



CITY COUNCIL AGENDA

JUNE 15, 2010

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

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
Adjourn to Closed Session in Council Chambers Conference Room, W133
[See Separate Agenda](#) [See RDA Agenda](#)
 - 10:00 a.m.- Regular Session, Council Chambers, City Hall, *Council will recess at 12:00 Noon and reconvene at 1:30 p.m.*
 - 1:30 p.m. - Regular Session, Council Chambers, City Hall
 - 7:00 p.m. - General Plan Hearings, Council Chambers, City Hall
 - 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 6)**
Bishop Robert Geddes, Dry Creek Ward, San José South Stake

- **Pledge of Allegiance**
- **Orders of the Day**

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

**ITEM 9.1 IS TO BE CONSIDERED IN A JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY BOARD SESSION.**

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

- Orders of the Day (Cont'd.)
- * **REDEVELOPMENT AGENCY AGENDA TO BE HEARD IMMEDIATELY FOLLOWING THE CONSENT CALENDAR**
- ITEMS 3.2 – 3.8, 9.2, 3.9 – 3.11, 9.3, 3.13 AND 3.17 TO BE HEARD IN THAT ORDER NO EARLIER THAN 2:00 P.M.**
- * **ITEM 3.12 “MAYOR’S 2010 JUNE BUDGET MESSAGE” RENUMBERED TO ITEM 9.3**
- * **SEE NEW ITEM 1.6 “APPOINTMENTS TO THE YOUTH COMMISSION” TO BE ADDED UNDER ORDERS OF THE DAY**
- Closed Session Report

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Morrill Middle School Girl’s Varsity Basketball Team for sportsmanship, academics and achieving a 37-0 undefeated season. (Chu)
- 1.2 Presentation of a commendation to Girl Scout Troup 60007 for their hard work, dedication and sense of service to the San José community. (Herrera)
- 1.3 Presentation of a commendation to San José Unified School District Superintendent Don Iglesias for his lifetime dedication to the students of San José. (Pyle)
- 1.4 Presentation of a commendation to the Encorps Teachers Program and Michelle Lyle with Northwood Elementary for their outstanding service to students in the Bay Area and in the City of San José. (Chu)
TO BE HEARD IN THE EVENING
- 1.5 Presentation of commendations to recipients of the Keep San José Beautiful Steering Committee “Community Improvement Awards” in recognition for their commitment to volunteer time to beautify a property in San José. (Nguyen)
TO BE HEARD IN THE EVENING
(Rules Committee referral 6/2/10)
- 1.6 [Administer Oaths of Office to District 1 Youth Commissioner Peter Tang, District 6 Youth Commissioner Nicholas Taxera, and District 10 Youth Commissioner Layla Forooghi.](#) (City Clerk)
TO BE HEARD IN THE EVENING

2. CONSENT CALENDAR

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

2.1 Approval of Minutes.

2.2 Final adoption of ordinances.

* **Recommendation:** Final adoption of ordinances.

- (a) [ORD. NO. 28749](#) – Amending Part 2 of Chapter 3.36 of Title 3 of the San José Municipal Code by adding a Section 3.36.205 to exclude from membership in the Police and Fire Retirement Plan a Fire Chief or Police Chief who has no prior service credit in that plan.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of May 26, 2010. (Mayor)
- (b) Rules and Open Government Committee Report of May 19, 2010. (Mayor)
- * [Deferred from 6/8/10 – Item 2.3(e)]
- (c) [Community and Economic Development Committee Report of May 24, 2010.](#) (Pyle)
- * [Deferred from 6/8/10 – Item 2.3(e)]

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 [Amendment to Clear Channel Advertising Agreement.](#)

Recommendation: Approve a second Amendment to the Advertising Concession [Agreement](#) between the City and Clear Channel Outdoor, Inc. d/b/a Clear Channel Airports to add Terminal B to the advertising concession areas covered by the Agreement, revise the capital investment requirements to reflect changes in advertising sites at the Airport, and revise the Concession Fee provisions of the Agreement, retroactive to the commencement of the Agreement, to reduce the Minimum Annual Guarantee (MAG) by \$330,545 from \$4,575,000 to \$4,244,455, and to reduce the MAG by an additional \$22,131 from to \$4,222,324, beginning on July 1, 2010. CEQA: Resolution Nos. 67380 and 71451, File No. PP09-190.1. (Airport)

2. CONSENT CALENDAR

2.7 [Agreement for Lease of Airport Premises by the Transportation Security Administration.](#)

Recommendation:

- (a) Adopt a resolution authorizing the Director of Aviation to negotiate and execute Supplemental Lease Agreement Number 13 to extend the Permit with the U.S. General Services Administration for exclusive space leased by the Transportation Security Administration at the Airport from July 1, 2010 through June 30, 2011, with revenue to the City of approximately \$960,385.
- (b) Adopt a resolution authorizing the Director to negotiate and execute future Supplemental Agreements to the Permit to extend the term through no later than June 30, 2017 at then current Airport lease rates and to document changes to the exclusive leased space.

CEQA: Resolution Nos. 67380 and 71451, PP10-094. (Airport)

2.8 [Actions Related to the Workforce Investment Act Program.](#)

Recommendation: Adopt a resolution authorizing:

- (a) The City Manager to negotiate and execute all contracts, amendments, agreements, leases, subleases and memorandums of understanding with contractors and vendors providing services to the Workforce Investment Act Program (WIA), including, but not limited to, novations or assignments, vendor training contracts, case management contracts, consultant contracts, memorandums of understanding required with Mandatory Partners for the use of One-Stop facilities, and cities and the unincorporated area of Santa Clara County whose residents receive service under the WIA program for the period from July 1, 2010 to June 30, 2011 in accordance with procurement procedures and requirements mandated by the State and Federal governments for Workforce Investment Act grant recipients and with established City procurement procedures and requirements that have been reviewed and approved by the Silicon Valley Workforce Investment Network (work2future) Executive Committee and/or the Board. The City Manager is also authorized to negotiate and execute Council-approved agreements that have been reviewed and approved by the work2future Executive Committee and/or the work2future Board so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.
- (b) The City Manager to negotiate and execute all grants and sub-grant agreements for discretionary funding applied for and approved by the work2future Board for the period from July 1, 2010 to June 30, 2011.

