



CITY COUNCIL AGENDA

SEPTEMBER 29, 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 request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 (TTY) as soon as possible, but at least three 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
- 3:30 p.m. - Hear Open Forum

- **Invocation (District 8)**

- * San José Sikh Gurdwara Hymn Singers

- **Pledge of Allegiance**

- **Orders of the Day**

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

ITEMS 9.1 AND 9.2 ARE TO BE CONSIDERED IN A JOINT CITY COUNCIL/ REDEVELOPMENT AGENCY BOARD SESSION.

- * ADJOURNMENT: This meeting will be adjourned in memory of Donna Ward, Senior Librarian, who passed away September 14, 2009. (Library)

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

- * **RECOMMEND ITEM 3.4 TO BE HEARD LAST FOLLOWING ITEM 9.2**

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Stevens Creek Toyota for their contribution to San José's economy and high ethical standards. (Economic Development/Constant)
*
- 1.2 Presentation of a commendation to Solexant for developing the third-generation ultrathin-film PV technology. (Economic Development)

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. 28705 – Rezoning certain real property situated on the southwesterly side of Campbell Avenue, 950 feet northwesterly of Newhall Street, to the A(PD) Planned Development Zoning District. PDC08-068
[Presentation](#)
- (b) ORD. NO. 28706 – Rezoning certain real property situated at the northwest corner of North 6th Street and Jackson Street (601-621 North 6th Street) from LI Light Industrial to CP Commercial Pedestrian Zoning District. C09-024
[Presentation](#)
- (c) ORD. NO. 28707 – Rezoning certain real property situated at the southeast corner of East Saint John Street and North Fourth Street (156 East Saint John Street) from CG Commercial General to DC Downtown Commercial Zoning District. C09-009
[Presentation](#)
- (d) ORD. NO. 28708 – Prezoning certain real property situated at the southeast corner of East Mission Street and North Tenth Street from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC08-066
[Presentation](#)
- (e) ORD. NO. 28709 – Prezoning certain real property situated on both side of Hope Street, north of Southside Drive, from County of Santa Clara to R-1-8 Single-Family Residence Zoning District. C09-013
[Presentation](#)

2. CONSENT CALENDAR

2.2 Final adoption of ordinances. (Cont'd.)

Recommendation: Final adoption of ordinances.

- (f) ORD. NO. 28710 – Rezoning certain real property situated on the south of Lewis Road, on both sides of Garden Avenue, Wall Street and Water Street north of Southside Drive, and also the real property situated south of Southside Drive, on both sides of Garden Avenue and east of Water Street, north of a straight line extending west of Jackie Drive, from County of Santa Clara to R-1-8 Single-Family Residence Zoning District. C09-013
[Presentation](#)
- (g) ORD. NO. 28711 – Rezoning certain real property situated between Water Street and Hope Street north of Southside Drive from County of Santa Clara to R-2 Two-Family Residence Zoning District. C09-013
[Presentation](#)
- (h) ORD. NO. 28712 – Rezoning certain real property situated between Garden Avenue and Water Street, south of Southside Drive, from County of Santa Clara to R-2 Two-Family Residence Zoning District. C09-013
[Presentation](#)
- (i) ORD. NO. 28713 – Rezoning certain real property situated east of Monterey Road, approximately 720 feet south of Lewis Road, from County of Santa Clara to R-M Multi-Family Residence Zoning District. C09-013
[Presentation](#)
- (j) ORD. NO. 28714 – Rezoning certain real property situated south of Southside Drive, west of Water Street and east of Kenbrook Circle, from County of Santa Clara to R-M Multi-Family Residence Zoning District. C09-013
[Presentation](#)
- (k) ORD. NO. 28715 – Rezoning certain real property situated east of Monterey Road, approximately 930 feet south of Lewis Road, and on both sides of Southside Drive from County of Santa Clara to CG Commercial General Zoning District. C09-013
[Presentation](#)
- (l) ORD. NO. 28716 – Rezoning certain real property situated west of East Capitol Expressway, east of Monterey Road, south of Southside Drive and north of Rancho Drive from County of Santa Clara to R-1-8 Single-Family Residence Zoning District. C09-014
[Presentation](#)
- (m) ORD. NO. 28717 – Rezoning certain real property situated south of Samaritan Drive, west of Union Avenue, north of Carlton Avenue, both sides of Dickens Avenue, Cooper Avenue, Charlotte Avenue, and Clydelle Avenue south of Carlton Avenue, and Winton Way south of Carlton Avenue from County of Santa Clara to R-1-8 Single-Family Residence Zoning District. C09-026
[Presentation](#)

2. CONSENT CALENDAR

2.2 Final adoption of ordinances. (Cont'd.)

Recommendation: Final adoption of ordinances.

