

CITY COUNCIL AGENDA

SEPTEMBER 1, 2009

AMENDED AGENDA

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](#) [See RDA Agenda](#)

1:30 p.m. - Regular Session, Council Chambers, City Hall

- **Invocation (District 8)**

* Most Holy Trinity Catholic Church Choir, Director Angela Tirado performing “Go Make a Difference”

- **Pledge of Allegiance**

- **Orders of the Day**

Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

* ADJOURNMENT: This meeting will be adjourned in memory of the late Senator Edward M. Kennedy for his decades of service in the United States Senate. (Mayor/Kalra)

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

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.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28636 – Rezoning certain real property situated on the east side of Radio Avenue, approximately 160 feet north of Lincoln Court (2102 Radio Avenue: APN: 439-08-014), to A(PD) Planned Development Zoning District. PDC09-025
- (b) ORD. NO. 28637 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Ferma Corporation.
- * (c) ORD. NO. 28641 – Amending Section 23.02.410 of Chapter 23.02 of Title 23 of the San José Municipal Code and amending Section 23.04.120 of Chapter 23.04 of Title 23 of the San José Municipal Code to modify the regulations relating to programmable display signs in the downtown sign zone.

2.3 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) [Request for an excused absence for Councilmember Chirco from the regular meeting of the Rules and Open Government Committee on August 26, 2009 due to illness.](#) (Chirco)
* (Rules Committee referral 08/26/09)
- (b) [Request for an excused absence for Councilmember Chu from the Annual Joint City Council/Redevelopment Agency/Board of Supervisors meeting on September 30, 2009 due to Authorized City Business: 2009 Class of the Great Valley Leadership Institute for the League of California Cities' Board Executive Committee on September 30 – October 4, 2009.](#) (Chu)
* (Rules Committee referral 08/26/09)
- (c) [Request for an excused absence for Mayor Reed from the regular meeting of the Rules and Open Government Committee on September 23, 2009 due to Authorized City Business: Travel to Washington, D.C. for the Silicon Valley Leadership Group Legislative Trip.](#) (Mayor)
* (Rules Committee referral 08/26/09)

2. CONSENT CALENDAR

2.4 [Report on RFP for Park Management Software System for Happy Hollow Park & Zoo.](#)

Recommendation: Report on Request for Proposal (RFP) for the purchase of a Park Management Software System and adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an [agreement](#) with VGS Systems Engineering Inc., doing business as Omni Ticket Network (Orlando, FL), for the purchase of a Park Management System in an amount not to exceed \$189,634, including all hardware, software, spare parts, installation and related professional services, maintenance and support (first year), shipping and sales tax.
- (b) Execute change orders in an amount not to exceed \$25,000 to cover unanticipated changes in the system design and/or installation.
- (c) Execute four additional one-year options to extend the agreement for ongoing hosting, maintenance, and support, subject to annual appropriation of funds.

CEQA: Not a Project. (Finance)

2.5 [Agreements with Union Bank of California and Wells Fargo Bank.](#)

Recommendation:

- (a) Adopt a resolution authorizing the City Manager and the City Manager's authorized designees to negotiate and execute the Tenth Amendment to the General Banking Services Agreement with Union Bank of California ("UBOC") to increase the maximum annual compensation by \$148,500 from \$30,000, to an amount not to exceed \$178,500 to provide final banking and transition services from July 1, 2009 through June 30, 2010.
- (b) Adopt a resolution authorizing the City Manager and the City Manager's authorized designees to negotiate and execute an amendment to each of the agreements with Wells Fargo Bank for General Banking Services, Merchant Card Processing Services, and Lockbox Services to decrease the maximum annual compensation by \$148,500 from \$864,000, to an amount not to exceed \$715,500 for the initial term through June 30, 2010, and to increase the maximum annual compensation to an amount not to exceed \$864,000 in the event funds remain in the Banking Services appropriation following the termination of the agreement with UBOC, and to make other technical changes thereto.

