



# CITY COUNCIL AGENDA

**OCTOBER 6, 2009**

## **SYNOPSIS**

PETE CONSTANT  
ASH KALRA  
SAM LICCARDO  
KANSEN CHU  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

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

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](http://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, 2<sup>nd</sup> 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](mailto: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  
**Absent Council Members: None.**  
  
**1:32 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: None.**
- **Invocation (District 9)**  
**Dartmouth Middle School for the Deaf and Hard of Hearing Students: Nancy Gomez, Jon Hagan, Philip Pham, Valeria Tamayo, Jorge Perez, and Rebecca Torres; Teacher Angeline Ruggiero provided the invocation.**
- **Pledge of Allegiance**  
**Mayor Reed, accompanied by the students of Dartmouth Middle School for the Deaf and Hard of Hearing Students, led the Pledge of Allegiance.**
- **Orders of the Day**  
**The Orders of the Day and the Amended Agenda were approved.**
- **Closed Session Report**  
**No Report.**

# 1. CEREMONIAL ITEMS

---

- 1.1 Presentation of a commendation to Ysabel Durón for being inducted into the National Association of Hispanic Journalists' Hall of Fame. (Campos)  
**Mayor Reed and Council Member Campos recognized and commended Ysabel Durón for being inducted into the National Association of Hispanic Journalists' Hall of Fame.**
- 1.2 Presentation of a commendation to the San José Museum of Art in recognition of the Museum's 40<sup>th</sup> Anniversary. (Mayor/Liccardo)  
**Mayor Reed and Council Member Liccardo presented a commendation to the San José Museum of Art in recognition of the Museum's 40<sup>th</sup> Anniversary.**
- 1.3 Presentation of proclamations declaring October 8, 2009 as "Disability Awareness Day" and the month of October 2009 as "Employment of Persons with Disabilities Month" in the City of San José. (Constant/Pyle)  
**Mayor Reed and Council Members Constant and Pyle proclaimed October 8, 2009 as "Disability Awareness Day" and the month of October 2009 as "Employment of Persons with Disabilities Month" in the City of San José.**
- 1.4 Presentation of a commendation in honor of the 160<sup>th</sup> Anniversary of the First Presbyterian Church. (Liccardo)  
(Rules Committee referral 9/30/09)  
**Dropped.**
- 1.5 Presentation of a proclamation declaring October 4-10, 2009 as "Fire Prevention Week" in the City of San José. (Fire)  
(Rules Committee referral 9/30/09)  
**Mayor Reed proclaimed the week of October 4-10, 2009 as "Fire Prevention Week" in the City of San José.**

# 2. CONSENT CALENDAR

---

## 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes.

- (a) Regular Minutes of August 4, 2009
- (b) Regular Minutes of August 11, 2009
- (c) Regular Minutes of August 18, 2009
- (d) Regular Minutes of August 25, 2009

**Approved.**

## 2. CONSENT CALENDAR

---

### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28643 – Amending Chapter 11.40 of Title 11 of the San José Municipal Code to add Section 11.40.025 to define parking meter, amend Section 11.40.200 to revise the boundary of the Downtown Business Parking Meter District, add Section 11.40.250 to establish the Arena/Diridon Area Parking Meter District, and to amend Sections 11.40.350, 11.40.370, 11.40.380, 11.40.390, 11.40.400 and 11.40.420 to update the parking meter provisions to include multiple space parking meters or pay stations.

**Ordinance No. 28643 adopted.**

- (b) ORD. NO. 28645 – Rezoning certain real property situated on the south side of Park Avenue between Grand Avenue and Race Street, and both sides of Lincoln Avenue between Park Avenue and Pacific Avenue, and between Sunol Street and South Morrison Avenue, in the County of Santa Clara to R-1-8 Single-Family Residence Zoning District. C08-023

**Ordinance No. 28645 adopted.**

- (c) ORD. NO. 28646 – Rezoning certain real property situated on the south side of West San Carlos Street, north of Morris Avenue and east of Lincoln Avenue, and the south side of Park Avenue between Sunol Street and McEvoy Street in the County of Santa Clara to CIC Combined Industrial Commercial Zoning District. C08-023

**Ordinance No. 28646 adopted.**

- (d) ORD. NO. 28647 – Rezoning certain real property situated on the east side of Meridian Avenue, on the south side of Park Avenue and the north side of West San Carlos Street, and west of McEvoy Street in the County of Santa Clara to CP Commercial Pedestrian Zoning District. C08-023