- * (n) [ORD. NO. 28718](#) – Extending the temporary moratorium on the establishment of new Bail Bonds Establishments pending the review and possible amendment of land use regulations applicable to such establishments, setting forth the findings to support the extension of such temporary moratorium, and making the effectiveness and applicability of the provisions of this ordinance retroactive to October 9, 2009.

2.3 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) [Request for an excused absence for Councilmember Constant from the Regular Meeting of the Rules and Open Government Committee on September 2, 2009](#) due to illness. (Constant)
(Rules Committee referral 9/16/09)
- (b) [Request for an excused absence for Councilmember Constant from the Evening Meeting of the City Council on September 15, 2009](#) due to illness. (Constant)
* (Rules Committee referral 9/23/09)
- (c) [Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on September 16, 2009](#) due to Authorized City Business: Travel to San Francisco, CA for the Going Green West Conference. (Mayor)
* (Rules Committee referral 9/23/09)

2.4 [Ratification of Final Expenditures in Various Appropriations for FY 2008-2009.](#)

Recommendation:

- (a) Adopt an ordinance ratifying the final 2008-2009 appropriation increases detailed in this report.
- (b) Adopt the following 2008-2009 appropriation ordinance and funding sources resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:
 - (1) Increase the Earned Revenue estimate by \$762,798;
 - (2) Increase the Transfer to Council District 1 by \$62,022;
 - (3) Increase the Transfer to Council District 2 by \$36,728;
 - (4) Increase the Transfer to Council District 3 by \$56,453;
 - (5) Increase the Transfer to Council District 4 by \$25,564;
 - (6) Increase the Transfer to Council District 5 by \$68,405;
 - (7) Increase the Transfer to Council District 6 by \$59,571;
 - (8) Increase the Transfer to Council District 7 by \$72,283;

(Item continued on the next page)

2. CONSENT CALENDAR

2.4 Ratification of Final Expenditures in Various Appropriations for FY 2008-2009. (Cont'd.)

Recommendation:

- (b) (9) Increase the Transfer to Council District 8 by \$61,387;
- (10) Increase the Transfer to Council District 9 by \$38,436;
- (11) Increase the Transfer to Council District 10 by \$9,000;
- (12) Increase the Transfer to City-Wide by \$244,425; and
- (13) Increase the Transfer to the General Fund by \$28,524.

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

2.5 [Agreement for Public Artwork at the Airport.](#)

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Deborah Aschheim for the fabrication and installation of a public artwork at the Norman Y. Mineta San José International Airport Terminal B Arrivals Hall, in an amount not to exceed \$300,000. CEQA: Resolutions No. 67380 and 71451, PP 09-051. (Economic Development/Airport)

2.6 [Agreement for a Public Address System at the Airport.](#)

Recommendation: Adopt a [resolution](#):

- (a) Authorizing the Director of Finance to execute the First Amendment to the Public Address System [Agreement](#) with Signatures Technology Inc., dba Com-Net Software (COM-NET) to expand the system into Terminals A+ and the Terminal A Baggage Claim area at the Norman Y. Mineta San José International Airport (SJC) and to increase the total compensation by an amount not to exceed \$623,464 from \$1,652,805 to \$2,276,269 including all hardware, software, sales tax and the first year of support and professional services.
- (b) Increasing the contingency amount by \$100,000 from \$330,560 to \$430,560 and authorizing the Director of Finance to execute change orders as required; covering unanticipated changes in the system design and/or installation.