CEQA: Not a Project. (Finance)

2.6 [Report on bids and award of contract for the Albany-Kiely Storm Drain Improvement, Phase V-VI Project.](#)

[Attachment – Bid Packet Information](#)

Recommendation: Report on bids and award of contract for the Albany-Kiely Storm Drain Improvement, Phase V-VI Project to the lowest responsive bidder, Rodan Builders, Inc., in the amount of \$855,053.80 and approval of a contingency in the amount of \$85,000. CEQA: Exempt, File No. PP08-272. Council District 1. (Public Works)

* **RECOMMEND DROP PER ADMINISTRATION**

2. CONSENT CALENDAR

2.7 Chief Deputy City Manager's Travel to Montreal, Quebec, Canada.

Recommendation: Approve travel by Chief Deputy City Manager Edward K. Shikada to Montreal, Quebec, Canada on September 12-16, 2009 to attend the International City/County Management Association 95th Annual Conference. Source of Funds: City Manager's Non Personal Appropriation. (City Manager's Office)
(Rules Committee referral 9/1/09)

* **DROP**

2.8 Councilmember Chu's Travel to Yosemite, CA.

Recommendation: Approve travel by Councilmember Chu to Yosemite, CA on September 30 – October 4, 2009 to attend the 2009 Class of the Great Valley Leadership Institute as nominated by the League of California Cities' Board Executive Committee. Source of Funds: Mayor/Council Travel Fund. (Chu)

* (Rules Committee referral 08/26/09)

2.9 Councilmember Liccardo's Travel to Washington, D.C.

Recommendation: Approve travel by Councilmember Liccardo to Washington, D.C. on September 23 – 25, 2009 to attend a legislative trip with Silicon Valley Leadership Group to lobby key federal officials for BART and transit funding in the pending SAFETEA-LU reauthorization process. Source of Funds: Valley Transportation Authority. (Liccardo)

* (Rules Committee referral 08/26/09)

2.10 Mayor Reed's Travel to Washington, D.C.

Recommendation: Approve travel by Mayor Reed to Washington, D.C. on September 23 – 25, 2009 to attend a Silicon Valley Leadership Group Legislative Trip to lobby key federal officials to secure BART and other transit funding, and additional meetings with federal officials on other City issues including tax policies that effect technology companies in San José and development of San José Smart Grid. Source of Funds: Mayor's Office Budget. (Mayor)

* (Rules Committee referral 08/26/09)

2.11 District 6 Safety Fair and Movie Event.

Recommendation: As recommended by the Rules and Open Government Committee on August 26, 2009:

- (a) Approve the District 6 Safety Fair and Movie Event as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(City Clerk)

* [Rules Committee referral 08/26/09 – Item H (2)]

2. CONSENT CALENDAR

2.12 District 2 Community Fest.

Recommendation: As recommended by the Rules and Open Government Committee on August 26, 2009:

- (a) Approve the District 2 Community Fest as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(City Clerk)

* [Rules Committee referral 08/26/09 – Item H (3)]

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 – August 12, 2009 Mayor Reed, Chair

- (a) City Council (City Clerk)
 - (1) Review August 18, 2009 Final Agenda
 - (a) Add new items to Final Agenda
 - (b) Assign “Time Certain” to Agenda items (if needed)
 - (c) Review of Items that Meet Exception Rules (if needed)
 - (2) Review August 25, 2009 Draft Agenda
 - (a) Add new items to Draft Agenda
 - (b) Assign “Time Certain” to Agenda items if needed
 - (c) Review of Items that Meet Exception Rules (if needed)
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Review of upcoming Study Session Agendas
- (d) Legislative Update
 - (1) State
 - (2) Federal
- (e) Meeting Schedules
 - (1) Approval to set a Study Session for Greenprint on September 8, 2009 for review of the draft Greenprint 2009 Update document. (Parks, Recreation and Neighborhood Services)
- (f) The Public Record
- (g) Appointments to Boards, Commissions and Committee
 - (1) Appoint JoAnne Ingole (resident representative) to the Mobilehome Advisory Commission to an unexpired term ending December 31, 2011. (Chu)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – August 12, 2009 (Cont'd.) Mayor Reed, Chair