CEQA: Not a Project, File No. PP10-066(e), services that involve no physical changes to the environment. (Economic Development)

2. CONSENT CALENDAR

2.9 [Agreement with David J. Powers & Associates for Environmental Consultant Services.](#)

Recommendation: Approve the second amendment to the [agreement](#) with David J. Powers & Associates for environmental consultant services for various Environmental Services Department projects by increasing the total compensation by \$100,000, from \$500,000 to an amount not to exceed \$600,000. CEQA: Not a Project, File No. PP10-066 (a), agreements and contracts for purchase of professional services. (Environmental Services)

2.10 [Open Purchase Orders for Supplies, Materials, Equipment and Services.](#)

Recommendation: Approve the award of open purchase orders for supplies, materials, equipment and services for FY 2009-2010 #8 and authorize the Director of Finance to execute the purchase orders. CEQA: See attachment for CEQA determinations. (Finance)

2.11 [Report on Bids and Award the Painting and Rehabilitation of Five Secondary Clarifier Tanks at the Water Pollution Control Plant.](#) [Supplemental – Letter from the Water Pollution Control Plant](#)

Recommendation: Report on bids and award the painting and rehabilitation of five secondary clarifier tanks at the Water Pollution Control Plant to low bidder Jeffco Painting and Coating, Inc. (Vallejo, CA) for a total amount not to exceed \$642,000, and authorize the Director of Finance to:

- (a) Execute the service order for \$642,000.
- (b) Approve a contingency in the amount of \$50,000 for any unforeseen changes or requirements that may arise prior to the completion of services.

CEQA: Not a Project, File No. PP10-066(a) agreements and contracts. (Finance)

2.12 [Maintenance District Budget Reports for Fiscal Year 2010-2011.](#)

Recommendation: Adopt resolutions approving, confirming and adopting the Annual Budget Reports for Fiscal Year 2010-2011 for City of San José Maintenance Districts [1](#), [2](#), [5](#), [8](#), [9](#), [11](#), [13](#), [15](#), [18](#), [19](#), [20](#), [21](#) and [22](#) and levying the assessments therein. CEQA: Statutorily Exempt. Council Districts 2, 3, 4 and 8. (Public Works)

2.13 [Downtown San José Property-Based Improvement District Annual Report.](#)

Recommendation: Adopt a [resolution](#):

- (a) Approving the Downtown San José Property-Based Improvement District Annual Report for Fiscal Year 2010-2011 as filed or modified by Council;
- (b) Confirming the individual assessments as proposed or modified by Council, including the assessment on City owned property of approximately \$321,991 and the assessment on Redevelopment Agency property of approximately \$69,964;

(Item continued on the next page)

2. CONSENT CALENDAR

2.13 **Downtown San José Property-Based Improvement District Annual Report.** (Cont'd.)

Recommendation:

- (c) Directing that the City baseline services contribution in the amount of \$357,811, and assessment payment be made; and
- (d) Directing the Director of Finance to deliver the assessment roll to the County for collection with the property taxes.

CEQA: Statutorily Exempt, File No. PP10-067. Council District 3.
(Transportation/Public Works)

2.14 **SB 974 (Steinberg) Income and Corporations Tax: Hiring and Career Credits.**

Recommendation: As recommended by the Rules and Open Government Committee on June 9, 2010, reaffirm and approve the City and Agency's position to oppose SB 974 (Steinberg), a legislative bill similar to AB 1139 (J. Perez) that the City and Redevelopment Agency opposed last year. (Redevelopment Agency)

* [Rules Committee referral 6/9/10 – Item D(1)(a)]

2.15 **SB 1107 (Kehoe): Water Quality: Interceptor and Trap Grease.**

Recommendation: As recommended by the Rules and Open Government Committee on June 9, 2010, approve a support position for SB 1107 (Kehoe): Water Quality: Interceptor and Trap Grease. (Environmental Services)

* [Rules Committee referral 6/9/10 – Item D(1)(b)]

2.16 **AB 1784 (Fong) – Santa Clara Valley Transportation Authority.**

Recommendation: As recommended by the Rules and Open Government Committee on June 9, 2010, approve a support position for AB 1784 (Fong) – Santa Clara Valley Transportation Authority. (Transportation)

* [Rules Committee referral 6/9/10 – Item D(1)(c)]

2.17 **AB 2064 (Perez & Bass) – Emergency Shelter Operations Grant Account.**

Recommendation: As recommended by the Rules and Open Government Committee on June 9, 2010, approve a support position for AB 2064 (Perez & Bass) – Emergency Shelter Operations Grant Account. (Housing)

* [Rules Committee referral 6/9/10 – Item D(1)(d)]

2.18 **Low-Income Housing Tax Credits.**

Recommendation: As recommended by the Rules and Open Government Committee on June 9, 2010, approve a support position for two federal bills regarding the Low-Income Housing Tax Credit (LIHTC) Program: S. 3141 (Bingaman) and S. 3326 (Cantwell). (Housing)

* [Rules Committee referral 6/9/10 – Item D(2)(a)]

2. CONSENT CALENDAR

2.19 [Silicon Valley Workforce Investment Network Board Appointment.](#)

Recommendation: As recommended by the Rules and Open Government Committee on June 9, 2010, approve the appointment of Sajeev Sidher, Senior Tax Manager for Deloitte, to serve as a private sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law. (Mayor)

