



CITY COUNCIL AGENDA

AUGUST 11, 2009

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
Adjourn to Closed Session in Council Chambers Conference Room, W133
See Separate Agenda
1:30 p.m. - Regular Session, Council Chambers, City Hall
7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 7)**
Christ Community Church of Milpitas

- **Pledge of Allegiance**
- **Orders of the Day**

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to McKinley Teen Center and YMCA East Valley Adventure Camp for their extraordinary community service efforts in the Five Wounds Brookwood Terrace area. (Liccardo)
(Rules Committee referral 7/29/09)

1. CEREMONIAL ITEMS

- 1.2 [Administer Oaths of Office to District 1 Youth Commissioner Kayva Shankar, District 4 Youth Commissioner Kasey Ong, and District 7 Youth Commissioner Amanda Aldama.](#) (City Clerk)
TO BE HEARD IN THE EVENING
(Rules Committee referral 7/29/09)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

- 2.1 **Approval of Minutes.**
- 2.2 **Final adoption of ordinances.**
- 2.3 **Mayor and Council Excused Absence Requests.**
- 2.4 [Fiscal Year 2009-10 Property Tax Levy for General Obligation Bonds.](#)

Recommendation: Adopt a [resolution](#) establishing the FY 2009-10 property tax levy on all taxable property for general obligation bonded indebtedness. CEQA: Not a Project. (Finance)

- 2.5 [Agreement for Security Guard Services.](#)

Recommendation: Adopt a resolution authorizing the Director of Finance to negotiate and execute a continuation and amendment to the agreement with Silicon Valley Security & Patrol, Inc., as follows:

- (a) Continue and extend the term of agreement to August 31, 2009, to allow for final payment to the vendor.
- (b) Increase maximum compensation for the renewal period of the agreement by \$12,799 from \$131,000 to \$143,799 to cover additional costs for unanticipated security guard services.

CEQA: Not a Project. (Finance)

- 2.6 [Lower Silver Creek Trail Project.](#)

Recommendation: Report on bids and award of contract for the Lower Silver Creek Trail Reach 7 at Silverstone Place Project to the low bidder, Perma Green Hydroseeding, Inc., in the amount of \$389,700, and approval of a contingency in the amount of \$38,970. CEQA: Mitigated Negative Declaration, File No. PP07-106. Council District 5. SNI: East Valley/Communities. (Public Works)

2. CONSENT CALENDAR

2.7 [Seven Trees Boulevard Sidewalk Improvement Project.](#)

Recommendation:

- (a) Report on bids and take appropriate action based on the evaluation of bids for the SNI ST01: Seven Trees Boulevard Sidewalk Improvement Project from Senter Road to El Cajon Drive, and a standard contingency of five percent on roadway improvement projects.
- (b) Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund:
 - (1) Establish an appropriation to the Department of Transportation for the Seven Trees Boulevard Sidewalk Project in the amount of \$560,000; and
 - (2) Decrease the Reserve – Seven Trees Boulevard Sidewalk Project by \$560,000.

CEQA: Exempt, File No. PP08-137. Council District 7. SNI: Seven Trees. (Public Works/Transportation/City Manager's Office)

2.8 [Travel Requests for the City Clerk.](#)

Recommendation:

- (a) Approve travel for City Clerk Lee Price to Montecito, California on August 14-21, 2009 to provide training services at Continuing Education for Public Officials. Source of Funds: Continuing Education for Public Officials.
- (b) Approve travel for City Clerk Lee Price to Riverside, California on September 8-11, 2009 to provide training services at Technical Track for City Clerks. Source of Funds: Technical Track for City Clerks.

(City Clerk)

(Rules Committee referral 7/29/09)

3. STRATEGIC SUPPORT SERVICES

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

3.2 Report of the Rules and Open Government Committee Mayor Reed, Chair – *No Report.*

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

3.4 [Proposed Revisions to Titles 2 and 12 of the San José Municipal Code relating to the City's Campaign Finance Regulations and the Elections Commission.](#)

[Attachment – Early Distribution Memo from the City Clerk](#) [Presentation](#)

Recommendation: As recommended by the Elections Commission, approve an [ordinance](#) amending parts of Title 2 and Title 12 of the San José Municipal Code related to Campaign Finance Regulations and the Elections Commission. (City Attorney/City Clerk)

3. STRATEGIC SUPPORT SERVICES

3.5 [Agreement with the Association of Maintenance Supervisory Personnel.](#)

Recommendation: Adopt a [resolution](#) approving the terms of an Agreement with the Association of Maintenance Supervisory Personnel, and authorizing the City Manager to execute the agreement with a term of June 28, 2009 to June 30, 2010. CEQA: Not a Project. (Employee Relations)

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

4.2 [Donna Lane and Bradford Way Coalition Implementation Plan.](#)

Recommendation:

- (a) Accept the Donna Lane and Bradford Way Improvement Plan as the community vision for the future of the Donna Lane and Bradford Way area; and
- (b) Encourage the Donna Lane and Bradford Way neighborhood residents, apartment owners and business leaders to continue to dedicate their time, energy and resources towards the Improvement Plan, continuing with their community-building activities.

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

TO BE HEARD IN THE EVENING

4.3 [North Fourth Street Family Apartments Project Funding.](#)

Recommendation: Adopt a [resolution](#):

- (a) Approving an increase in the construction/permanent funding of up to \$6,209,579 to First Community Housing, or its designated affiliate, for the development of the North Fourth Street Family Apartments project to be built at 1460 North Fourth Street and made available to extremely low-income, very low-income, and low-income families.
- (b) Approving the capitalization of up to \$1,186,123 in interest to be accrued on the City's construction loan, bringing the total City construction/permanent funding up to \$13,894,579.