- (h) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approve the proposed designation of Councilmember Kansen Chu as the voting delegate at the September 18, 2009 Annual Business Meeting for the League of California Cities. (City Manager's Office)
 - (2) Approve the Auditor's Office Monthly Report of Activities for July 2009. (City Auditor)
- (i) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
- (j) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (3) Significant Public Record Act Requests
 - (4) Council Policy Manual Update
- (k) Open Forum
- (l) Adjournment

3.3 Report of the Public Safety, Finance and Strategic Support Committee – [August 20, 2009](#) Councilmember Nguyen, Chair

- (a) Call to Order and Roll Call
- (b) Review of Workplan
- (c) Consent Calendar
 - (1) Redevelopment Agency Monthly Financial Reports. (Redevelopment Agency)
- (d) Reports to Committee
 - (1) Quarterly Status Report on Consortium for Police Leadership in Equity (CPLI).
 - (2) Public Safety, Finance and Strategic Support (PSFSS) Committee Workplan for Biannual Community Meetings. (City Manager's Office/Police)
 - (3) Status Report on the Fire Department's Response to the County Jail. (Fire)
 - (4) Report on Infrastructure Priority Projects. (Information Technology)
 - (5) Fourth Quarter Investment Report. (Finance)
 - (6) Fourth Quarter Debt Report. (Finance)
 - (7) Fourth Quarter Revenue Collection Strategic Plan Report (RCSP). (Finance)
- (e) Open forum
- (f) Adjournment

3. STRATEGIC SUPPORT SERVICES

3.4 [Airport Commercial Paper Program Tax-Exempt Private Activity Non-AMT Notes.](#)

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

[Contract 1](#) [Contract 2](#) [Contract 3](#)

Recommendation:

- (a) Adopt a resolution amending Resolution No. [69200](#), as amended, to provide for the issuance of tax-exempt private activity Non-AMT commercial paper notes to finance and refinance project costs and capitalized interest associated with implementing the Airport Master Plan at the Norman Y. Mineta San José International Airport, including to refund or to pay debt service on other obligations of the City issued to pay such costs, and delegating to the Director of Finance and to other Officers of the City authorization to establish terms and conditions for the issuance and payment of said commercial paper notes, and to take other necessary actions, and to prepare, execute and deliver the necessary documents in connection therewith.
- (b) Adopt a resolution authorizing the Director of Finance to negotiate, execute and deliver an Amended and Restated Issuing and Paying Agent Agreement with Deutsche Bank Trust Company Americas and an Amended and Restated Dealer Agreement with each of Barclays Capital Inc., Citigroup Global Markets Inc., and Morgan Stanley & Co. Incorporated relating to the City's Subordinate Commercial Paper Notes for the Norman Y. Mineta San José International Airport; and other necessary documents in connection therewith; and delegating authority to the Director of Finance and to other Officers of the City to establish terms and conditions relating thereto. [Resolution](#)

CEQA: Resolution Nos. 67380 and 71459, File No. PP09-157. (Finance)

3.5 **Report of the Rules and Open Government Committee – [August 5, 2009](#)** **Mayor Reed, Chair**

- (a) City Council (City Clerk)
 - (1) Review August 11, 2009 Final Agenda
 - (a) Add new items to Final Agenda
 - (b) Assign “Time Certain” to Agenda items (if needed)
 - (c) Review of Items that Meet Exception Rules (if needed)
 - (2) Review August 18, 2009 Draft Agenda
 - (a) Add new items to Draft Agenda
 - (b) Assign “Time Certain” to Agenda items if needed
 - (c) Review of Items that Meet Exception Rules (if needed)
 - (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
 - (c) Review of upcoming Study Session Agendas
 - (d) Legislative Update
 - (1) State
 - (2) Federal
 - (e) Meeting Schedules
 - (1) Approval to set a General Plan City Council fall hearing for the evening of December 1, 2009. (Planning, Building and Code Enforcement)
 - (f) The Public Record
 - (g) Appointments to Boards, Commissions and Committee
- (Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.5 Report of the Rules and Open Government Committee – August 5, 2009 (Cont'd.) Mayor Reed, Chair

