



CITY COUNCIL AGENDA

APRIL 6, 2010

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

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

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

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

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

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

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

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

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

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 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**
8:00 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Campos. (Excused)

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 4)**
Abel Rios of New Harvest Christian Fellowship provided the Invocation.
- **Pledge of Allegiance**
Mayor Reed and 3rd Grade Students from Payne Elementary led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 4.3 deferred to 04/13/10.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring the Month of April 2010 as “Month of the Young Child” in the City of San José. (Chirco)
Mayor Reed and Vice Mayor Chirco recognized the Month of April 2010 as “Month of the Young Child” in the City of San José.
- 1.2 Presentation of a commendation to the 2010 Save Our Sports Committee for their commitment to maintaining sports opportunities for student athletes. (Chu)
Mayor Reed and Council Members Chu and Kalra commended the 2010 Save Our Sports Committee for their commitment to maintaining sports opportunities for student athletes.
- 1.3 Presentation of a proclamation recognizing the month of April 2010 as “DMV/Donate Life California Month” in the City of San José. (Kalra)
Mayor Reed and Council Member Kalra recognized the Month of April 2010 as “DMV/Donate Life California Month” in the City of San José.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None.

- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28731 – Amending various sections of Chapter 20.70 and Chapter 20.100 of Title 20 of the San José Municipal Code to establish a new Conditional Use Permit process for Large Drinking Establishments that operate after midnight and have a maximum occupancy load of more than 250 persons whereunder the City Council would be the initial Decision-Making Body.

Ordinance No. 28731 adopted.

- 2.3 **Approval of Council Committee Reports.**

Recommendation:

- (a) Community and Economic Development Committee Report of March 22, 2010. (Pyle)
- (b) Rules and Open Government Committee Report of March 17, 2010. (Mayor)
[Deferred from 3/30/10 – Item 2.3(a)]

Approved.

- 2.4 **Mayor and Council Excused Absence Requests.**
None.

2. CONSENT CALENDAR

2.5 City Council Travel Reports.

None.

2.6 Traffic and Criminal Recommended Bail Schedules.

Recommendation: Approve recommended changes to the City of San Jose Traffic and Criminal Bail Schedules and direct the City Attorney to submit the recommended changes in the Bail Schedules to the Superior Court Bail Committee. CEQA: Not a Project. (City Attorney's Office)

Approved.

2.7 Televising Retirement Board Meetings.

Recommendation: Approve televising the regular business meetings of the Federated and Police & Fire Retirement Boards meetings that occur at City Hall. CEQA: Not a Project. (City Manager's Office)

Approved.

2.8 Early Childhood Education Improvement Grant for the Smart Start San José Quality Guidelines Project.

Recommendation: Adopt a resolution authorizing the City Manager, or designee, to:

- (a) Submit a grant application in the amount of \$300,000 to the U.S. Department of Health & Human Services for an early childhood education improvement grant for the Smart Start San José Quality Guidelines project; and
- (b) Accept any grant funds awarded to the City and negotiate and execute all necessary documents related to any grant funding from the Department of Health & Human Services for this project.

CEQA: Not a project. (Library)

Resolution No. 75326 adopted.

2.9 Sponsored Travel to Green Industries Trade Mission and Conference, Paris, France.

Recommendation: Accept the invitation of the U.S. Embassy in France to send Nanci Klein as the City's official representative to the Green Industries Trade Mission and Conference in Paris, France on April 11 – 13, 2010. Source of Funds: The U.S. French Embassy will cover travel, accommodations, registration, and two-day's per diem costs. CEQA: Not a Project. (Economic Development)

(Rules Committee referral 3/30/10)

Accepted.

3. STRATEGIC SUPPORT SERVICES

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

The City Manager provided a report on discussions with bargaining units and noted that the roundtable group will reconvene towards the end of April for discussion of the City's balancing strategy before the proposed budget is released on May 3, 2010.

3.2 Status Report on the Citywide Capital Improvement Program.

Recommendation: Accept the FY 2009-2010 Status Report on the Citywide Capital Improvement Program. CEQA: Not a Project. (Public Works)
(Deferred from 3/16/10 – Item 3.2 and 3/23/10 – Item 3.2)
Accepted.

3.3 Exchange Agreement Between the City of San José and the Santa Clara Valley Water District in Conjunction with the Reach 6 Flood Control Project.

