



CITY COUNCIL AGENDA

OCTOBER 20, 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**

- * 9:00 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
- 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 9)**

Mihir Meghani, M. D., President and Co-Founder, Hindu American Foundation

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

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Alumawall for being a successful manufacturing business. (Economic Development)

1. CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to the Hindu American Foundation. (Nguyen/Kalra)
- 1.3 Presentation of a commendation to Rocketship Mateo Sheedy Elementary School for being the highest performing elementary school in San José and Santa Clara County and third in California. (Campos)
TO BE HEARD IN THE EVENING
* (Rules Committee referral 10/14/09)
- 1.4 Presentation of a commendation to the Alum Rock Village Business Association for their hard work in hosting the 2nd Annual Salsa Festival. (Campos)
* (Rules Committee referral 10/14/09)
- 1.5 Presentation of a proclamation declaring October as “Filipino History Month” in the City of San José. (Chu)
TO BE HEARD IN THE EVENING
* (Rules Committee referral 10/14/09)
- 1.6 Presentation of a commendation to the Association of the Vietnamese Elderly of the Bay Area for its dedicated work to support and foster civic participation among the elderly community in San José. (Constant)
* (Rules Committee referral 10/14/09)

2. CONSENT CALENDAR

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

2.1 Approval of Minutes.

Recommendation: Approval of Amended Regular Minutes:

- (a) [Amended Regular Minutes of August 4, 2009](#)

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28652 – Amending of Part 2 of Chapter 13.48 of Title 13 of the San José Municipal Code to Revise Section 13.48.110 to Eliminate the Requirement to forward a Historic Landmark Nomination to the Historic Landmarks Commission when the Historic Landmarks Commission is the Nominating Entity, allowing the Director of Planning, Building and Code Enforcement to initiate the procedure for Historic Landmark Designation, and making other Nonsubstantive Clarifying Changes.

2. CONSENT CALENDAR

2.3 Mayor and Council Excused Absence Requests.

* **Recommendation:**

- (a) [Request for an excused absence for Vice Mayor Chirco from the Regular Meeting](#) of the Rules and Open Government Committee on September 30, 2009 due to illness. (Chirco)
(Rules Committee referral 10/7/09)
- (b) [Request for an excused absence for Vice Mayor Chirco from the Regular Meeting](#) of the Rules and Open Government Committee on October 28, 2009 due to illness – medical appointment. (Chirco)
(Rules Committee referral 10/7/09)
- (c) [Request for an excused absence for Councilmember Constant from the Regular Meeting](#) of the City Council on November 10, 2009 and the Regular Meeting of the Federated employees Retirement Board on November 12, 2009 due to authorized City business: attendance at the 2009 National League of Cities Congress of Cities Conference in San Antonio, Texas. (Constant)
(Rules Committee referral 10/7/09)
- (d) [Request for an excused absence for Vice Mayor Chirco from the Regular Meeting](#) of the Rules and Open Government Committee on October 14, 2009 due to illness. (Chirco)
* (Rules Committee referral 10/14/09)

- (e) [Request for an excused absence for Council Member Chu from the Study Session](#) for the Redevelopment Agency Proposed FY2009-10 Operating & Capital Budget on November 9, 2009, the City Council Meeting/Closed Session on November 10, 2009 and the Neighborhood Services and Education Committee Meeting on November 12, 2009 due to authorized City business to attend the National League of Cities Congress of Cities and Exposition, San Antonio, TX. (Chu)
* (Rules Committee referral 10/14/09)

- (f) [Requests for an excused absence for Council Member Chu from the Public Safety, Finance and Strategic Support Committee](#) on November 19, 2009 due to authorized City business to attend the League of California Cities Board of Director's Meeting, Anaheim, CA. (Chu)
* (Rules Committee referral 10/14/09)

2.4 [Settlement in La Blanc v. City of San José.](#)

Recommendation: Approve settlement and authorize the City Attorney to execute a Settlement [Agreement](#) and Release with Julie La Blanc, providing for payment by City in the amount of \$200,000 in settlement of her lawsuit. CEQA: Not a Project. (City Attorney's Office)

2. CONSENT CALENDAR

2.5 [Councilmember Constant's Travel to San Antonio, TX.](#)

Recommendation: Approve travel by Councilmember Constant to San Antonio, TX on November 11-14, 2009 to attend the National League of Cities Congress of Cities and Exposition Conference. Source of Funds: Mayor & Council Travel Fund. (Constant) (Rules Committee referral 10/7/09)

2.6 [RFP for Landscaping Services for Community Facility Districts.](#)

Recommendation: Report on Request for Proposals for Landscaping Services for Community Facilities Districts 2 and 3, and authorize the Director of Finance to:

- (a) Execute a service order with Jensen Landscape (San José, CA) for a one-year term and a maximum compensation not to exceed \$500,000.00.
- (b) Exercise four, one-year options to renew the purchase order subject to appropriation of funds.