- (h) Rules Committee Reviews, Recommendations and Approvals
 - (1) Direct Staff to return to Council on an expedited schedule with amendments to Municipal Code 23.04.120.J (Programmable Display Signs) to allow the Director of Planning to approve LED signs in the Downtown where:
 - (a) The sign attaches to a large tenant building, including the non-residential portion of otherwise residential buildings, without current 125,000 square foot “footprint” restriction;
 - (b) The sign has an area substantially larger than the current 18 square-foot restriction.
 - (Liccardo)
 - (i) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (a) Approval of the amended TE Workplan for the period of August through December 2009. (City Manager’s Office)
 - (4) Public Safety, Finance and Strategic Support Committee
 - (j) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (3) Significant Public Record Act Requests
 - (4) Council Policy Manual Update
 - (k) Open Forum
 - (l) Adjournment

* (Deferred from 8/25/09 – Item 3.2)

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

4.2 Ordinance Amending the Procedure for Initiating a City Landmark.

Recommendation: Consider an ordinance amending Part 2 of Chapter 13.48 of Title 13 of the San José Municipal Code, entitled “Designation,” to revise Section 13.48.110.C to allow the City Council greater discretion on whether to initiate the procedure for the designation of a landmark so nominated. CEQA: Not a Project. (Planning, Building and Code Enforcement)

(Continued from 6/30/09 and 8/4/09 – Item 4.2)

RECOMMEND CONTINUANCE TO 9/29/09 PER ADMINISTRATION

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Temporary Right of Entry by the Ryland Mews Homeowners Association.

[Attachment A](#) [Attachment B](#) [Attachment C](#)

Recommendation: Adopt a [resolution](#) finding and declaring that each of the conditions required under California Civil Code Section 1002 appear to exist and consenting to the acquisition of a temporary right of entry by eminent domain on adjacent property located at 440 North First Street by the Ryland Mews Homeowners Association. CEQA: Not a Project. (City Attorney’s Office)

Please Note: Approval of this item requires 8 or more affirmative votes (2/3).

4.4 Interim Ordinance extending a temporary moratorium on new Bail Bonds Establishments.

[Supplemental – Memo from the Director of Planning, Building and Code Enforcement](#)

* **Recommendation:** Consideration of an [ordinance](#) of the City of San José extending a temporary moratorium on the establishment of new Bail Bonds Establishments for a period of twenty-two (22) months and fifteen (15) days, pending the review and possible amendment of land use regulations applicable to such establishments, and setting forth the findings to support such extension of the temporary moratorium, and making the effectiveness and applicability of the provisions of the ordinance retroactive to October 9, 2009. CEQA: Exempt, File No. PP09-102.

Citywide
(Planning, Building and Code Enforcement)

Please note: Approval of this item requires 9 or more affirmative votes (4/5).

(Continued and Renoticed from 8/25/09 – Item 4.5)

* **CONTINUED TO 9/15/09 TO BE HEARD IN THE EVENING PER RULES AND OPEN GOVERNMENT COMMITTEE OF 8/26/09**

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

[Attachment – Memo from Councilmember Herrera](#)

[Attachment – Staff Report](#)

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

* **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. Director of Planning, Building and Code Enforcement recommends approval and the Planning commission voted 5-0-2 to transmit their comments and concerns without a formal recommendation.

[PDC09-003](#) – District 8

* (Continued from 8/11/09 – Item 11.3 and 8/25/09 – Item 4.2)

5. NEIGHBORHOOD SERVICES

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

5. NEIGHBORHOOD SERVICES

5.2 [Response to the Los Lagos Golf Course Grand Jury Report.](#)

[Attachment A - Letter from the Office of the City Auditor](#)

[Attachment B – Operational Review of Golf Course](#)

[Attachment C – Memo on Tuers-Capitol Golf Course Master Plan dated 2000](#)

[Attachment D – Project Costs](#)

[Attachment E – Memo on Proposed Agreement for Operations of Los Lagos dated 2002](#)

[Attachment F – Operational and Financial Report from May 2006](#)

[Attachment G – Memo on Tuers-Capitol Golf Course dated 2000](#)

[Presentation](#)

Recommendation: Accept the response to the 2008-09 Santa Clara Civil Grand Jury Report titled “Los Lagos Golf Course – San José’s Financial Sand Trap.” CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

6. TRANSPORTATION & AVIATION SERVICES

6.1 **Report of the Transportation and Environment Committee – [August 17, 2009](#)**