* [Rules Committee referral 6/9/10 – Item G(1)]

2.20 [District 2 Edenvale Technology Park 2010 Business Appreciation Event.](#)

Recommendation: As recommended by the Rules and Open Government Committee on June 9, 2010:

- (a) Approve the District 2 Edenvale Technology Park 2010 Business Appreciation Event as a City Council Sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(City Clerk)

* [Rules Committee referral 6/9/10 – Item H(2)]

2.21 [Traffic Control Program for Outdoor Special Event](#)

Recommendation: Approve an [ordinance](#) amending Section 11.12.050 of Chapter 11.12 of Title 11 of the San José Municipal Code to authorize the City Manager to temporarily or permanently appoint staff to perform traffic control in accordance with the requirements of California Vehicle Code Section 21100(e), as it may be amended. CEQA: Not a Project, File No. PP10-068(b), general procedure & policy making. (Economic Development)

* (Rules Committee referral 6/9/10)

3. STRATEGIC SUPPORT SERVICES

ITEMS 3.2 – 3.8, 9.2, 3.9 – 3.11, 9.3, 3.13 AND 3.17 TO BE HEARD IN THAT ORDER NO EARLIER THAN 2:00 P.M.

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

3.2 [Approval of Implementation of Terms Contained in the City's Last, Best and Final Offer to the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21, \(CAMP\).](#)

Recommendation: Adopt a [resolution](#) approving the implementation of the terms of the City's Last, Best and Final Offer for employees represented by the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21, (CAMP), effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager's Office)

3. STRATEGIC SUPPORT SERVICES

ITEMS 3.2 – 3.8, 9.2, 3.9 – 3.11, 9.3, 3.13 AND 3.17 TO BE HEARD IN THAT ORDER NO EARLIER THAN 2:00 P.M.

3.3 [Approval of Implementation of Terms Contained in the City’s Last, Best and Final Offer to the International Brotherhood of Electrical Workers, Local No. 332 \(IBEW\).](#)

- * **Recommendation:** Adopt a [resolution](#) approving the implementation of the terms of the City’s Last, Best and Final Offer for employees represented by the International Brotherhood of Electrical Workers, Local No. 332 (IBEW), effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager’s Office)

3.4 [Approval of Implementation of Terms Contained in the City’s Last, Best and Final Offer to the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 41/42 And Unit 43 \(AEA\).](#)

- * **Recommendation:** Adopt a [resolution](#) approving the implementation of the terms of the City’s Last, Best and Final Offer for employees represented by the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 041 and 042, and 043, effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager’s Office)

3.5 [Approval of Implementation of Terms Contained in the City’s Last, Best and Final Offer to the Association of Maintenance Supervisory Personnel \(AMSP\).](#)

- * **Recommendation:** Adopt a [resolution](#) approving the implementation of the terms of the City’s Last, Best and Final Offer for employees represented by the Association of Maintenance Supervisory Personnel (AMSP), effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager’s Office)

3.6 [Approval of the terms of a Memorandum of Agreement or Implementation of Terms Contained in the City’s Last, Best and Final Offer to the Operating Engineers, Local No. 3.](#)

- * **Recommendation:** Adopt a [resolution](#) approving the implementation of the terms of the City’s Last, Best and Final Offer for employees represented by the Operating Engineers, Local No. 3 (OE#3), effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager’s Office)

3.7 [Approval of the terms of an Agreement or Implementation of Terms Contained in the City’s Last, Best and Final Offer to the Association of Legal Professionals of San José \(ALP\)](#)

[Attachment – Letter from the Association of Legal Professionals dated June 11, 2010](#)
[Attachment – Letter from the Association of Legal Professionals dated June 14, 2010](#)
[Supplemental – Memo from the City Manager](#)

- * **Recommendation:** Adopt a [resolution](#) approving the implementation of the terms of the City’s Last, Best and Final Offer for employees represented by the Association of Legal Professionals of San José (ALP), effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager’s Office)

3. STRATEGIC SUPPORT SERVICES

ITEMS 3.2 – 3.8, 9.2, 3.9 – 3.11, 9.3, 3.13 AND 3.17 TO BE HEARD IN THAT ORDER NO EARLIER THAN 2:00 P.M.

3.8 Compensation and Benefits for Executive Management and Professional Employees in Unit 99 and Unrepresented Employees.

- * **Recommendation:** Adopt a resolution approving additional compensation and benefit changes for executive management and professional employees in Unit 99 and other unrepresented employees effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager’s Office)

3.9 Library Parcel Tax Rates for 2010-2011.

Recommendation: Adopt a resolution increasing the Library Parcel Tax rates for Fiscal Year 2010-2011 by 1.79% over the Fiscal Year 2009-2010 rates and approving the placement of the Library Parcel Tax on the Fiscal Year 2010-2011 Santa Clara County Property Tax Roll. CEQA Not a Project, File No. PP10-067 (a), specific funding mechanism – adjustment to rates. (Finance)

3.10 Sewer Service and Use Charge Rates for 2010-2011.
Supplemental – Memo from the Director of Environmental Services

Recommendation:

- (a) Hold a public hearing on proposed 2010-2011 Sewer Service and Use Charges and proposed maximums for rate increases in 2011-2012 and 2012-2013; and direct staff to return during the 2011-2012 and 2012-2013 budget cycles with recommendations regarding rate increases in 2011-2012 and 2012-2013 consistent with staff recommended maximum rate increases for those years;
- (b) Adopt a resolution setting the following Sewer Service and Use Charge and Storm Sewer Service Charge rates for 2010-2011:

<u>Category</u>	<u>2010-2011 Monthly Rates</u>
Single-Family Residential	\$32.86
Multi-Family Residential	\$18.79 per unit
Mobile Home	\$18.83 per unit
Non-Monitored Commercial and Industrial	See Attachment A
Monitored Industrial	See Attachment A

