



CITY COUNCIL AGENDA

OCTOBER 20, 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. 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**
 - 9:03 a.m.** - Closed Session, Call to Order in Council Chambers
Absent Council Members: Chirco, Liccardo. (Excused)

 - 1:33 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

 - 7:04 p.m.** - Public Hearings, Council Chambers, City Hall
Absent Council Members: None.

- **Invocation (District 9)**
Mihir Meghani, MD, President and Co-Founder, Hindu American Foundation, provided the Invocation.

- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.

Boy Scouts PAC 294 (District 10) led the Pledge of Allegiance at the evening Council session.

- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 3.9 deferred to 10/27/09.

- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Alumawall for being a successful manufacturing business. (Economic Development)
Mayor Reed, Council Member Nguyen and Chief Development Officer Paul Krutko recognized Alumawall for being a successful manufacturing business.
- 1.2 Presentation of a commendation to the Hindu American Foundation. (Nguyen/Kalra)
Mayor Reed and Council Members Nguyen and Kalra recognized and commended the Hindu American Foundation.
- 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)
(Rules Committee referral 10/14/09)
Heard in the evening.
Mayor Reed and Council Member Campos recognized and commended the Rocketship Mateo Sheedy Elementary School for being the highest performing elementary school in San José and Santa Clara County and third in California.
- 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)
Mayor Reed and Council Member Campos recognized and commended the Alum Rock Village Business Association for their hard work in hosting the 2nd Annual Salsa Festival.
- 1.5 Presentation of a proclamation declaring October as “Filipino History Month” in the City of San José. (Chu)
(Rules Committee referral 10/14/09)
Heard in the evening.
Mayor Reed and Council Member Chu recognized the month of October 2009 as “Filipino History Month” in the City of San José.
- 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)
Mayor Reed and Council Member Constant recognized 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 City of San José.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of Amended Regular Minutes:

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

Approved.

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.

Ordinance No. 28652 adopted.

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)
- (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)
- (c) Request for an excused absence for Council Member 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)
- (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.
- (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)
- (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 referrals 10/7/08 and 10/14/09)

Excused.

2. CONSENT CALENDAR

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)

Approved.

2.5 Council Member Constant's Travel to San Antonio, TX.

Recommendation: Approve travel by Council Member 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)

Approved.

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)

Approved.

2.7 Agreement with Water District for Water Conservation.

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)

Resolution No. 75129 adopted.

2. CONSENT CALENDAR

2.8 Agreement with Anderson Pacific Engineering and Construction.

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)

Resolution No. 75130 adopted.

2.9 Agreement for the Trailer Lease at 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)

Approved.

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)

Resolution No. 75131 adopted.

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)

Approved.

2. CONSENT CALENDAR

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)

Resolution No. 75132 adopted.

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.

Approved.

- (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)

Resolution No. 75133 adopted.

2.14 Council Member Nguyen’s Travel to New York City, NY.

Recommendation: Approve travel by Council Member 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)]

Approved.

2. CONSENT CALENDAR

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.
 - (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 Even.
 - (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.
 - (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)]

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)
No Report.

3.2 Report of the Rules and Open Government Committee – September 23, 2009
Mayor Reed, Chair
Accepted.

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

3. STRATEGIC SUPPORT SERVICES

3.4 2008-2009 Annual Report.

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).

Accepted.

- (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).

Ordinance No. 28653 adopted.

Resolution No. 75128 adopted.

- (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.

Resolution No. 75134 adopted.

- (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)

Resolution No. 75135 adopted.

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.

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)

Resolution No. 75136 adopted.

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.

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)

The proposed ordinance was approved, revising Chapter 12.06 of the Municipal Code as recommended by the Elections Commission, with the following modifications:

- (1) Increase the contribution limits as recommended by the Elections Commission *effective January 1, 2011*.
- (2) Include a cost of living adjustment based on the San Francisco Bay Area Consumer Price Index (CPI), as published by the U.S. Department of Labor, Bureau of Statistics.
- (3) Maintain the City's current requirement that candidates and candidate controlled committees itemize all contributions received, including those less than \$100.

The City Council referred to the Elections Commission a review of the formula used to calculate the Voluntary Expenditure Limit (VEL) with a request to make a recommendation to the City Council.

Ordinance No. 28654 passed for publication, as amended.

3.8 Sunshine Reform Task Force recommendations on Law Enforcement Records, Police Department Statistical Reports and Fire Department Statistical Reports.

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 Reports and Fire Department Statistical Reports.

Approved, as amended:

- (1) **Revise Section 6.1.1.010 (Reports Prepared by Law Enforcement):**
“...including the right of privacy afforded to victims *and others* by the California Constitution”.
- (2) **City Manager to return to the Council with further discussion about the release of law enforcement records when the Police Department's records management system has been installed.**

Noes: Campos, Chu, Kalra, Nguyen.

- (b) Adopt a resolution implementing these provisions on a pilot basis.

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

Resolution No. 75140 adopted, as amended.

Noes: Campos, Chu, Kalra, Nguyen.

3. STRATEGIC SUPPORT SERVICES

- 3.9 Report of the Rules and Open Government Committee – September 30, 2009
Mayor Reed, Chair
Deferred to 10/27/09 per Orders of the Day.

4. COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Report of the Community & Economic Development Committee – September 28, 2009
Council Member Pyle, Chair
Accepted.
- 4.2 Competition Policy Review – Evaluating New Service Delivery Models.