Councilmember Liccardo, Chair

- (a) Call to Order and Roll Call
- (b) Review of Workplan
 - (1) Climate Action Plan. (Environmental Services)
- (c) Consent Calendar
 - (1) Report on Key Legislative Items. (City Manager’s Office – Intergovernmental Relations)
- (d) Reports to Committee
 - (1) Connection Fee Study for Recycled Water, Wastewater Treatment, Sanitary Sewer and Storm Drainage. (Public Works)
 - (2) Ordinance on Indoor Use of Recycled Water. (Environmental Services)
SEE ITEM 7.1 FOR COUNCIL ACTION TO BE TAKEN
 - (3) Verbal Report on energy Efficiency and Renewable Energy Activities. (Environmental Services)
- (e) Open forum
- (f) Adjournment

6.2 [Agreement for Airport Parking Management.](#)

Recommendation: Adopt a resolution authorizing the Director of Finance to execute an amendment to the [Agreement](#) with Ampco Systems Parking, Inc. to extend the term of agreement for an additional twelve months ending October 31, 2010, to be able to make changes to the services as the Airport undergoes construction, and to increase the maximum compensation by \$4,500,000 for the final term. CEQA: Resolution Nos. 67380 and 71451, File No. PP09-151. (Finance)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Ordinance on Indoor Use of Recycled Water.](#)

Recommendation: As recommended by the Transportation and Environment Committee on August 17, 2009, direct the City Attorney's Office to draft an ordinance amending the San José Municipal Code to prohibit the use of potable water for indoor uses for which recycled water is allowed in non-residential buildings and condition development approval on the installation of plumbing that allows for the use of recycled water, in compliance with provisions of the Plumbing Code. (Environmental Services) [Transportation and Environmental Committee Referral – Item 6.1(d)(2)]

* **DEFERRED TO 9/29/09 PER RULES AND OPEN GOVERNMENT COMMITTEE OF 8/26/09**

8. PUBLIC SAFETY SERVICES

8.1 [Actions relating to Gaming Control Fees and Operations.](#)

Recommendation: Approve the following actions and 2009-2010 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund resulting from implementation of the new Gaming Control Ordinance (Title 16) and in order to achieve a service delivery model that is fully cost recovery and implement greater operational efficiencies:

- (a) Gaming Control Administration/Regulation Unit:
 - (1) Adopt a [resolution](#) amending the adopted 2009-2010 Fees and Charges Resolution No. 72737 (the Schedule of Fees & Charges) as amended, to decrease the Cardroom Card Table Fee from \$25,527 per table to \$22,162 per table.
- (b) Gaming Control Licensing/Work Permit Unit:
 - (1) Adopt the following 2009-2010 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
 - (a) Increase the Police Department's 2009-2010 General Fund Personal Services appropriation by \$219,956;
 - (b) Decrease the Police Department's 2009-2010 General Fund Non-Personal/Equipment appropriation by \$80,378;
 - (c) Increase the revenue estimate in the General Fund for Licenses and Permits by \$139,578.
 - (2) Authorize the addition of 2.0 Senior Auditor positions in the Police Department Division of Gaming Control as of January 2, 2010, with interim assistance obtained through January 2010.

(Item continued on the next page)

8. PUBLIC SAFETY SERVICES

8.1 Actions relating to Gaming Control Fees and Operations. (Cont'd.)

Recommendation:

- (b) (3) To make the following changes to the Work Permit Fees by adopting a resolution amending the adopted 2009-2010 Fees and Charges Resolution No. 72737 (the Schedule of Fees & Charges) as amended to:
 - (a) Change the Work Permit to Work Permit Fees – Cardroom Employee Work Permit and increase from \$333 per initial issue plus fingerprint fees to \$470 per initial issue plus fingerprint fees;
 - (b) Change the Renewal to Work Permit Fees – Cardroom Employee Work Permit Renewal Fee and decrease from \$333 per renewal plus fingerprint fees to \$307 per renewal plus fingerprint fees;
 - (c) To add a Third Party Providers of Proposition Player Service Work Permit Fee as follows: \$470 per initial issue plus fingerprint fees;
 - (d) To add a Third Party Providers of Proposition Player Service Work Permit Renewal Fee as follows: \$307 per renewal plus fingerprint fees;
 - (e) To increase the General (Non-Criminal) Fingerprint Fee from \$10 per card to \$20 per card;
- (4) To make the following changes to the Cardroom License Fees by adopting a resolution amending the adopted 2009-2010 Fees and Charges Resolution No. 72737 (the Schedule of Fees & Charges) as amended to:
 - (a) To remove the note under the service description under “Cardroom License Application Fee Deposit,” and add the explanation that “Cardroom License” refers to all categories of Licenses required under Title 16, including: Key Employee, Stock Ownership, Funding Source (Third Party Providers of Proposition Player Service), Funded Player and Funding Source Employee, Financial Source and Landowner, and amend the fee as follows: \$10,000 initial deposit for costs plus additional time billed at actual costs of the application processing and investigation, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel, and lodging for any City employees. Additional deposits after the initial deposit may be required depending on the length, complexity, and scope of the investigation. At such time as a licensing hearing is requested by the applicant, a further deposit to pay the anticipated costs of the licensing hearing shall be required, including the cost of the hearing officer billed at top salary step, and the cost of services of the City Attorney’s Office;

(Item continued on the next page)

8. PUBLIC SAFETY SERVICES

8.1 Actions relating to Gaming Control Fees and Operations. (Cont'd.)

Recommendation:

- (b) (4) (b) To add a Cardroom License Renewal Application Fee Deposit and add the explanation that “Cardroom License” refers to all categories of Licenses required under Title 16, including: Key Employee, Stock Ownership, Funding Source (Third Party Providers of Proposition Player Service), Funded Player and Funding Source Employee, Financial Source and Landowner, and establish the fee as follows: \$5,000 initial deposit for costs plus additional time billed at actual costs of the application processing and investigation, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel, and lodging for any City employees. Additional deposits may be required after the initial deposit depending on the length, complexity, and scope of investigation. At such time as a licensing hearing is requested by the applicant, a further deposit to pay the anticipated costs of the licensing hearing shall be required, including the cost of the hearing officer billed at top salary step, and the cost of services of the City Attorney’s Office shall be required;
- (b) (5) Adopt a resolution amending the adopted 2009-2010 Fees and Charges Resolution No. 72737 (the Schedule of Fees & Charges) as amended to: Amend the “Cardroom Permit Amendment Fee” fee as follows: \$5,000 initial deposit per amendment for costs plus additional time billed at actual costs of the application processing investigation, and holding the licensing hearing before the hearing officer, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel, and lodging for any City employees. Additional deposits after the initial deposit may be required depending on the length, complexity, and scope of the investigation and application hearing. The final cost of services, including the cost of services of the City Attorney’s Office at the application hearing shall also be included in the final fee determination by the Chief of Police at the close of the application hearing;
- (6) Adopt a resolution amending the adopted 2009-2010 Fees and Charges Resolution No. 72737 (the Schedule of Fees & Charges) as amended to Change the title “Appeal Hearing Deposit” to “Regulatory Action and Cease and Desist Hearing Fee” and amend the fee as follows: payment of the City’s reasonable costs of investigation and prosecution of the case, including attorneys’ fees incurred by the City up to the date of the hearing;

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

* **DEFERRED TO 9/22/09 PER RULES AND OPEN GOVERNMENT COMMITTEE OF 8/26/09**

* **RECOMMEND DEFERRAL TO 9/29/09 PER ADMINISTRATION**

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**
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
- **Adjournment**
* This meeting will be adjourned in memory of the late Senator Edward M. Kennedy for his decades of service in the United States Senate. (Mayor/Kalra)

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

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- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
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**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:
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 - c) Speakers should discuss topics related to City business on the agenda.
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 - 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.
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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.

REDEVELOPMENT AGENCY AGENDA

SEPTEMBER 1, 2009

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED – CHAIR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
ROSE HERRERA
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San Jose Redevelopment Agency's Board meeting. Our Board is composed of the ten City Council Members and the Mayor, who serve as our Boardmembers and Chairperson.