<u>Category</u>	<u>2010-2011 Monthly Rates</u>
Single Family Residential and Duplex	\$7.64
Mobile Home	\$3.83 per unit
Residential Condominium	\$4.18 per unit
Large Multi-Family Residential (5 or more units)	\$4.18
Small Multi-Family Residential (3-4 units)	\$14.51
Commercial, Institutional, and Industrial	See Attachment B

CEQA: Statutorily Exempt, File No. PP10-067 (a), CEQA Guidelines Section 15273 - Rates, Tolls, Fares, and Charges. (Environmental Services)

3. STRATEGIC SUPPORT SERVICES

ITEMS 3.2 – 3.8, 9.2, 3.9 – 3.11, 9.3, 3.13 AND 3.17 TO BE HEARD IN THAT ORDER NO EARLIER THAN 2:00 P.M.

**3.11 [Municipal Water System Water Rate Increases for 2010-2011.](#)
[Supplemental – Memo from the Director of Environmental Services](#)**

Recommendation:

- (a) Hold a public hearing on proposed 2010-2011 San José Municipal Water System potable water rates and charges;
- (b) Adopt a [resolution](#) increasing the San José Municipal Water System potable water rates and charges by 3.75% effective July 1, 2010.

CEQA: Statutorily Exempt, File No. PP10-067 (a), CEQA Guidelines Section 15273 - Rates, Tolls, Fares, and Charges. Council Districts 2, 4, 7 and 8. (Environmental Services)

**3.12 [Mayor’s 2010 June Budget Message.](#)
[Attachment – Budget Survey from Councilmember Oliverio](#)
[Attachment – Memo from Councilmember Chu](#)
[Attachment – Memo from Councilmember Pyle](#)**

Recommendation:

- (a) Review, discussion and approval of the Mayor’s 2010 June Budget Message.
- (b) Adopt a resolution by the City Council authorizing the City Manager to negotiate and execute grant agreements addressed in the Mayor’s Budget Message which are for amounts that exceed the City Manager’s contract authority.

(Mayor)

* **RENUMBERED TO ITEM 9.3**

3.13 Approve the 2010-2011 Operating and Capital Budgets for the City of San José and Schedule of Fees and Charges.

* **Recommendation:**

- (a) Adopt resolutions approving the [Operating Budget](#) for 2010-2011 for the City of San José, the [Capital Budget](#) for 2010-2011 for the City of San José, and the [Five Year Capital Improvement Program](#) for 2011-2015 for the City of San José as revised by the Mayor’s Budget Message and directing the City Manager to prepare final documents for adoption.
- (b) Adopt a [resolution](#) establishing the Schedule of Fees and Charges for 2010-2011.
- (c) Adopt a [resolution](#) amending Resolution No. 66629 to revise the term of the loan from the Sewage Treatment Plant Connection Fee Fund to the General Fund for construction of the fiber optic conduit installation project to extend the repayment date from June 30, 2011 to June 30, 2013.
- (d) [Approve an ordinance amending Section 9.10.2470 of Chapter 9.10 of Title 9 of the San José Municipal Code](#) to allow the Construction Demolition Debris Diversion Program deposits that are no longer eligible for refund to be transferred to the General Fund. [Ordinance](#)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

ITEMS 3.2 – 3.8, 9.2, 3.9 – 3.11, 9.3, 3.13 AND 3.17 TO BE HEARD IN THAT ORDER NO EARLIER THAN 2:00 P.M.

3.13 Approve the 2010-2011 Operating and Capital Budgets for the City of San José and Schedule of Fees and Charges. (Cont'd.)

Recommendation:

- (e) [Approve an ordinance repealing Part 33 of Chapter 4.80 of the San José Municipal Code](#) in order to eliminate the Anti-Tobacco Master Settlement Agreement Revenue Fund, to remove the expenditure restrictions, and to provide for the transfer of moneys in the Anti-Tobacco Master Settlement Agreement Revenue Fund to the General Fund. [Ordinance](#)
- (f) Adopt a [resolution](#) amending Council Policy 1-18 to delete Section 20 relating to the Healthy Neighborhoods Venture Fund Spending Plan.
- (g) [Approve an ordinance deferring expenditures and/or appropriations for public art projects at the San José International Airport during 2010-2011 and for the fiscal years thereafter until the first annual budget adopted by City Council after total passenger activity at the Airport reaches 12.2 million passengers per year, except as follows: Ordinance](#)
 - (1) The 2010-2011 budget shall include a one-time allocation of \$70,000 to enable public art staff to provide supervision of a contracted art technician and to seek sponsorships for public art operations and potential future commissions;
 - (2) This deferral shall not apply to any public art projects at the Airport where the City has already executed an agreement with an artist.
- (h) [Adopt a resolution to repeal Resolution No. 75331 and set forth the Master Parking Rate Schedule to: resolution](#)
 - (1) Add a special event rate (\$5-7) for the Market/San Pedro Square Garage for evening and weekend day events.
 - (2) Add a new rate option (\$1 per hour) for Parking Meter District 5 – Arena/Diridon Area.
 - (3) Increase the meter rate in Parking Meter District 2 – East Santa Clara Street Neighborhood; Parking Meter District 3 – Japantown Neighborhood; and Parking Meter District 4 – First and Younger Neighborhood from \$0.50 per hour to up to \$1 per hour.
 - (4) Extend the hours of operation in Parking Meter District 3 – Japantown Neighborhood by one hour from the current 9 am - 5 pm, to 9 am - 6 pm.
 - (5) Remove the Second/San Fernando Lot (Block 2) and Market/San Carlos Lot (Block 8) and eliminate the Casa del Pueblo Validation Program from the Master Parking Rate Schedule resolution.
- (i) [Approve an ordinance amending Chapter 11.40 of Title 11 of the San José Municipal Code](#) to modify the boundaries of the Arena/Diridon Area Parking Meter District and the Downtown Business Parking Meter District. [ordinance](#)
CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273 - Rates, Tolls, Fares and Charges. (City Manager's Office)

3. STRATEGIC SUPPORT SERVICES

ITEMS 3.2 – 3.8, 9.2, 3.9 – 3.11, 9.3, 3.13 AND 3.17 TO BE HEARD IN THAT ORDER NO EARLIER THAN 2:00 P.M.