CEQA: Exempt, File No. PP04-191. Council District 8. (Finance)

2.7 [Agreement with Water District for Water Conservation.](#)

[Supplemental – Letter from the Water Pollution Control Plant](#)

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the Santa Clara Valley Water District for cost sharing associated with water conservation programs in FY 2009-2010, under which the City will receive an amount not to exceed \$205,000 and the City will pay the District an amount not to exceed \$500,000 for a net cost to the City of \$295,000. CEQA: Not a Project. (Environmental Services)

2.8 [Agreement with Anderson Pacific Engineering and Construction.](#)

[Supplemental – Letter from the Water Pollution Control Plant](#)

Recommendation: Adopt a resolution authorizing the Director of Environmental Services to execute a first amendment to the New Construction of Various Equipment 2008-2009 [Contract](#) with Anderson Pacific Engineering and Construction Inc. to:

- (a) Change the contract term from a one year term with the option of two additional one year terms to a two year contract term.
- (b) Modify the compensation to enable the payment of the total contract amount up to \$1,450,930.00 over a two year term instead of paying the total contract amount over a one year term with two optional one year terms.

CEQA: Exempt, File No. PP08-202. (Environmental Services)

2.9 [Agreement for the Trailer Lease at the Water Pollution Control Plant.](#)

[Supplemental – Letter from the Water Pollution Control Plant](#)

Recommendation: Approval of an amendment to the [agreement](#) with Mobile Modular Management Corporation to:

- (a) Extend the term of the agreement by six months to July 12, 2010, and
- (b) Increase the total maximum amount of compensation by \$23,465.76 from \$98,856.93 to a total contract amount no to exceed \$122,322.69.

CEQA: Not a Project. (Environmental Services/General Services)

2. CONSENT CALENDAR

2.10 [East Foothills Community Wildfire Protection Plan.](#)

Recommendation: Adopt a [resolution](#) supporting the goals of the East Foothills Community Wildfire Protection Plan for the area east of San José developed by the Santa Clara County FireSafe Council and authorizing the Mayor and the Fire Chief to sign the mutual agreement page of the East Foothills supporting the plan as requested by the Santa Clara County FireSafe Council. CEQA: Exempt, File No. PP09-169. (Fire)

2.11 [Transportation Fund for Clean Air.](#)

Recommendation: Approval of a Transportation Fund for Clean Air grant [agreement](#) with the Santa Clara Valley Transportation Authority (VTA) in the amount of \$501,674 for the retiming of 109 traffic signals. CEQA: Resolution Nos. 60197 and 63179, File No. PP08-154. Council Districts 2, 3, 6, 7 and 10. SNI: 13th Street; Brookwood Terrace; Edenvale; Great Oaks; Five Wounds; Spartan-Keyes; Tully-Senter and University. (Transportation)

2.12 [Master Parking Rate Schedule.](#)

Recommendation: Adopt a [resolution](#) to repeal Resolution No. 74769 and to set forth the Master Parking Rate Schedule to:

- (a) Continue the Parking Incentive Programs for Software and Environmental Businesses, Downtown Incubators, and new Business/Tenants in Class “B” & “C” buildings, and the Clean Air Vehicle Program through June 30, 2011.
 - (b) Add a special event rate (\$3-25) for the Woz/87 Parking Lot, Almaden/Balbach Parking Lot, and the City Hall Garage.
 - (c) Establish a flexible rate (\$0-25) for the Arena/Diridon Area Parking Meter District.
- CEQA: Not a Project. Council District 3. (Transportation)

2.13 [Agreement with VTA for Route 101/De La Cruz Boulevard/Trimble Road Interchange.](#)

Recommendation:

- (a) Approve the First Amendment to the Amended and Restated Cooperative [Agreement](#) between the City of San José and the Santa Clara Valley Transportation Authority for the Route 101/De La Cruz Boulevard/Trimble Road Interchange Reconstruction Project, extending the term of the agreement from October 24, 2009 through December 31, 2010, at no additional cost to the City.
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute a Second Amendment to the Amended and Restated Cooperative Agreement between the City of San José and the Santa Clara Valley Transportation Authority for the Route 101/De La Cruz Boulevard/ Trimble Road Interchange Reconstruction Project, expanding the scope of services and increasing the City’s contribution by \$150,000 from \$700,000 to \$850,000.