If you wish to address the Redevelopment Agency about an issue that is not on the agenda but that is within the subject matter jurisdiction of the Redevelopment Agency Board., you may speak during the “Open Forum” during the City Council's meeting. The Council/Agency is unable to take action on issues presented during “Open Forum.”

This Agenda contains a Consent Calendar section for routine business items requiring Redevelopment Agency approval, as well as general business items arranged corresponding to the Agency's Critical Service Areas. The Critical Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the Agency provides to the community and to the City. The four Critical Service Areas are:

- ***Promote and Implement Neighborhood Improvement Strategies*** — Through collaboration, revitalize commercial and residential neighborhoods so they are livable, safe, diverse and economically sustainable.
- ***Enhance the Quality and Supply of the City's Housing Stock*** — Enhance the Quality and Supply of the City's Housing Stock
- ***Initiate and Facilitate Public Facilities and Spaces*** — To guide the creation of a fabric of public facilities and spaces that is useful, stable, inviting, delightful and instills pride in the community to foster the opportunity for other investments
- ***Initiate and Facilitate Private Development*** — Capitalize on market opportunities and facilitate private development in the fastest possible time with the highest quality customer service

Items listed in Section 8 require approval of both the Redevelopment Agency Board and the City Council. **You may provide input on any agenda item by filling out a BLUE Speaker's Card and submitting it to the City Clerk or Agency's Clerk during the meeting.** If you wish to speak to the Agency, some tips to help you are noted below:

- **Submit a speaker's card before the meeting and before the item is heard.** This will ensure that your name is called for the items you wish to address, and ensure the meeting runs smoothly for all participants.
- When the Board reaches your item on the agenda, the Chairperson will open the public hearing and call your name. Please address the Agency from the speaker's 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 Chairperson's discretion however, depending on the number of speakers and length of agenda.

If you have any questions, please direct them to Agency 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. The Redevelopment Agency meets on Tuesdays, following the City Council's meeting at 1:30 p.m.

Agendas and staff reports for Redevelopment Agency Board agenda items may be viewed on the Internet at <http://www.sjredevelopment.org/agendas.htm>. Board Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda that are not exempt from disclosure pursuant to the California Public Records Act and that are distributed to a majority of the legislative body will be available for public inspection at the Redevelopment Agency at San Jose City Hall, 200 E. Santa Clara St, 14th Floor, San Jose, CA 95113-1903 at the same time that the public records are distributed or made available to the Redevelopment Agency Board.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-8500 or (408) 294-9337 (TTY) at least three business days before the meeting.

On occasion the Redevelopment Agency 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
- **Open Forum**
To be heard jointly during the City Council's 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 Redevelopment Agency Board.
- **Closed Session Report**
- **Orders of the Day**
See Item 9 on the City Council Agenda for description of any City Council agenda items relating to the Redevelopment Agency.

1 CEREMONIAL ITEMS

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 Agency and will be adopted by one motion. If a member of the Redevelopment Agency Board, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

3 GENERAL

4 NEIGHBORHOOD IMPROVEMENT STRATEGIES

5 HOUSING

6 PUBLIC FACILITIES AND SPACES

7 PRIVATE DEVELOPMENT

7.1 Authorization to negotiate and execute documents related to the DDA with CIM Urban Real Estate Fund, L.P.

Recommendation: Adoption of a resolution authorizing the Executive Director to negotiate and execute:

- (a) A Subordination Agreement between the Redevelopment Agency and Comerica Bank allowing The Globe at 2nd and Santa Clara, L.P., a CIM Group owned entity, to refinance the Globe located at 25 South Third Street, and;
- (b) The fourth amendment to the Disposition and Development Agreement (DDA) with CIM Urban Real Estate Fund, L.P., to release; (i) the Agency's funding obligations for the Retail Parcel, and (ii) any additional Developer obligations under the DDA with respect to the Retail Parcel, together with any amendments to any existing documents as necessary to effectuate the proposed fourth amendment to the DDA.

[MERGED]

(DEFER TO OCTOBER 20, 2009)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

See item 9 on the City Council's Agenda, which will be heard and action taken only during the Council meeting that begins at 1:30 p.m. today, for any Redevelopment-related actions on that agenda.

- Adjournment

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