3.14 Municipal Regulations and Enforcement Pertaining To Medicinal Use of Cannabis.

Recommendation: Adopt a Medical Marijuana Ordinance. (City Manager's Office/ Police/Planning, Building and Code Enforcement)

RECOMMEND DEFERRAL TO 6/22/10 PER ADMINISTRATION

3.15 [Report from the City Auditor on the Audit of the City's Licensing and Permitting of Cardroom Owners and Employees.](#)

- * **Recommendation:** As recommended by the Public Safety, Finance and Strategic Support Committee on May 20, 2010, accept the Report from the City Auditor on the Audit of the City's Licensing and Permitting of Cardroom Owners and Employees. CEQA: Not a Project, File No. PP10-069(a), staff reports and informational memos involving no approvals. (Auditor)
[Public Safety, Finance and Strategic Support Committee referral 5/20/10 – Item D(2)]
RECOMMEND DEFERRAL TO 6/22/10 PER ADMINISTRATION

3.16 [Report on Bids and Award of Contract for the Downer-Canoas Interceptor Rehabilitation Project.](#)

Recommendation: Report on bids and award of contract for the Downer-Canoas Interceptor Rehabilitation project to the low bidder, Pipenology Inc., in the amount of \$3,182,432, and approval of a contingency in the amount of \$318,000. CEQA: Exempt, File No. PP09-052, dated March 13, 2009. Council Districts 6 and 10. (Public Works)

3.17 [Employee Retirement Contribution Ordinances.](#)

- * **Recommendation:** Approve ordinances amending the Municipal Code to add and amend provisions related to retirement contributions to implement additional employee contributions for Fiscal Year 2010-11 as follows:
- (a) An [ordinance](#) amending Chapters 3.28 and 3.44 of Title 3 of the San José Municipal Code to add new sections 3.28.755, 3.28.995 and 3.44.105 and amend sections 3.28.770 and 3.28.780 to implement revisions in employee and employer retirement contributions for the Federated City Employees Retirement System for Fiscal Year 2010-2011.
 - (b) An [ordinance](#) amending Part 10 of Chapter 3.36 of Title 3 and Chapter 3.44 of Title 3 of the San José Municipal Code to add new sections 3.36.1525 and 3.44.095 to implement revisions in employee and employer retirement contributions for the Police and Fire Department Retirement Plan for Fiscal Year 2010-2011.

CEQA: Not a Project, File No. PP10-068(b), Municipal Code amendments pertaining to personnel issues. (City Attorney's Office)

- * (Rules Committee referral 6/9/10)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Sign Ordinance.](#)

Recommendation: Approve an [ordinance](#) amending Title 23 (the Sign Ordinance) of the San José Municipal Code to:

- (a) Allow Freeway Signs for large shopping centers;
- (b) Establish operational requirements for Programmable Electronic Signs;
- (c) Allow attached signs to face a freeway;
- (d) Modify the requirements for Fin Signs and Vertical Projecting Signs in the Downtown Sign Zone;
- (e) Establish and provide sign regulations for the San Pedro Square Signage Area;
- (f) Allow Architectural Sign Clusters for large parcels in the commercial and industrial zoning districts;
- (g) Provide regulations for commercial messages; and
- (h) Make other related and clerical modifications.

CEQA: Negative Declaration, File No. PP10-111. (Planning, Building and Code Enforcement)

4.2 **Historic Landmark Nomination and Mills Act Historical Property Contracts.**

Recommendation: As recommended by the Historic Landmarks Commission, consider the following Historic Landmark Nominations and Mills Act Historical Property Contracts:

- (a) [Historic Landmark Nomination and Mills Act Historical Property Contract for the Hermle-Fancher House](#) located at 530 S. Sixth Street (City Landmark No. HL10-190 and California Mills Act No. MA10-001). SNI: University. Council District 3.
 - (1) Conduct a public hearing and adopt a [resolution](#) designating the Hermle-Fancher House, as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
 - (2) Conduct a public hearing on the Historical Property [Contract](#) between the City of San José and the owner of the Hermle-Fancher House (Jose M. Blanc, Property Owner) and adopt a [resolution](#) approving the contract.
CEQA: Exempt. (Planning, Building and Code Enforcement) [Presentation](#)
- (b) [Historic Landmark Nomination and Mills Act Historical Property Contract for the Stelling House](#) located at 104 S. 13th Street (City Landmark No. HL10-191 and California Mills Act No. MA10-002). SNI: University. Council District 3.
 - (1) Conduct a public hearing and adopt a [resolution](#) designating the Stelling House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
 - (2) Conduct a public hearing on the Historical Property [Contract](#) between the City of San José and the owner of the Stelling House (Bart Narter, Property Owner) and adopt a [resolution](#) approving the contract.
[Presentation](#)

CEQA: Exempt. (Planning, Building and Code Enforcement)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Development Agreement with Cisco Technology, Inc.

