.

Recommendation:

- (a) Adopt a resolution to modify the Teacher Homebuyer Program, adopted by Council on April 4, 2000, as follows:
- (1) Decrease the maximum loan amount from \$40,000 to \$35,000 for households earning between 90% and 120% of Area Median Income; and
 - (2) Decrease the maximum loan amount from \$65,000 to \$50,000 for households earning less than 90% of Area Median Income.

Resolution No. 74811 adopted.

- (b) Adopt the following amendments to the 2008-2009 Appropriation Ordinance in the Low- and Moderate-Income Housing Fund (Fund 443):
- (1) Increase the Teacher Homebuyer Program Appropriation by \$500,000; and
 - (2) Decrease the Loan Management Appropriation by \$500,000.

Ordinance No. 25807 adopted.

- (c) Adopt a resolution to:
- (1) Modify the San José State University Faculty and Staff Homebuyer Program, adopted by Council on January 10, 2006, to decrease the maximum loan amount from \$60,000 to \$50,000 for low- and moderate-income households.
 - (2) Authorize the Director of Housing to negotiate and execute any necessary agreements, amendments, or other documents with San José State University, or its affiliate, related to the program modification.

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

Resolution No. 74812 adopted.

2.6 Summary vacation of a portion of a Public Service Easement at 2581 and 2585 Samaritan Drive.

Recommendation: Adopt a resolution summarily vacating a portion of a 10-foot Public Service Easement at 2581 and 2585 Samaritan Drive, recorded on October 24, 1985, within Parcel B as shown upon that certain Parcel Map in Book 551 of Maps at Pages 1 and 2 of Official Records, Office of the Recorder, County of Santa Clara. CEQA: Mitigated Negative Declaration, PDC08-014. Council District 9. (Public Works)

Resolution No. 74813 adopted.

2. CONSENT CALENDAR

2.7 Increase contingency amount for the Convention Center Garage Project.

Recommendation: Approve an increase in the construction contingency funding for the San José Convention Center Garage Project in the amount of \$31,544, increasing the total contingency from \$16,704 to \$48,248. CEQA: Exempt, PP05-187. Council District 3. (Public Works)

Approved

2.8 Excused absences for Councilmember Chu.

Recommendation: Request for excused absences for Councilmember Chu from the City Council Study Session on March 17, 2009 and the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on March 19, 2009 due to Authorized City Business: National League of Cities Congressional City Conference in Washington, D.C. (Chu) (Rules Committee referral 2/18/09)

Excused.

2.9 Actions Related to Councilmember Constant's Travel to Washington D.C.

Recommendation:

- (a) Approve travel by Councilmember Constant to Washington, D.C. on March 14-18, 2009 to attend the National League of Cities' annual Congressional City Conference and serve on the Public Safety and Crime Prevention Policy and Advocacy Committee. Source of Funds: Mayor & Council Travel Fund.
- (b) Request for an excused absence for Councilmember Constant from the Closed Session and Regular Meeting of the City Council on March 17, 2009 due to Authorized City Business: National League of Cities Annual Congressional City Conference in Washington, D.C.

(Constant)

(Rules Committee referral 2/18/09)

Approved.

2.10 Actions Related to Councilmember Constant's Travel to Boston, MA.

Recommendation:

- (a) Approve travel by Councilmember Constant to Boston, MA on October 21-23, 2009 to attend San José/Silicon Valley Chamber of Commerce City-to-City Trip. Source of Funds: Mayor & Council Travel Fund.
- (b) Request for an excused absence for Councilmember Constant from the Closed Session and Regular Meeting of the Rules and Open Government Committee on October 21, 2009 due to Authorized City Business: 2009 San José/Silicon Valley Chamber of Commerce Annual City-to-City Trip in Boston, MA.

(Constant)

(Rules Committee referral 2/18/09)

Approved.

2. CONSENT CALENDAR

2.11 Excused absences for Mayor Reed.

Recommendation: Request for excused absences for Mayor Reed.

- (a) Request for an excused absence from the Regular Meeting of the City Council on March 3, 2009 due to Authorized City Business: Travel to Washington, D.C. to advocate on behalf of the City.
- (b) Request for an excused absence from the Regular Meeting of the Rules and Open Government Committee on March 4, 2009 due to Authorized City Business: Travel to Washington, D.C. to advocate on behalf of the City.

(Mayor)

(Rules Committee referral 2/18/09)

Excused.

2.12 Excused absences for Vice Mayor Chirco.

Recommendation: Request for excused absences for Vice Mayor Chirco from the Closed Session and Regular City Council Meeting on February 24, 2009 and the Regular Meeting of the Rules and Open Government Committee on February 25, 2009 due to: illness. (Chirco)

(Rules Committee referral 2/25/09)

Excused

2.13 Mayor Reed's Travel Out of State.

Recommendation: Approve travel by Mayor Reed to Washington, D.C. on March 1-5, 2009 to advocate on behalf of the City. Source of Funds: Mayor's Budget. (Mayor)

(Rules Committee referral 2/25/09)

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone noted that an update on the economic forecast to be discussed in tandem with the Mayor's March 24 budget message will be published by tomorrow, and a report relating to the City's involvement with the federal economic stimulus package will be released by the end of this week.

3.2 Report of the Rules and Open Government Committee – February 4, 2009

Mayor Reed, Chair

Accepted.

3. STRATEGIC SUPPORT SERVICES

- 3.3 Report of the Public Safety, Finance and Strategic Support Committee – February 19, 2009 - Councilmember Nguyen, Chair**
Accepted.

- 3.4 Deferred Compensation Advisory Committee Appointments.**

Recommendation: Approve the four-year term appointments, ending on March 1, 2013, as follows:

- (a) Franco Vado to the Deferred Compensation Advisory Committee as the representative nominated by the San José Police Officers Association;
- (b) Robert Sapien as the representative nominated by the San José Firefighters, Local 230 (IAFF); and
- (c) Pascal Roubineau as the representative nominated by the trades unions (Association of Building, Mechanical and Electrical Inspectors (ABMEI), International Brotherhood of Electrical Workers (IBEW), International Union of Operating Engineers, Local No. 3 (OE3).

CEQA: Not a Project. (Human Resources)
(Rules Committee Referral 2/25/09 – Item 9.1)

Approved.

- 3.5 2007-08 Annual Performance Audit of Team San José, Inc.**

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee of February 19, 2009, ratify the Administration's decision to waive the City's right under the current agreement with Team San José, Inc. for the management of the San José Convention Center and Cultural Facilities to delete the fixed payment of \$150,000 from the management fee for year four of the agreement and authorize the City Manager the exercise this waiver for year five of the agreement.

[Public Safety, Finance and Strategic Support Committee Referral 2/19/09 – Item 3.3(c)(7)]

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Funding commitment for site acquisition for the San Antonio Family Apartments.

Recommendation: Adopt a resolution approving a funding commitment of up to \$5,200,000 of Low- and Moderate-Income Housing Funds (20% Funds) to ROEM Development Corporation (“ROEM”), or its legal affiliate, for a land acquisition loan for future development of the 84-unit San Antonio Family Apartments, an affordable multifamily rental project located at 1350 E. San Antonio Street to be made available to extremely low-income and very low-income households. CEQA: Mitigated Negative Declaration, PDC08-038. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Housing)

Resolution No. 74814 adopted.

Noes: Oliverio.

5. NEIGHBORHOOD SERVICES

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

No Report.

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

- **Open Forum**
None presented.

- **Adjournment**
The Council of the City of San José adjourned at 2:07 p.m.