Recommendation: Approve an Exchange Agreement for the transfer of property interests between the City of San Jose and the Santa Clara Valley Water District in conjunction with the Reach 6 Flood Control Project which provides as follows:

- (a) Grant of fee title to the District of City-owned property vacated as a street;
- (b) Grant irrevocable right of entry to the District for construction on City properties pending the exchange of property rights;
- (c) Grant a public street easement across District-owned property for ingress and egress to properties along the remaining portion of Edwards to Willow; and
- (d) Authorize the Director of General Services to execute the deeds and other documents on behalf of the City to complete the transaction.

CEQA: Resolution No. 75043. (General Services)

Heard following Item 4.2

Approved.

3.4 Procurement Report and Proposed Amendments to Sections 4.12 and 4.16 of the Municipal Code to Streamline Procurements and the Disposition of Surplus Personal Property.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on March 18, 2010:

- (a) Accept the Procurement Report.
- (b) Direct the City Attorney to draft an ordinance amending the San José Municipal Code provisions with respect to:
 - (1) Council Appointees' contract authority:
 - (a) Include a Consumer Price Index for All Urban Consumers adjustment to automatically increase the contract approval authority limits every three years; and
 - (b) Include incidental services as part of the purchase of supplies, materials, and equipment.

(Item Continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.4 Procurement Report and Proposed Amendments to Sections 4.12 and 4.16 of the Municipal Code to Streamline Procurements and the Disposition of Surplus Personal Property (Cont'd.)

- (b) (2) The procurement of goods and services:
 - (a) Change the protest procedures for purchases under \$100,000;
 - (b) Allow for an online formal bid procedure, including a reverse auction process to purchase goods and services;
 - (c) Expand the conditions for cooperative purchases to include non-profit organizations that are made up of multiple public agencies in California or elsewhere;
 - (d) Establish that the list of required award factors used in requests for quotes and requests for proposals is subject to revision by the Director of Finance, on a case-by-case basis, if it is determined that it is in the best interest of the City to do so;
 - (e) In formal bidding, allow award of contract to more than one bidder when exact quantities and or delivery dates are unknown; and
 - (f) For Request for Quotes (RFQ) and formal Request for Proposals (RFP) allow award of contract to more than one proposer when such action is in the best interest of the City.
- (3) Unclaimed and Surplus Personal Property:
 - (a) Streamline the noticing requirements for bids of surplus personal property; and
 - (b) Raise the threshold requiring the sale of surplus personal property by sealed bid or auction from \$400 to \$1,000.

(Finance)

[Public Safety, Finance and Strategic Support Committee referral 3/18/10 – Item D(5)]

(Deferred from 3/30/10 – Item 3.3)

Approved.

Noes: Campos

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Funding Agreement with The Housing Trust of Santa Clara County under the Neighborhood Stabilization Program 2.

Recommendation:

- (a) Adopt a resolution authorizing the Director of Housing to negotiate and execute a consortium funding agreement with The Housing Trust of Santa Clara County under the Neighborhood Stabilization Program 2 in the amount of \$19,139,324.

Resolution No. 75327 adopted.

Disqualified: Kalra

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund:

- (1) Increase the estimate to Earned Revenue in the amount of \$1,000,000; and
- (2) Establish an appropriation to the Housing Department for the Neighborhood Stabilization Program 2 project in the amount of \$1,000,000.

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

Ordinance No. 28732 adopted.

Resolution No. 75329 adopted.

Disqualified: Kalra

4.2 Public Hearing to Vacate a Portion of McLellan Avenue, Grant Street, and Edwards Avenue.

Recommendation: Conduct a public hearing and adopt a resolution to conditionally vacate a portion of McLellan Avenue, Grant Street, and Edwards Avenue. CEQA: Guadalupe Flood Control EIR, Resolution No. 75043. Council District 3. (Public Works/General Services)

Public Hearing Held, no comments.

Resolution No. 75330 adopted.

4.3 Special Event Services and Costs.

Recommendation: As recommended by the Community and Economic Development Committee on March 22, 2010:

- (a) Adopt a resolution:
- (1) Amending the Schedule of Fees and Charges (Resolution No. 72737, as amended):
 - (a) To increase the cap on gated event ticket prices and to reduce the collection of gate fees from 5% to 0% of gate fees for the period of January 1, 2009 to June 30, 2010.
 - (b) To repeal the Special Events Traffic Enforcement Unit Fee.

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Special Event Services and Costs (Cont'd)

- (2) Authorizing the Chief Development Officer to issue refunds to event organizers who paid gate fees retroactive to January 1, 2009.