Recommendation: Consider an ordinance to approve a Development Agreement between Cisco Technology, Inc. and the City of San Jose to preserve the ability to construct up to 2.5 million square feet of industrial park development under the provisions of the North San Jose Area Development Policy on a 137 gross acre site. CEQA: Resolution No. 72768 and Addenda thereto. (Planning, Building and Code Enforcement)

RECOMMEND DEFERRAL TO 6/22/10 PER ADMINISTRATION

5. NEIGHBORHOOD SERVICES

5.1 Community Center Reuse Policy Amendments.

Recommendation:

- (a) Adopt a [resolution](#) to amend Council Policy 7-12 (Community Center Reuse) to allow for greater opportunities to place service providers at Reuse sites.
- (b) Approve suspension of competitive solicitation requirements under Policy 7-12 for 12 months and grant authority to the Director of Parks, Recreation, and Neighborhood Services to extend suspension of requirements for an additional 12 months, if determined necessary.
- (c) Authorize the Director of Parks, Recreation, and Neighborhood Services to enter in to direct negotiations with potential service providers for Reuse facilities pursuant to Municipal Code Section 4.12.235, "Unique Services Purchases."

CEQA: Not a Project, File No. PP10-068, changes to existing policies that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)

5.2 Nature Education Facilities Grant Program Applications. Supplemental – Memo from the Director of PRNS

* **Recommendation:** Adopt a [resolution](#) authorizing the City Manager or designee to:

- (a) Submit grant applications for the three projects identified in Table 2 of the memorandum to Council in the total amount not to exceed \$21,000,000 under the Nature Education Facilities Grant Program administered by the Office of Grants and Local Services within the California State Department of Parks and Recreation;
- (b) Accept any grants funds awarded to the City for the limited purpose of completing CEQA clearance, and negotiate and execute all necessary documents to implement the grant awards to complete CEQA clearance; and
- (c) Return to Council at a future date for authorization to negotiate and execute all necessary documents to implement the grant awards.

CEQA: Statutorily Exempt, File No. PP10-066, CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Parks, Recreation and Neighborhood Services)

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Agreements with Carollo Engineers, CH2M Hill, and Black & Veatch for Capital Improvement Projects at the Water Pollution Control Plant.](#) [Supplemental – Letter from the Water Pollution Control Plant](#)

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute first amendments to the master agreements with:

- (a) Carollo Engineers for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent;
- (b) CH2M Hill for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent; and
- (c) Black & Veatch for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by four percent.

CEQA: Not a Project: Statutorily Exempt, File No. PP10-066 (d), CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Environmental Services)
(Deferred from 5/18/10 – Item 7.1)

7.2 [Setting the Wholesale Discount for Recycled Water Industrial Use.](#) [Supplemental – Letter from the Water Pollution Control Plant](#)

Recommendation: Adopt a [resolution](#) setting the wholesale discount for recycled water used for industrial and agricultural purposes at \$325 per acre foot compared to Santa Clara Valley Water District rate for untreated water, effectively increasing the rate for industrial and agricultural recycled water effective July 1, 2010 from \$175 per acre-foot to \$195 per acre foot. CEQA: Not a Project, File No. PP10-067 (a), increases or adjustments to fees, rates and fares. (Environmental Services)

7. ENVIRONMENTAL & UTILITY SERVICES

7.3 [Agreement with Reclamation for Reimbursement of South Bay Water Recycling Phase 1B Costs.](#)

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

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a Grant Agreement with the U.S. Bureau of Reclamation to receive up to \$260,000 upon execution of the agreement, and up to an additional \$20,440,000 subject to appropriation of federal funds, in reimbursement for up to twenty-five percent of eligible costs incurred in the Phase 1B expansion of the South Bay Water Recycling facilities. CEQA: Final EIR for the San José Nonpotable Reclamation Project, Resolution No. 64667 (File No. PP-91-090; SCH# 1992013071) and Addenda thereto and Negative Declaration for South Bay Water Recycling Program-Phase 1B, File No. PP00-072. NEPA: Final Environmental Assessment/Finding of No Significant Impact, for Revised South Bay Water Recycling Program Phase 1B (FONSI #97-03-MP) and Categorical Exclusion for South Bay Water Recycling Phase 1B (March 19, 2009). (Environmental Services)

7.4 [Report on Bids and Award of Contract for the Motor Control Center Phase II Replacement Project.](#)

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

[Supplemental – Memo from the Directors of Public Works and ESD](#)

Recommendation: Report on bids and award of contract for the Motor Control Center Phase II Replacement Project to the lowest responsive and responsible bidder, Blocka Construction, in the amount of \$1,020,000; and approval of a budget contingency of 15% contract amount of \$153,000. CEQA: Exempt, File No. PP04-03-079. (Environmental Services/Public Works)

7.5 [Report on Bids and Award of Contract for the Switchgear M1, M2 & M3 Replacement Design-Build Project.](#)

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

Recommendation: Report on bids and award of contract for the Switchgear M1, M2 & M3 Replacement Design-Build Project to the low bidder, Rosendin Electric, in the amount of \$8,386,978; and approval of a contingency of 15% of the contract amount, in the amount of \$1,258,047. CEQA: Exempt, File No. PP04-03-079. (Environmental Services/Public Works)

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Items 8.1 “Acceptance of the report ‘The Alameda, a Plan for the Beautiful Way.’” and 8.2 “Approval of an amendment to the Inclusionary Housing Policy” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.

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

9.1 [Third Amendment to the Amended and Restated San José Arena Management Agreement.](#)

[Attachment – Memo from Mayor Reed and Councilmembers Liccardo, Oliverio and Pyle Presentation](#)

- * **Recommendation:** Approve the Third Amendment to Amended and Restated San José Arena Management [Agreement](#) Between the City of San José and San José Arena Management, LLC. CEQA: Not a Project, File No. PP10-066, services that involve no physical changes to the environment. (City Manager’s Office/Redevelopment Agency)

ITEMS 3.2 – 3.8, 9.2, 3.9 – 3.11, 9.3, 3.13 AND 3.17 TO BE HEARD IN THAT ORDER NO EARLIER THAN 2:00 P.M.