**Ordinance No. 28647 adopted.**

### 2.3 Mayor and Council Excused Absence Requests.

**Recommendation:**

- (a) Request for an excused absence for Vice Mayor Chirco from the Closed Session and Regular Meeting of the City Council on September 29, 2009 due to illness. (Chirco)  
(Rules Committee referral 9/30/09)
- (b) Request for an excused absence for Councilmember Constant from the Closed Session of the City Council on September 15, 2009 due to Authorized City Business: attending Tech Crunch 50 Convention on new constituent service tool in San Francisco, CA. (Constant)  
(Rules Committee referral 9/30/09)

**Excused.**

## 2. CONSENT CALENDAR

---

### 2.4 Settlement with California State Automobile Association regarding Sewer Backup.

**Recommendation:** Approve payment to California State Automobile Association in the amount of \$60,000 pursuant to a Release, as authorized by the City Council in closed session on August 25, 2009, to resolve the lawsuit *California State Automobile Association v. City of San Jose*. CEQA: Not a Project. (City Attorney's Office)

**Approved.**

### 2.5 Amendments to Agreements for Elections Commission Evaluator and Investigator Services.

**Recommendation:** Adopt a resolution:

- (a) Authorizing the City Attorney to negotiate and execute a first amendment to the agreement with Hanson, Bridgett, Marcus, Vlahos, Rudy LLP to provide legal and investigative services as the Evaluator to the San José Elections Commission, extending the term through June 30, 2010, and increasing compensation by \$80,000, for a total amount of compensation not to exceed \$180,000.
- (b) Authorizing the City Clerk to negotiate and execute a first amendment to the agreement with Roberto A. Rivera dba Rivera & Associates to provide investigation services to the San José Elections Commission, extending the term through June 30, 2010, without increasing the total amount of compensation, which is not to exceed \$40,000.

(City Clerk/City Attorney's Office)

**Resolution No. 75116 adopted.**

### 2.6 City Manager's Travel to Boston, Massachusetts.

**Recommendation:** Approve travel for City Manager Debra Figone to Boston, Massachusetts on October 21-23, 2009 to attend the San José Silicon Valley Chamber to Chamber of Commerce City-to-City trip. Source of Funds: City Manager's Non Personal Appropriation. (City Manager's Office)

**Approved.**

## 2. CONSENT CALENDAR

---

### 2.7 Arzino Ranch Demolition Project.

**Recommendation:**

- (a) Adopt a resolution authorizing the Director of Environmental Services to:
  - (1) Award the Contract for the Arzino Ranch Demolition Project to the lowest responsive and responsible bidder in an amount not to exceed the engineer's estimate in an amount not to exceed \$506,000 and approval of a ten percent construction contingency, subject to the concurrence of the Treatment Plant Advisory Committee; and
  - (2) Hear and decide any timely bid protest(s), to make the City's final determination as to lowest responsive and responsible bidder, or to reject all bids and re-bid the project.

**Resolution No. 75117 adopted.**

- (b) Adopt a resolution approving the Arzino Ranch Demolition Project and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project.

CEQA: Mitigated Negative Declaration, File No. PP08-286. (Environmental Services/Public Works)

**Resolution No. 75118 adopted.**

### 2.8 Agreement for Shuttle Bus Services at the Airport.

**Recommendation:** Adopt a resolution authorizing the Director of Finance to execute the first amendment to the Airport Shuttle Bus Services Agreement with ShuttlePort California, LLC to add an additional tier for operating hours to the compensation rate table. CEQA: Resolution Nos. 67380 and 71451, File No. 09-156. (Finance)

**Resolution No. 75119 adopted.**

### 2.9 Acting Independent Police Auditor's Travel to Austin, Texas.

**Recommendation:** Approve travel for Acting Independent Police Auditor Shivaun Nurre to Austin, Texas on October 31 – November 3, 2009 to attend the annual National Association for Civilian Oversight of Law Enforcement (NACOLE) Conference. Source of Funds: IPA's Non Personal Appropriation. (Independent Police Auditor)