CEQA: EIR Resolution No. 72768, adopted on June 21, 2005. Council Districts 3 and 4. (Transportation)

2. CONSENT CALENDAR

2.14 Councilmember Nguyen's Travel to New York City, NY.

Recommendation: Approve travel by Councilmember Nguyen to New York City, NY on November 9-10, 2009 to participate in "Changing the Odds: Learning from the Harlem Children's Zone Model" as part of a delegation that includes members from the Franklin McKinley School Board and the Silicon Valley Education Foundation. Source of Funds: David and Lucille Packard Foundation. (Nguyen)

* [Rules Committee referral 10/17/09 – Item A(1)(a)]

2.15 City and Redevelopment Agency Sponsored Special Events.

Recommendation: As recommended by the Rules and Open Government Committee on October 14, 2009, consider the following City Council and Redevelopment Agency Sponsored Special Events:

- (a) Youth Job Fair:
 - (1) Approve the Youth Job Fair as a City Council Sponsored Special Event; and
 - (2) Approve and accept in-kind donations from business to support the event.
- (b) District 2 Edenvale Technology Park Resource Fair:
 - (1) Approve the District 2 Edenvale Technology Park Resource Fair as a City and Redevelopment Agency Sponsored Special Event; and
 - (2) Approve and accept in-kind donations from various individuals, businesses, or community groups to support the event.
- (c) District 4 Mid Autumn Festival:
 - (1) Approve the District 4 Mid Autumn Festival as a City Council Sponsored Special Event.
- (d) District 5 Christmas Toy Drive:
 - (1) Approve the District 5 Christmas Toy Drive as a City Council Sponsored Special Event; and
 - (2) Approve and accept donations from various individuals, businesses, or community groups to support the event.

(City Clerk)

* [Rules Committee referral 10/17/09 – Items H (3) – H (6)]

3. STRATEGIC SUPPORT SERVICES

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

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – [September 23, 2009](#)

Mayor Reed, Chair

- (a) City Council (City Clerk)
 - (1) Review September 29, 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 October 6, 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
 - (a) Recommend a Support position for SB 402 (Wolk); and refer to the full Council on September 29, 2009 for action.
 - (2) Federal
- (e) Meeting Schedules
- (f) The Public Record
- (g) Appointments to Boards, Commissions and Committee
 - (1) Approve appointment of David Walker to the Downtown Parking Board and refer to the full Council on September 29, 2009 for action. (Mayor/Liccardo)
 - (2) Approve appointment of John Salah to the Airport Noise Advisory Committee and refer to the full Council on September 29, 2009 for action. (Airport)
- (h) Rules Committee Reviews, Recommendations and Approvals
 - (1) Direct the City Attorney to return to the City Council with an amendment to the San José Municipal Code, Section 2.08, Part 34, to expand the Mobilehome Advisory Commission from five members to seven members to allow an additional resident and park owner.
- (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) Add to the TE Committee Workplan for the November 2, 2009 meeting an item regarding implementation of the City’s Environmentally Preferable Procurement Policy in FY08-09. (Finance)
 - (4) Public Safety, Finance and Strategic Support Committee

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – September 23, 2009 Mayor Reed, Chair (Cont'd.)

- (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 Councilmember Nguyen, Chair – *No Report.*

3.4 [2008-2009 Annual Report.](#) [Presentation](#)

Recommendation:

- (a) Accept the 2008-2009 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter 701(F).
- (b) Adopt Appropriation Ordinance and Funding Sources Resolution amendments in various operating and capital funds to implement the 2008-2009 Annual Report recommendations, including appropriate technical adjustments, as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions).
- (c) Adopt a [resolution](#) approving amendments to City Council Policy 1-18 entitled Operating Budget and Capital Improvement Program Policy to modify the distribution of General Fund Ending Fund Balance and the Sale of Surplus Property Proceeds as described in the Mayor's June budget Message for Fiscal Year 2009-2010 and approved by the City Council.
- (d) Adopt a [resolution](#) amending Resolution No. 72737 (the Schedule of Fees & Charges) as amended to eliminate the subpoenaed officer court appearance fee. (City Manager's Office)