9.2 [Mayor, Councilmember and Council Appointee Compensation.](#)

[Attachment – Memo from Mayor Reed](#)

[Attachment – Memo from Mayor Reed](#)

- * **Recommendation:**
 - (a) Approve an ordinance implementing a 10% reduction in total compensation for the Mayor and Councilmembers.
 - (b) Adopt a resolution implementing a 10% reduction in total compensation for the Council Appointees.
 - (c) Approve other amendments to documents providing for compensation, as appropriate.

CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (Mayor)

TO BE HEARD IMMEDIATELY FOLLOWING ITEM 3.8

9.3 [Mavor’s 2010 June Budget Message.](#)

[Attachment – Budget Survey from Councilmember Oliverio](#)

[Attachment – Memo from Councilmember Chu](#)

[Attachment – Memo from Councilmember Pyle](#)

- * **Recommendation:**
 - (a) Review, discussion and approval of the Mayor’s 2010 June Budget Message.
 - (b) Adopt a resolution by the City Council authorizing the City Manager to negotiate and execute grant agreements addressed in the Mayor’s Budget Message which are for amounts that exceed the City Manager’s contract authority.

CEQA: Not a Project, File No. PP10-067, approval of non-project specific funding mechanisms. (Mayor)

- * **RENUMBERED FROM ITEM 3.12**

- **Open Forum**
Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.
- **Continue RDA Board Meeting**
- **Council will recess until 7:00 p.m.**

10. GENERAL PLAN PUBLIC HEARINGS

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

10.1 General Plan Amendment Request to Change the Land Use/Transportation Diagram Land Use Designation on Dove Hill Road.

[Attachment – Memo from Councilmember Herrera](#)

[Attachment - Staff Report](#)

[Supplemental – Memo from the Planning Commission](#)

[Attachment – Memo from Councilmember Herrera](#)

[Presentation](#)

Recommendation: [Tentative approval of a General Plan amendment request to change](#) the San José 2020 General Plan Land Use/Transportation Diagram land use designation from Non-Urban Hillside (Silver Creek Planned Residential Community) to Public/Quasi-Public (Silver Creek Planned Residential Community) on a 3-acre portion of a 21.1-acre site, located on the east side of Dove Hill Road, approximately 500 feet north of Hassler Parkway (4200 Dove Hill Road) (Kuehne Stanislaus and Eleanore Trustee & Et, owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

[GP08-08-03](#) – District 8

[Continued from 4/27/10 – Item 10.1(a) and 5/18/10 – Item 10.1(a)]

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 a conforming rezoning ordinance rezoning the real property](#) located at the easterly terminus of Skyway Drive, east of Monterey Road (100 Skyway Drive) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to redefine the location where previously approved development may be constructed on a 52.68 gross acre site. This proposal will not increase the allowable building square footage from previous approval nor allow an increase in student enrollment (Valley Christian School, Owner/Applicant). CEQA: Resolution No. 65245 and addendum. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. [ordinance](#) [Presentation](#)
[PDC10-009](#) – District 2

- * (b) [Consideration of an ordinance rezoning the real property located on the west side](#) of Carol Drive, approximately 100 feet north of the terminus of Carol Drive (2661 Carol Drive) to allow for the demolition of one existing single-family detached residence and the development of two new single-family detached residences on a 1.67 gross acre site (Madhvani Kantilal, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
[PDC07-018](#) – District 7 [ordinance](#) [Presentation](#)
[Attachment – Staff Report](#)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 [Rezoning Real Property located at/on the west side of N. Third Street.](#) [Attachment – Staff Report](#) [Presentation](#)

- * **Recommendation:** Consider an [ordinance](#) rezoning the real property located at/on the west side of N. Third Street, 340 feet south of Hensley Street (405 N Third Street) in the Hensley Historic District from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to six residential units within the existing structure(s) on a 0.17 gross acre site (Layne Sharon J, Owner; Bill Priest, Developer). SNI: 13th Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval of 4 units only (5-2-0, Do and Jensen opposed).
[PDC08-033](#) – District 3
(Continued from 4/27/10 – Item 11.2)

11.3 [ADMINISTRATIVE HEARING on and Consideration of an APPEAL of the Planning Commission’s decision to adopt a Negative Declaration.](#) [Attachment – Staff Report](#) [Presentation](#)

Recommendation: The project being considered is located at the southeast corner of McKee Road and N. 33rd Street (280 N. 33rd St. & 1604 McKee Rd.), in the CP Pedestrian Commercial Zoning District (Amir Shirazi, Owner). SNI: Five Wounds/Brookwood Terrace.

- (1) ADMINISTRATIVE HEARING on and consideration of an APPEAL of the Planning Commission’s decision to adopt a Negative Declaration which found the project described below will not have a significant effect on the environment in that the Initial Study and Response to Comments identify that there will be no potentially significant effects on the environment.
- (2) [CP09-015](#). ADMINISTRATIVE HEARING on and consideration of an APPEAL of the Planning Commission’s decision to approve a Conditional Use Permit to allow the demolition of an existing single-family detached residence and the expansion of an existing gas and service station. Three additional gas pumps and a canopy for the new pumping facility will be constructed.

Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

District 3

11. PUBLIC HEARINGS

11.4 [Rezoning real property located at/on the north side of Auzerais Avenue.](#)

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

[Supplemental – Memo from the Director of Planning, Building and Code Enforcement](#)

[Attachment – Staff Report](#)

[Presentation](#)

- * **Recommendation:** Consideration of an ordinance rezoning the real property located at/on the north side of Auzerais Avenue between Bird Avenue and Royal Avenue (395 Bird Avenue) from LI Light Industrial to A(PD) Planned Development Zoning District to demolish an existing gas station and construct a new gas station/mini-mart/car wash on a 0.6 gross acre site (Vintners Distributors, Inc. Sunny Goyal, Owner/Developer). SNI: Burbank/Del Monte. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

[PDC09-023](#) – District 6

(Continued from 3/16/10 – Item 11.2)

11.5 [Rezoning real property located at the area south of the Village Square, encompassed by Cortona Drive, Classico Avenue and Ruby Avenue.](#)

[Attachment – Staff Report](#)

[Attachment – Memo from Councilmember Herrera](#) [Presentation](#)

- * **Recommendation:** Consideration of an [ordinance](#) rezoning the real property located at the area south of the Village Square, encompassed by Cortona Drive, Classico Avenue and Ruby Avenue (4035 Evergreen Village Square) to allow for the development of up to 35 single-family attached residences on a 2.8 gross acre site located adjacent to an approved, but not yet constructed, 36,500 square foot commercial building (Shapell Industries, Owner). CEQA: Resolution Nos. 63179 and 73570 and addenda thereto. Director of Planning, Building and Code Enforcement recommends approval with the revised development standards and Planning Commission recommends approval with a density of 12 DU/AC (5-2-0).

[PDC09-020](#) – District 8

11.6 [ADMINISTRATIVE HEARING on an Appeal of the Planning Commission's Certification of the Final Supplemental Environmental Impact Report \(FSEIR\) for the Baseball Stadium in the Diridon/Arena Area.](#)

[Attachment 1 – Baseball Stadium Environmental Appeal – Marc Morris](#)

[Attachment 2 – Baseball Stadium Environmental Appeal – Stand for SJ](#)

[Attachment 3 – Baseball Stadium Environmental Appeal – SV Sports & Entertainment](#)

[Attachment 4 – Ballpark 1st Amendment](#)

[Supplemental – Memo from the Director of Planning, Building and Code Enforcement](#)

Recommendation: Adopt a resolution to certify:

- (a) The City Council has read and considered the Final Supplemental EIR; and
- (b) The Final SEIR has been completed in compliance with the California Environmental Quality Act (CEQA); and The Final SEIR reflects the independent judgment and analysis of the City of San José; and The Director of Planning, Building and Code Enforcement shall transmit copies of the Final SEIR to the Applicant and to any other decision-making body of the City of San José for the project. [Presentation](#)

SNI: Burbank/Del Monte.

[PP05-214](#) – District 6

- **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**

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
FINANCING AUTHORITY/AGENDA**

1:30 P.M.

TUESDAY, JUNE 15, 2010

CHAMBERS

* *Recommend Deferral of Joint City Council/Financing Authority Agenda to 6/22/10 per City Attorney's Office*

1. Call to Order and Roll Call

2. [Actions Related to Orvieto Family Apartments.](#)

Recommendation:

- (a) Adopt a resolution of the City Council:
- (1) Repealing Resolution No. 71579 of the City Council adopted on November 17, 2009;
 - (2) Authorizing the issuance of tax-exempt multifamily housing revenue bonds in two series designated as "City of San José Multifamily Housing Revenue Bonds (Orvieto Family Apartments), Series 2010B-1 and Series 2010B-2" in the aggregate principal amount not to exceed \$14,200,000 (individually, the "Series B-1 Bonds", the "Series B-2 Bonds" and collectively, "Bonds");
 - (3) Approving a loan of Bond proceeds to Orvieto Family Apartments, L.P., a California limited partnership (the "Borrower"), for financing a portion of the costs of constructing the Orvieto Family Apartments (the "Project") located at 80 Montecito Vista Drive in the City of San José (the "City");
 - (4) Approving in substantially final form the Series B-1 Senior Trust Indenture with Wells Fargo Bank, National Association, as Trustee (the "Trustee"), the Series B-2 Subordinate Trust Indenture with JP Morgan Chase Bank, N.A., as Bondowner Representative (the "Bondowner Representative"), the Series B-1 Financing Agreement among the City, the Borrower and the Trustee, the Series B-2 Loan Agreement among the City, the Borrower and the Bondowner Representative, Regulatory Agreement among the City, the Borrower and the Trustee, the Intercreditor Agreement among the City, the Trustee, Freddie Mac and the Bondowner Representative, the Bond Purchase Agreement among the City, the Borrower and RBC Capital Markets as Underwriter of the Series B-1 Bonds, and the Official Statement; and

(Item continued on the next page)

JOINT / CITY OF SAN JOSÉ FINANCING AUTHORITY

2. Actions Related to Orvieto Family Apartments. (Cont'd.)

Recommendation:

- (a) Adopt a resolution of the City Council. (Cont'd.)
 - (5) Authorizing the City Manager, Assistant Finance Director, Director of Housing or their designees to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary.
 - (6) Authorizing the Director of Housing, to negotiate and execute an agreement with the City of San José Financing Authority (the “Authority”) related to the groundlease revenues of the Project and ultimate disposition of the Project improvements and the Site.
- (b) Adopt a resolution of the City of San José Financing Authority Board (the “Authority Board”):
 - (1) Repealing Resolution No. 93 of the Authority Board adopted on November 17, 2009;
 - (2) Authorizing the Executive Director of the Authority, or designee, to acquire the Project site (the “Site”) from the Borrower and, with the Director of Housing, negotiate and execute a ground lease of the Site back to the Borrower for a term of up to 99 years with such other terms to be negotiated by the Executive Director of the Authority and the Director of Housing.
 - (3) Authorizing the Executive Director of the Authority and Director of Housing to negotiate and execute an agreement with the City related to the ground lease revenues from the Project and the ultimate disposition of the Project improvements and the Site.

CEQA: Resolution No. 72877, Goble Lane Environmental Impact Report, File No. PP09-086. (Finance/Housing)

RECOMMEND DEFERRAL TO 6/22/10 PER CITY ATTORNEY

3. Open Forum

(To be heard with Open Forum for the City of San José and San José Redevelopment Agency Board)

4. Adjourn the San José Financing Authority.

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.