CEQA: Addendum to Final EIR for the North San José Area Development Policy, Resolution No. 72768, File No. PCD06-022. (Housing)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 [Kings Crossing Apartments Project.](#)

Recommendation: Adopt a [resolution](#):

- (a) Approving a change in the affordability mix for the Kings Crossing Apartments, a 94-unit affordable rental housing complex being developed by Charities Housing Development Corporation, or its designated affiliate, to be made available to extremely low-income and very low-income households, with 92 units affordable to households with incomes at or below 50% Area Median Income and two unrestricted managers' units.
- (b) Approving the forgiveness of up to \$475,000 in accrued interest on the City's acquisition/predevelopment loan.

CEQA: Final EIR, Resolution No. 74196, File No. PDC07-015. Council District 3. (Housing)

4.5 [Curtner Gardens Inn Project.](#)

Recommendation: Adopt a [resolution](#) approving a change in affordability targeting to allow 12 units restricted to households with incomes no greater than 80% of Area Median Income ("AMI"), and 18 units restricted to households with incomes no greater than 60% AMI, to become restricted at 30% AMI in the existing Curtner Studios (formerly known as Curtner Gardens Inn) located at the northwest corner of Curtner and Canoas Gardens Avenues. CEQA: Exempt, File No. PP09-143. Council District 6. (Housing)

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

8.1 Independent Police Auditor's 2008 Year-End Report and Administration's Response.

Recommendation:

- (a) [Accept the Independent Police Auditor's 2008 Year-End Report.](#) (Independent Police Auditor) [Presentation](#)
- (b) [Accept the Administration's Response to the Independent Police Auditor's 2008 Year-End Report.](#) (City Manager's Office)
- (c) [Accept the San José Police Department's Internal Affairs Unit report on Department Initiated Investigations \(DII\) for CY 2008.](#) (Police)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Items 8.1 "Approval of a Cooperation Agreement for the loan of an Agency employee to the City", 8.2 "Approval of the Fourth Amendment to the Restaurant Lease with Cupertino Flames, LLC", and 8.3 "Approval of an agreement with San Juan Bautista Child Development Center for renovations to expand the Head Start Preschool Program" on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.

- **Open Forum**

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.

- **Continue RDA Board Meeting**
- **Council will recess until 7:00 p.m.**

11. PUBLIC HEARINGS

11.2 [Rezoning real property located on the northwest corner of East San Fernando Street and South 34th Street.](#)

[Attachment – Staff Report](#) [Presentation](#)

Recommendation: Consideration of an [ordinance](#) rezoning the real property located on the northwest corner of East San Fernando Street and South 34th Street (1647 E San Fernando Street) from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow expansion of an existing religious assembly use by the construction of a 6,310 square-foot 2-story rectory, demolition of an existing 2,300 square foot 1-story rectory, construction of a 140 square foot memorial tower and addition of a 356 square foot porch/stairway to the front of the existing sanctuary building on a 0.49 gross acre site (An Lac Temple, Owner). SNI: Gateway East. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
[PDC08-057](#) – District 5

11.3 **Rezoning real property located on the west side of San Felipe Road.**

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of San Felipe Road, approximately 600 feet south of Delta Road (4203 San Felipe Road) to allow up to eight (8) single-family detached residences and one (1) 12,000 square foot office building on a 2.98 gross-acre site (Hawkstone San Felipe LLC, Owner/Developer). CEQA: Mitigated Negative Declaration.
[PDC09-003](#) – District 8

RECOMMEND CONTINUANCE TO 8/25/09 PER ADMINISTRATION

11.4 [Rezoning real property located on the northeast side of San Felipe Road.](#)

[Attachment – Staff Report](#) [Presentation](#)

Recommendation: Consideration of an [ordinance](#) rezoning the real property located on the northeast side of San Felipe Road, approximately 800 feet northwest of Silver Creek Road and at the northwest terminus of Grand Oak Way to allow up to 35 single-family detached residences on a 19.13 gross acres site (DAL Properties LLC, Owner; DAL Properties LLC, Mark Lazzarini, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-2-0).
[PDC09-007](#) – District 8

11. PUBLIC HEARINGS

11.5 [Interim Ordinance establishing a temporary moratorium on new Bail Bonds Establishments.](#)

[Supplemental – Memo from the Director of PBCE](#)

Recommendation: Consideration of an interim [ordinance](#) of the City of San José establishing a temporary moratorium on the establishment of new Bail Bonds Establishments pending the review and possible amendment of land use regulations applicable to such establishments. The Planning Commission voted 5-1-1 (Zito absent, Campos abstain) to recommend that the Council approve the proposed ordinance to establish a temporary moratorium on the establishment of new bail bond businesses with an additional provision allowing existing bail bond businesses operating in conformance with all City requirements to relocate to another site if they lose their lease through no fault of their own. The Director of Planning, Building and Code Enforcement recommends that the Council approve the interim ordinance establishing a temporary moratorium on the establishment of new bail bond businesses as originally drafted by staff and that the ordinance not include the provision recommended by the Planning Commission allowing relocation of existing bail bond businesses that lose their leases through no fault of their own. CEQA: The proposed ordinance is categorically exempt pursuant to CEQA Guidelines Section 15061(b)(3) of the California Code of Regulations, File No. PP09-102.

Citywide

- Notice of City Engineer’s Pending Decision on Final Maps
- Notice of City Engineer’s Award of Construction Projects
- Open Forum
Members of the Public are invited to speak on any item that does not appear on today’s Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.
- Adjournment

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
 - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
 - c) Speakers should discuss topics related to City business on the agenda.
 - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
 - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
 - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
 - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.