* **ITEMS 3.4 AND 3.6 TO BE HEARD TOGETHER**

3.5 [Team San José Performance Measures for 2009-2010.](#)

Recommendation: Acceptance of Team San José performance measures for 2009-2010.
CEQA: Not a Project. (Economic Development)
DEFERRED TO 11/3/09 PER RULES AND OPEN GOVERNMENT COMMITTEE

3.6 [Proposition 1A Securitization.](#) [Supplemental – Memo from the Asst. Director of Finance and Budget Director](#)

Recommendation: Adopt a [resolution](#) approving the form of Purchase and Sale [Agreement](#) and related documents with respect to the sale of the City of San José's Proposition 1A Receivable from the State of California and authorizing the City Manager, or other authorized officers, to execute and deliver these documents, and authorizing and directing other actions as necessary in connection with the completion of the sale of the Proposition 1A Receivable. (Finance/City Manager's Office)

* **ITEMS 3.4 AND 3.6 TO BE HEARD TOGETHER**

3. STRATEGIC SUPPORT SERVICES

3.7 [Proposed Revisions to Title 12 of the San José Municipal Code relating to the City's Campaign Finance Regulations.](#)

[Attachment – Memo from Mayor Reed](#)

[Attachment – Memo from Councilmembers Campos, Kalra and Pyle](#)

[Supplemental – Memo from the City Attorney](#)

Recommendation: As recommended by the Elections Commission, approve an [ordinance](#) amending Chapter 12.06 of Title 12 of the San José Municipal Code related to Campaign Finance Regulations. (City Attorney/City Clerk)

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

3.8 [Sunshine Reform Task Force recommendations on Law Enforcement Records, Police Department Statistical Reports and Fire Department Statistical Reports.](#)

[Presentation](#)

[Presentation](#)

[Attachment – Memo from Mayor Reed](#)

[Attachment – Memo from Councilmembers Kalra, Campos and Chu](#)

[Attachment – Memo from the City Attorney's Office](#)

[Attachment – Informational Memo from Mayor Reed](#)

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

Recommendation:

(a) As recommended by the Rules and Open Government Committee, approve the Sunshine Reform Task Force (SRTF) recommendations, as amended, on Law Enforcement Records, Police Department Statistical Report and Fire Department Statistical Reports.

(b) Adopt a [resolution](#) implementing these provisions on a pilot basis.

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

* **TO BE HEARD IN THE EVENING PRIOR TO SECTION 11**

3.9 **Report of the Rules and Open Government Committee – September 30, 2009**
Mayor Reed, Chair

(a) City Council (City Clerk)

(1) Review October 6, 2009 Final Agenda

(a) Add new items to final agenda

(1) Reciprocal Audit Services for the City Auditor's Office.
(Mayor)

(b) Assign "Time Certain" to Agenda items if needed

(c) Review of Items that Meet Exception Rules (if needed)

(2) Review October 13, 2009 Draft Agenda

NONE – MEETING CANCELLED

3. STRATEGIC SUPPORT SERVICES

3.9 Report of the Rules and Open Government Committee – September 30, 2009

Mayor Reed, Chair (Cont'd.)

- (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
- (h) Rules Committee Reviews, Recommendations and Approvals
 - (1) City Attorney's Response to Letter from Bob Brownstein dated September 9, 2009. (City Attorney's Office)
 - (2) Proposed Amendments to Chapter 9.58 of the San José Municipal Code, commonly known as the Graffiti Abatement Ordinance. (Nguyen)
 - (3) Performance Management and Reporting in San José: A Proposal for Improvement. (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
 - (1) Adjournment

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – [September 28, 2009](#)

Councilmember Pyle, Chair

- (a) Call to Order and Roll Call
- (b) Review of Workplan
 - (1) Small Business Incubators Status Report. (Redevelopment Agency)
- (c) Consent Calendar
- (d) Report to Committee
 - (1) Chief Development Officer's Monthly Verbal Report. (Economic Development)
 - (2) Report on Affordable Housing Outreach Policy. (Housing)

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – September 28, 2009 Councilmember Pyle, Chair (Cont'd.)