CEQA: Resolution Nos. 67380 and 71451, File No. PP09-160. (Finance)

2.7 [Report on RFP for Recovery Audit Services.](#)

Recommendation: Adopt a resolution authorizing the Director of Finance to:

- (a) Negotiate and execute an agreement with Lavante, Inc. to provide audit and recovery services relating to the City's accounts payable vendor disbursements and invoices ("Recovery Audit Services") for an initial term commencing upon execution through June 30, 2010, with compensation to be paid on a fee recovery basis equal to 18% of actual claims recovered, subject to a \$100,000 maximum for any one claim realized.
- (b) Exercise three, one-year options to renew the Agreement, subject to the appropriation of funds.

CEQA: Not a Project. (Finance)

2. CONSENT CALENDAR

2.8 Funding Commitment of CDBG Funds to Legal Aid Society of Santa Clara County.

Recommendation:

- (a) Adopt a [resolution](#) authorizing:
 - (1) A funding commitment of Community Development Block Grant (CDBG) funds in the amount of \$150,000 to Legal Aid Society of Santa Clara County (Legal Aid);
 - (2) Approval of a Substantial Amendment to City's FY 2009-2010 Consolidated Annual Action Plan (ConPlan);
 - (3) The Housing Director to negotiate and execute a CDBG grant agreement not to exceed \$150,000; and
- (b) Approval of the following Appropriation Ordinance amendments in the Community Development Block Grant Fund (441) for 2009-2010:
 - (1) Decrease the CDBG Program Development and Monitoring appropriation by \$150,000;
 - (2) Establish an appropriation for Legal Aid Fair Housing Program in the amount of \$150,000.

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

2.9 Agreement with Cirque du Soleil.

Supplemental – Memo from the Director of the Office of Economic Development Presentation

Recommendation:

- (a) Approve a lease [agreement](#) with Cirque du Soleil for the purpose of leasing portions of the City's "E" P with Cirque du Soleil for the purpose of leasing portions of the City's "E" Parking Lot (Taylor/San Pedro/Mission) to Cirque du Soleil from December 14, 2009 to April 2, 2010 to allow Cirque du Soleil to present to the public its touring show, for rental consideration to the City of \$95,000.
- (b) Direct staff to facilitate the permitting process required to authorize use of the "E" Parking Lot for Cirque du Soleil's touring show, which will include community outreach and City employee and public parking plans, and that the City hold a public hearing to consider amendment of the current Conditional Use Permit for this site.
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
 - (1) Establish a City-Wide appropriation to the Office of Economic Development for Cirque du Soleil in the amount of \$175,000; and
 - (2) Increase the estimate for Other Revenue by \$175,000.

CEQA: Exempt, File No. CPA05-015.02. Council District 3. (Economic Development)

*

2.10 SB 402 (Wolk) Recycling: Beverage Containers: Redemption Payments and Restoration of Funding.

Recommendation: As recommended by the Rules and Open Government Committee on September 23, 2009, adopt a neutral position on SB 402 (Wolk) Recycling: Beverage Containers: Redemption Payments and Restoration of Funding. (Environmental Services)

*

[Rules Committee referral 09/23/09 – Item D(1)(a)]

2. CONSENT CALENDAR

2.11 [Downtown Parking Board Appointment.](#)

Recommendation: As recommended by the Rules and Open Government Committee on September 23, 2009, appoint David Walker to the Downtown Parking Board as an At-Large representative to a four year term ending June 30, 2013. (Reed/Liccardo)

* [Rules Committee referral 09/23/09 – Item G(1)]

2.12 [Airport Noise Advisory Committee Appointment.](#)

Recommendation: As recommended by the Rules and Open Government Committee on September 23, 2009, appoint John Salah, Airport Commissioner for Norman Y. Mineta San José International Airport to the Airport Noise Advisory Committee. (Airport)

* [Rules Committee referral 09/23/09 – Item G(2)]

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 – [September 9, 2009](#) Mayor Reed, Chair

- (a) City Council (City Clerk)
 - (1) Review September 15, 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 September 22, 2009 Draft Agenda
 - (a) Add new items to Draft Agenda
 - (1) Executive Home Loan Program. (Constant)
 - (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
- (f) The Public Record
- (g) Appointments to Boards, Commissions and Committee
 - (1) Approve two Public Sector Appointments to the Silicon Valley Workforce Investment Network Board: (a) Bill Guthrie and (b) David Baer. (Mayor)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – September 9, 2009

Mayor Reed, Chair (Cont'd.)