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.
Accepted.
Noes: Constant, Liccardo, Oliverio; Reed.
- (b) Adopt a Resolution:
- (1) Approving a new Council Policy 0-41 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
- Resolution No. 75137 adopted, as amended by the memorandum from Council Member Pyle, dated October 15, 2009, as modified:**
- (i) Amend Step #1 of the proposed Council Policy 0-41 entitled Service Delivery Evaluation to read, as follows: *For the purposes of this Policy, a business case analysis will be undertaken to evaluate Service Delivery changes that are expected to result in the addition, deletion, or reclassification of four (4) or more City full-time equivalent (FTE) positions.*
 - (ii) Add to the Revised Council Policy 0-29 entitled Public Private Competition Policy a provision regarding public access to records that requires the contractor and their subcontractors to:
 - (a) Keep and maintain records that ordinarily and necessarily would be required by the City in order to perform the service or activity.
 - (b) Provide public access to these records *as identified in the Request for Proposal (RFP)* through requests to the City under the same terms and conditions that the City provides City records and at the same cost. *Any request for additional record keeping will be done on a yearly basis through review of the contract.*
 - (c) Ensure confidential and exempt records are not disclosed except as authorized by City ordinance or policy.

(Action continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Competition Policy Review – Evaluating New Service Delivery Models (Cont'd.)

(iii) Report back to Community & Economic Development Committee the number of City services that have been reviewed by the Service Delivery Evaluation Policy and the number of City services that have been changed but did not go through the more extensive Service Delivery Evaluation in January of 2011. Include information about length of time to award a contract, cost difference to the City, customer (City) satisfaction and provide Staff evaluation on the policies to determine if Council should consider any other changes to the policies.

- (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.

No Action Taken.

The City Council referred to the Elections Commission the proposed “Pay to Play” prohibition (campaign contribution restrictions) for further analysis and comparison with other large cities (like Oakland and San Francisco) with a request to make a recommendation to the City Council.

(City Manager’s Office)

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

Noes: Constant, Liccardo, Oliverio; Reed.

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 and Open Government.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee Council Member Campos, Chair

No Report.

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Transportation and Environment Committee – October 5, 2009**
Council Member Liccardo, Chair
Accepted.

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)

Heard in the evening.

Resolution No. 75141 adopted.

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)]

Deferred to 11/10/09 per Administration.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Actions relating to Gaming Control Fees and Operations.

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 card room's Funding Sources.

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

(Deferred from 9/1/09 – Item 8.1 and 9/29/09 – Item 8.1)

The memorandum from Mayor Reed, dated October 9, 2009, was approved, accepting Staff's recommendation in the supplemental memorandum dated October 5, 2009, to develop a work plan and to return in November with a recommendation regarding funding sources and to direct Staff to implement the following:

- (1) **Incorporate into the Municipal Code an appeal process for the Chief of Police to review revocation of temporary licenses.**
- (2) **Amend the Municipal Code to specify that, if approval of the application of a license takes longer than 180 days, the gaming administrator must give a written explanation of the reasons for the delay and an estimated date for completion of the review, which will be updated every two months until the application has been issued, withdrawn or denied.**
- (3) **Streamline the license renewal process and allow the gaming administrator to grant extensions of existing licenses so that Staff can focus efforts on reducing the backlog of pending licenses.**
- (4) **Direct the City Manager to develop performance measures for timely issuance of work permits and licenses and make quarterly reports to the Community & Economic Development Committee on the status of all pending permits and licenses starting in January 2010 and continuing until such time as permitting and licensing are meeting performance measures.**
- (5) **Incorporate into the pending audit of card room regulatory oversight efficiency and effectiveness: (a) a comparison of the scope and cost of background investigations for licenses for owners, key employees and third party proposition players with the State and other California jurisdictions with at least 20 tables; (b) a comparison of the cost of oversight by the State and other California jurisdictions with at least 20 tables; (c) an evaluation of whether the City has the appropriate levels of police officers and auditors for the work that needs to be done, unless that analysis is completed in the Police Sworn/Non-Sworn Staffing audit due out in November.**

(Action continued on the next page)

8. PUBLIC SAFETY SERVICES

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

- (6) Whether or not fees are modified in November, bring back to the City Council recommendations for changes in table fees and license fees at appropriate cost recovery levels on the City Auditor's assessments of the efficiency and effectiveness of the regulatory function.
- (7) Amend the municipal code to add a review and approval of new administrative regulations by the Chief of Police before they become final.
- (8) Streamline the process for approval of substitute permissible games if the game and its rules have been approved for card rooms by the California Gambling Control Commission.
- (9) Amend the City's Conflict of Interest rules to increase the gaming administrator's financial disclosure requirements to include sources of income from entities doing business in California.
- (10) Compare City codes and regulations to State law and regulations and bring back for Council consideration changes to the City's Municipal Code to eliminate duplication, redundancies and inefficiencies.

Noes: Campos.

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.

Resolution No. 75138 adopted.

- (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)

Ordinance No. 28655 adopted.

Resolution No. 75139 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**
There were none presented.
- **Adjournment**
The Council of the City of San José adjourned the afternoon session at 5:05 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

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

Ordinance No. 28656 passed for publication.

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.

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

Ordinance No. 28657 passed for publication, as amended, with detached single family housing allowed and limited to 3.5 acres as proposed by the applicant.

Noes: Chirco, Oliverio.

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

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

Continued to 11/3/09 in the afternoon per Administration.

- Notice of City Engineer’s Pending Decision on Final Maps
None.
- Notice of City Engineer’s Award of Construction Projects
None.
- Open Forum
Danny Garza commented about the shooting of Daniel Pham and his dissatisfaction with the San José Police Department regarding the incident.
- Adjournment
The Council of the City of San José was adjourned at 11:24 p.m.