- (d) Report to Committee (Cont'd.)
 - (3) Competition Policy Review – Evaluating New Service Delivery Models. (City Manager’s Office)
SEE ITEM 4.2 FOR COUNCIL ACTION TO BE TAKEN
 - (4) Coordinated Marketing Effort. (Economic Development/Redevelopment Agency/Mayor)
SEE ITEM 4.3 FOR COUNCIL ACTION TO BE TAKEN
 - (5) Report on Key Legislative Items. (City Manager’s Office)
 - (6) Small Business Incubators Status Report.
 - (7) Neighborhood Business District Retail Update. (Redevelopment Agency)
- (e) Open Forum
- (f) Adjournment

4.2 [Competition Policy Review – Evaluating New Service Delivery Models.](#)

[Presentation](#)

[Attachment – Memo from Mayor Reed](#)

[Attachment – Memo from Councilmember Pyle](#)

Recommendation: As recommended by the Community and Economic Development Committee:

- (a) Accept Report on Evaluation of Service Delivery Changes in the Proposed FY2009-10 Budget.
- (b) Adopt a [Resolution](#):
 - (1) Approving a new Council Policy entitled “Service Delivery Evaluation” establishing a decision making framework to evaluate service delivery models; and
 - (2) Revising Council Policy 0-29, the "Public Private Competition Policy"; and/or
 - (3) Consider revising the staff recommendations, as amended by the memorandum from Council Member Kalra, dated September 25, 2009, as modified by the Community and Economic Development Committee on September 28, 2009

(City Manager’s Office)

[Community and Economic Development Committee referral 9/28/09 – Item D(3)]

4.3 [Coordinated Marketing Effort.](#)

Recommendation: As recommended by the Community and Economic Development Committee on September 28, 2009, accept staff’s verbal progress update report on the Mayors’ Budget Message directive to review marketing budgets and identify opportunities to improve collaboration and use resources most effectively on the effort to communicate key San José messages through the national /international media.

(Economic Development/Redevelopment Agency/Mayor)

[Community and Economic Development Committee referral 9/28/09 – Item D(4)]

DEFERRED TO 10/27/09 PER RULES & OPEN GOVERNMENT COMMITTEE

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 – [October 5, 2009](#)**
Councilmember Liccardo, Chair

- (a) Call to Order and Roll Call
- (b) Review of Workplan
 - (1) Climate Action Plan. (Environmental Services)
 - (2) City Bicycle Master Plan. (Transportation)
 - (3) Review of Relevant 2010 Legislative Guiding Principles. (City Manager’s Office – Intergovernmental Relations)
- (c) Consent Calendar
 - (1) Special Events Program Requirements for 2010. (Environmental Services)
SEE ITEM 6.3 FOR COUNCIL ACTION TO BE TAKEN
 - (2) Evaluation of Smart Grid and/or Energy Improvement Districts. (Environmental Services)
- (d) Report to Committee
 - (1) Trail Program Update. (Parks, Recreation and Neighborhood Services/Transportation)
 - (2) Transportation Innovations to Support High Density Transit Oriented Development. (Transportation/Planning, Building and Code Enforcement)
 - (3) Verbal Report on Energy Efficiency and Renewable Energy Activities. (Environmental Services)
 - (4) Green Building Ordinance for New Private Sector Construction follow-up on Formaldehyde Issues. (Planning, Building and Code Enforcement)
- (e) Open Forum
- (f) Adjournment

6.2 **[US-101/Oakland/Mabury Transportation Development Policy.](#)**

- * **Recommendation:** Adopt a [resolution](#) modifying the US-101/Oakland/Mabury Transportation Development Policy to allow for the participation of the Flea Market site in the Policy, and to facilitate near term retail and residential development at the Flea Market site and establish a phasing plan for construction of the interchange improvements concurrent with development. Department of Transportation and Planning Commission recommend approval (6-0-1). CEQA: EIR Resolution No. 74195.1, File No. PP07-172 (King and Dobbin Transit Village and the US 101-Oakland/Maybury Transportation Development Policy). Council Districts 3 and 4. SNI: 13th Street. (Transportation)

TO BE HEARD IN THE EVENING

6. TRANSPORTATION & AVIATION SERVICES

6.3 [2009 Special Event and Venue Recycling Report.](#)

Recommendation: As recommended by the Transportation and Environment Committee on October 5, 2009:

- (a) Accept this staff report on key special event recycling accomplishments and opportunities for improvement
- (b) Effective May 1, 2010, require special events with over 1,000 attendees, as a condition of their Event Authorization to do the following:
 - (1) Ban Styrofoam™ use by food vendors;
 - (2) Require the use of use # 1 Polyethylene terephthalate plastic recyclable beverage containers for cups 7oz and greater, and paper cups for less than 7 oz.; and
 - (3) Collect, at minimum, plastics, glass, metals, and cardboard for recycling.
- (c) Establish a Green Events Grants Program to help off-set additional costs associated with producing green events in San José.