- (h) Rules Committee Reviews, Recommendations and Approvals
 - (1) 2009 League of California Cities Resolution. (City Manager's Office)
 - (2) Discussion on the topic of public business conducted on new technologies and personal equipment. (Mayor)
- (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
 - (1) Adjournment

3.3 Report of the Public Safety, Finance and Strategic Support Committee – September 17, 2009, Councilmember Nguyen, Chair

- (a) Call to Order and Roll Call
- (b) Review of Workplan
 - (1) Update on the Conservation Corps Audit. (City Auditor)
 - (2) Report on the Modification of Procurement Reforms. (Finance)
- (c) Consent Calendar
 - (1) Redevelopment Agency Monthly Financial Report. (Redevelopment Agency)
 - (2) Report on Key Legislative Items. (City Manager's Office)
 - (3) Fourth Quarter Report on 2008-2009 Performance Measurements for April-June, 2009 for the Strategic Support City Service Area and Public Safety Service Area. (City Manager's Office/Public Safety)
- (d) Reports to Committee
 - (1) Report on Enterprise and Business Applications Priority Projects. (Information Technology)
 - (2) An Audit of the Park Trust Fund. (City Auditor)
SEE ITEM 3.7 FOR COUNCIL ACTION TO BE TAKEN
 - (3) Report on the City Manager's Downtown Advisory Committee. (City Manager's Office)
 - (4) Presentation of Various Police Department Related Reports. (Police/City Manager's Office)
- (e) Open Forum
- (f) Adjournment

3. STRATEGIC SUPPORT SERVICES

3.4 [Ethics Update.](#)

[Presentation](#)

Recommendation: Accept staff's presentation to the City Council on ethical issues related to gifts. (City Attorney's Office)

* **RECOMMEND TO BE HEARD LAST FOLLOWING ITEM 9.2**

3.5 [Amend Retiree Healthcare Agreement with the City Association of Management Personnel.](#)

Recommendation: Adopt a [resolution](#) amending the terms of the current retiree healthcare agreement with the City Association of Management Personnel (CAMP), which would extend the reopener to commence meeting and conferring on retiree healthcare benefits for future employees and a medical reimbursement program for future retirees from January 2010 to January 2011. CEQA: Not a Project. (City Manager's Office)

3.6 [Agreement with Prudential Insurance Company of America for a Group Plan.](#)

Recommendation:

- (a) Approve an [agreement](#) with Prudential Insurance Company of America (Prudential) for a group plan to make voluntary long-term care (LTC) insurance services available to City of San José Employees, Retirees and their dependents/beneficiaries for the period of January 1, 2010 through December 31, 2013.
- (b) Approve an option to renew contracts with no additional increase in rates for two additional years, through December 31, 2015.

CEQA: Not a Project. (Human Resources)

3.7 [Audit of the Park Trust Fund.](#)

Recommendation: As recommended by Public Safety, Finance and Strategic Support Committee on September 17, 2009, accept the City Auditor's Audit titled "Audit of the Park Trust Fund: The Department of Parks, Recreation and Neighborhood Services Has Improved Administration of the Park Trust Fund and Can Further Strengthen its Policies and Procedures," with the exception of Recommendation #6, Attempt to secure interest accrual on in-lieu fees not yet paid by the Redevelopment Agency. (City Auditor)

* [Public Safety, Finance and Strategic Support Committee referral 9/17/09 – Item D(2)]

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [Ordinance Amending the Procedure for Initiating a City Landmark Presentation](#)

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 streamline the historic landmark designation process by either:

- (a) Allowing the City Council greater discretion on whether to initiate the procedure for the designation of a landmark so nominated; or [Ordinance](#)
- (b) Allowing the Director of Planning, Building and Code Enforcement to initiate the procedure for the designation of a nominated landmark. [Ordinance](#)

CEQA: Not a Project. (Planning, Building and Code Enforcement)