- (b) Direct the City Manager and City Attorney's Office to present Council with recommended amendments to San Jose Municipal Code Section 11.12.050 to authorize the City Manager to temporarily or permanently appoint staff to perform traffic control in accordance with the requirements of Subdivisions (e) of the California Vehicle Code Section 21100.
CEQA: Statutorily Exempt.(City Manager's Office)
[Community and Economic Development Committee referral 3/22/10 – Item D(3)]
Deferred to 4/13/10 per Orders of the Day.

5. NEIGHBORHOOD SERVICES

5.1 Reduce Citywide Aquatics Program.

Recommendation:

- (a) Council by motion waive the 10-day noticing requirement for the Staff's Revised Recommendation (requires a majority vote).

The Council waived the 10-day noticing requirement.

- (b) Direct the City Manager to:
 - (1) Maintain City capacity to operate no less than two sites during the summer of 2010, with priority given to Camden and Mayfair pools; and
 - (2) Suspend the remaining Citywide Aquatics Program for a period of 12 months and allow contracting with alternative service provider(s) at the six City-owned pools with a streamlined procurement process utilizing Municipal Code 4.12.235 (Unique Services Purchases) with no impact to the General Fund.
- (c) Authorize the City Manager to negotiate and execute agreements with the successful service providers to operate the additional City owned pools.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

(Deferred from 3/30/10 – Item 5.2)

Approved, with Staff directed to return to Council in May to provide a status report on efforts to negotiate alternative service provider(s) to operate City-owned pools, including Almaden Lake Park. Staff also agreed to analyze a two-week rotation schedule for swim lessons.

Noes: Oliverio.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Master Parking Rate Schedule.

Recommendation: Adopt a resolution to repeal Resolution No. 75132 and set forth the Master Parking Rate Schedule to expand the Parking Incentive Programs to:

- (a) Provide up to two years of free parking for new businesses that enter into a written lease agreement for a downtown office or commercial retail building, up to a maximum of 50 parking permits for each business.
- (b) Provide up to two years of free parking for existing downtown businesses that extend their current written building lease agreement or sign a lease in a new downtown office or commercial retail building, and relocate their parking from a private parking facility to a City parking facility, up to a maximum of 50 parking permits for each business.
- (c) Provide up to two years of 50% discounted parking to existing downtown businesses currently purchasing parking permits to park in a City parking facility who extend their current written building lease agreement or sign a lease in a new downtown office or commercial retail building, up to a maximum of 50 parking permits for each business.
- (d) Authorize the Director of Transportation, or his/her designee, to negotiate and execute parking lease agreements, including amendments thereto, with new and existing businesses based on the parameters outlined in this memorandum.

CEQA: Not a Project. Council District 3. (Transportation)

Resolution No. 75331 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Public Notices for Sewer Service & Use Charge and Storm Sewer Service Charge.

Recommendation: Direct staff to send notices, in accordance with Proposition 218 requirements, to San José property owners for receipt no later than April 30, 2010, concerning the following proposed Sewer Service and Use Charge and Storm Sewer Service Charge rates increases for the next three years:

- (a) Sewer Service and Use Charge - It is proposed that the residential rate notice provide for an increase of up to 6% for fiscal years 2010-11, 2011-12, and 2012-13 and that the commercial rate notice provide for proposed increases for fiscal years 2010-11, 2011-12, and 2012-13 of approximately 3% to 11% for commercial services, depending on the nature of the sewage discharge.
- (b) Storm Sewer Service Charge - It is proposed that the residential rate notice provide for an increase of up to 4% for fiscal years 2010-11 and 2011-12, and up to 5% in 2012-13 and that the commercial rate notice provide for an increase of up to 5% for fiscal years 2010-11 and 2011-12, and up to 6% in 2012-13.

CEQA: Statutorily Exempt. (Environmental Services)

Approved as amended per Staff recommendations.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**
 - (1) **Ross Signorino recommended diligence when establishing medicinal marijuana regulations.**
 - (2) **Martha Holland urged community involvement in the “Let’s Move” initiative to address childhood obesity.**
 - (3) **Joaquin Parra of Catholic Charities expressed concern over the youth from disadvantaged areas becoming casualties of the budget crisis.**
 - (4) **Andrea Mills recommended that the process for removing individuals from the gang enforcement injunction list in San José be reviewed, and cited San Francisco’s approach as less costly and time consuming.**
 - (5) **Denise Hart advocated for regional center programs that serve children with disabilities.**
 - (6) **America Aguirre of Catholic Charities reported on the success of this year’s Cesar Chavez celebration.**

- **Adjournment**

The Council of the City of San José adjourned at 4:19 p.m.