(Environmental Services)

[Transportation and Environment Committee referral 10/5/09 – Item C(1)]

* **RECOMMEND DEFERRAL TO 11/10/09 PER ADMINISTRATION**

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

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

[Attachment – Memo from Mayor Reed](#)

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

* **Recommendation:**

- (a) Rescind the staff recommendations as noted in the memorandum dated August 18, 2009; and
- (b) Direct staff to develop a work plan that addresses broader concerns expressed by the City’s gaming businesses, as noted in the supplemental memo, and return in November with a recommendation specific to addressing the cardroom’s Funding Sources.

CEQA: Not a Project. (Police/Fire/City Manager’s Office) [Resolution](#)
(Deferred from 9/1/09 – Item 8.1 and 9/29/09 – Item 8.1)

8. PUBLIC SAFETY SERVICES

8.2 State Homeland Security Grant Program.

Recommendation:

- (a) Adopt a resolution:
 - (1) Authorizing the City Manager to negotiate and execute an agreement with the County of Santa Clara to accept program funds from the County for 2008 State Homeland Security Grant Program funding for Police and Fire Department training and exercise events in an amount up to \$1,204,946 and Fire Department funding for the 2008 Metropolitan Medical Response System Grant Program in the amount of \$321,221; and
 - (2) Authorizing the City Manager to negotiate and execute additional amendments to the agreement and all related documents without further Council authorization.
- (b) Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund in fiscal year 2009-2010:
 - (1) Establish a city-wide appropriation to the Fire Department for the 2008 Metropolitan Medical Response System (MMRS) Grant Program in the amount of \$321,221; and
 - (2) Increase the estimate for Revenue from the Federal Government by \$321,221.

CEQA: Not a project. (Police/Fire/City Manager's Office)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **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.
- **Council will recess until 7:00 p.m.**

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) 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 Public Hearings Consent Calendar (Item 11.1) and considered separately.

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an [ordinance](#) rezoning the real property located on the north side of Kiely Boulevard, 550 feet westerly of Saratoga Avenue (370 S. Kiely Blvd) from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District to facilitate the development of auto sales use on a 1.17 gross acre site (Lopina John M Trustee & Et Al, Owner; Stevens Creek Toyota Steve Cornelius, Developer). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C09-029 – District 1

[Attachment – Staff Report](#)

[Presentation](#)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 [Rezoning real property located on both sides of Berryessa Road just west of Union Pacific Railroad tracks.](#)

[Presentation](#)

Recommendation: Consideration of an [ordinance](#) rezoning the real property located on both sides of Berryessa Road just west of Union Pacific Railroad tracks (Flea Market – 1590 Berryessa Road) from A(PD) Planned Development Zoning District (File No. PDC03-108) to A(PD) Planned Development Zoning District to allow modifications to the previously approved General Development Plan, which include the elimination of prohibited uses, such as “vehicle related uses” and “detached single-family and two-family dwellings” (Flea Market Inc., Owner/Developer). CEQA: Reuse of the Flea Market EIR. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-1).

[PDC09-006](#) – District 4

11.3 **First Amendment to the Development Agreement with Novellus Systems, Inc.**

[Presentation](#)

Recommendation: Consideration of a First Amendment to the Development Agreement with Novellus Systems, Inc. and Vista Montana as approved by Ordinance No. 28154 and entered into on December 20, 2007 to extend the reservation of the residential unit capacity under the North San José Area Development Policy an additional two years relative to the development of certain real properties located in North San José. CEQA: Addendum to the North San José Area Development Policy Update Final Environmental Impact Report.

[DA - Novellus](#) – District 4

RECOMMEND CONTINUANCE TO 11/3/09 IN THE AFTERNOON PER ADMINISTRATION

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

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

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

1. Public Meeting Decorum:

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

2. Signs, Objects or Symbolic Material:

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

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

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

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