(Continued from 6/30/09- Item 4.2, 8/4/09 – Item 4.2 and 9/1/09 – Item 4.2)

4.3 **Report on Bids and Award of Contract for Couplet Conversion – Julian Street and St. James Street Project.**

Recommendation: Report on bids and award of contract for the SNI 13S01d: Couplet Conversion – Julian Street and St. James Street Project to the low bidder, Joséph J. Albanese, Inc., to include the base bid and Add Alternate No. 2, in the amount of \$3,535,968.85, and approval of a contingency in the amount of \$176,800. CEQA: Negative Declaration and addenda thereto, File Nos. PP02-05-115 and PP08-126. Council District 3. SNI: 13th Street. (Public Works)

* **RECOMMEND DEFERRAL TO 10/6/09 PER ADMINISTRATION**

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 – [September 14, 2009](#) Councilmember Liccardo, Chair**

- (a) Call to Order and Roll Call
- (b) Review of Workplan
- (c) Consent Calendar
 - (1) Terminal Area Improvement Program (TAIP) Quarterly Report. (Airport/ Public Works)
 - (2) Stormwater Permit Implementation. (Environmental Services)
 - (3) Plant Master Plan Progress Report. (Environmental Services)

(Item continued on the next page)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – September 14, 2009 Councilmember Liccardo, Chair (Cont'd.)

- (d) Reports to Committee
 - (1) Regional Transportation Activities Report. (Transportation)
TO BE HEARD BY COUNCIL 10/6/09
 - (2) San José Community Forest Master Plan Status Report. (Transportation)
 - (3) Status on the Architectural Design Concepts for the Las Plumas Environmental Innovation Center. (Environmental Services)
 - (4) Verbal Report on Energy Efficiency and Renewable Energy Activities. (Environmental Services)
- (e) Open Forum
- (f) Adjournment

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 Environment Committee Referral 8/17/09 – Item D(2)]
(Deferred from 9/1/09 – Item 7.1)

RECOMMEND DROP PER ADMINISTRATION

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.

(Item continued on the next page)

8. PUBLIC SAFETY SERVICES

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

Recommendation:

- (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.
 - (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 . . .

(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) (a) . . . 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;
- (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;
- (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;

(Item continued on the next page)

8. PUBLIC SAFETY SERVICES

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

Recommendation:

- (b) (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 from 9/1/09 – Item 8.1)

- * **DEFERRED TO 10/20/09 BY THE RULES & OPEN GOVERNMENT COMMITTEE**

8.2 [Agreement for the Consortium for Police Leadership in Equity.](#)

[Supplemental – Memo from the Office of the City Manager](#)

- * **Recommendation:** Approve the [agreement](#) between the City of San José and the Consortium for Police Leadership in Equity for research on issues of sociological and psychological dynamics in law enforcement and in police/community relations in the City of San José, with no monetary compensation by the City. (Police Department)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Item 8.1 “Adjustments to the Agency’s FY 2009-10 Adopted Capital Budget for City Support Services” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEMS 9.1 AND 9.2 IN A JOINT SESSION

9.1 [Policy on Implementation of the Inclusionary Housing.](#)

Recommendation: Adopt [resolutions by the City Council](#) and the [Redevelopment Agency Board](#) amending the “City of San José Policy on Implementation of the Inclusionary Housing Requirement of Health & Safety Code Section 33413(b)(2)” for redevelopment project areas by providing a waiver of the requirement for a very low-, low- or moderate-income restriction on a for-sale unit when the affordable housing price is within five percent (5%) of the unrestricted market value of the unit. CEQA: Not a project. (Redevelopment Agency/City Manager’s Office)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 Policy for Distribution of Tickets or Passes to City/Agency Officials.

Recommendation:

- (a) Adopt a [resolution](#) by the City Council approving revisions to Council Policy 9-11, currently entitled “Distribution of Arena Tickets,” to broaden its application to distribution of any tickets or passes by the City to City/Agency officials and employees.
- (b) Adopt a [resolution](#) by the Redevelopment Agency Board approving Revised Council Policy 9-11 as it applies to Agency officials and employees.

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

- 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 Donna Ward, Senior Librarian, who passed away September 14, 2009. (Library)

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.