**Approved.**

## 2. CONSENT CALENDAR

---

### 2.10 Set Public Hearings for Annexations/Reorganizations.

#### **Recommendation:**

- (a) Adopt a resolution initiating proceedings and setting November 17, 2009 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Franklin No. 54 which involves the annexation to the City of San José of approximately 39 gross acres of land generally bounded by Lewis Road to the north, Monterey Road to the west, Singleton Road to the south and Sunburst Drive to the east, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation District No. 2-3, and Area No. 01 (Library Services) County Service. Council District 7. (Planning, Building and Code Enforcement)  
**Resolution No. 75120 adopted.**
- (b) Adopt a resolution initiating proceedings and setting November 17, 2009 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Franklin No. 55 which involves the annexation to the City of San José of approximately 73 gross acres of land generally located west of East Capitol Expressway, east of Monterey Road, south of Southside Drive and north of Rancho Drive, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation District No. 2-3, and Area No. 01 (Library Services) County Service. Council District 7. (Planning, Building and Code Enforcement)  
**Resolution No. 75121 adopted.**
- (c) Adopt a resolution initiating proceedings and setting November 17, 2009 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Parker No. 27 which involves the annexation to the City of San José of approximately 78 gross acres of land generally bounded by Samaritan Drive to the north, Union Avenue to the east, Wilma Way to the west and Rosswood Drive to the south, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service. Council District 9. (Planning, Building and Code Enforcement)  
**Resolution No. 75122 adopted.**

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

---

### 2.10 Set Public Hearings for Annexations/Reorganizations. (Cont'd.)

**Recommendation:**

- (d) Adopt a resolution initiating proceedings and setting November 17, 2009 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Sunol No. 82 which involves the annexation to the City of San José of approximately 42 gross acres consisting of 282 parcels located in an area generally bounded by the south side of Park Avenue, west side of McEvoy Street, north and south sides of West San Carlos Street, and the east side of Meridian Avenue, and the detachment of the same from Central Fire Protection, County Lighting, Santa Clara Valley Zone C-1 County Water, Sunol Sanitary, and Area No. 01 (Library Services) County Service Districts. Council District 6. SNI: Burbank/Del Monte. (Planning, Building and Code Enforcement)

**Resolution No. 75123 adopted.**

## 3. STRATEGIC SUPPORT SERVICES

---

### 3.1 Report of the City Manager, Debra Figone No Report.

### 3.2 Report of the Rules and Open Government Committee – September 16, 2009 Mayor Reed, Chair Accepted.

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

### 3.4 Audit of the City Auditor's Office.

**Recommendation:** Adopt a resolution authorizing the City Clerk to execute an agreement with the Association of Local Government Auditors (ALGA) to perform an audit of the City Auditor's Office for the period July 1, 2007 through June 20, 2009, pursuant to the peer review guidelines of the ALGA, in exchange for reimbursement of expenses for the audit team and the provision of reciprocal audit services by the City Auditor's Office. (Mayor)

[Rules Committee referral 9/30/09 – Item A(1)(a)]

**Resolution No. 75124 adopted.**

### 3.5 Verbal Update of Legislative Priorities by Senator Elaine Alquist.

**Recommendation:** Receive verbal update of legislative priorities. (Mayor)  
(Rules Committee referral 9/30/09)

**Update Received.**

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

---

### **4.1 Report of the Community & Economic Development Committee Councilmember Pyle, Chair.**

**No Report.**

### **4.2 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, Joseph 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)  
(Deferred from 9/29/09 – Item 4.3)

**Accepted.**

### **4.3 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)  
(Deferred from 9/29/09 – Item 2.5)

**Resolution No. 75125 adopted.**

## **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.**

## **6. TRANSPORTATION & AVIATION SERVICES**

---

### **6.2 Support for Completion of BART Extension Project.**

**Recommendation:** Adopt a resolution affirming Council support for the completion of the entire BART extension project to Downtown San José and Santa Clara. Council Districts 3, 4 and 6. (Transportation)

**Resolution No. 75126 adopted.**

### **6.3 Support for High Speed Rail Investment Strategy.**

**Recommendation:** As referred by the Transportation and Environment Committee on September 14, 2009, adopt a resolution affirming Council support for the San Francisco/Silicon Valley High Speed Rail Investment Strategy. CEQA: Not a Project. (Transportation)

[Transportation and Environment Committee referral 9/14/09 – Item D(1)]

**Resolution No. 75127 adopted.**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

---

## **8. PUBLIC SAFETY SERVICES**

---

## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

---

- Notice of City Engineer's Pending Decision on Final Maps  
None.
- Notice of City Engineer's Award of Construction Projects  
None.
- Open Forum  
  
Cathy Brandhorst offered personal observations.
- Adjournment

**The Council of the City of San José was adjourned at 3:02 p.m. in memory of the victims of the recent disasters in Southeast Asia and the Pacific Islands.**