



CITY COUNCIL AGENDA

AUGUST 10, 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**
9:30 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 7)**
Pastor Jon Talbert of Westgate Church provided the Invocation.
- **Pledge of Allegiance**
Mayor Reed and “Summer Book Club Students” led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Silicon Valley Independent Living Center for their commitment to offering comprehensive services to individuals with disabilities in Silicon Valley. (Chu/Liccardo)
Mayor Reed and Council Members Chu and Liccardo commended the Silicon Valley Independent Living Center for their commitment to offering comprehensive services to individuals with disabilities in Silicon Valley.
- 1.2 Presentation of a commendation recognizing Richard McCoy for his outstanding community involvement in San José. (Constant)
Mayor Reed and Council Member Constant recognized Richard McCoy for his outstanding community involvement in San José.
- 1.3 Presentation of a proclamation declaring August 15th as “Indian Independence Day” in the City of San José. (Kalra)
Mayor Reed and Council Member Kalra recognized August 15th as “Indian Independence Day” in the City of San José.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None Presented
- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28783 – Granting a franchise to Wickland Pipelines, LLC to use or to lay and use, oil pipes and appurtenances for the purpose of transmitting and distributing oil and products thereof in, along, across, upon and under certain public streets and rights-of-way within the City of San José.
Ordinance No. 28783 adopted.
- (b) ORD. NO. 28773 – Amending Parts 1 and 5.5 of Chapter 3.36 of Title 3 of the San José Municipal Code relating to the Police and Fire Department Retirement Plan to add new Sections 3.36.130 and 3.36.140 defining “Limitation Year” and “Plan Year” and revising Section 3.36.730 to clarify provisions related to Internal Revenue Code limitations on Pension Benefit Calculations.
[Deferred from 8/3/10 – Item 2.2(g)]
Ordinance No. 28773 adopted.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Community and Economic Development Committee Report of June 28, 2010. (Pyle)
[Deferred from 8/3/10 – Item 2.3(j)]
- (b) Transportation and Environment Committee Report of June 7, 2010. (Liccardo)
[Deferred from 8/3/10 – Item 2.3(d)]

Approved.

- (c) Rules and Open Government Committee Report of June 9, 2010. (Mayor)
[Deferred from 8/3/10 – Item 2.3(e)]
- (d) Neighborhood Services and Education Committee Report of June 10, 2010. (Campos)
[Deferred from 8/3/10 – Item 2.3(f)]

Deferred to 8/17/10 per City Clerk

2.4 Mayor and Council Excused Absence Requests. None Presented

2.5 City Council Travel Reports. None Presented

2.6 Acceptance of Donations to Airport Art + Technology Program.

Recommendation: Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Gift Trust Fund for Public Art at the Airport.

- (a) Increase the estimate for Earned Revenue by \$150,000; and
- (b) Establish an appropriation to the Office of Economic Development for Airport Art + Technology Program in the amount of \$150,000.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager's Office)

Ordinance No. 28784 adopted.

Resolution No. 75516 adopted.

2.7 Fiscal Year 2010-11 Property Tax Levy for General Obligation Bonds.

Recommendation: Adopt a resolution establishing the FY 2010-11 property tax levy on all taxable property for general obligation bonded indebtedness. CEQA: Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism. (Finance)

Resolution No. 75517 adopted.

2. CONSENT CALENDAR

2.8 Donation of Two Surplus Fire Trucks.

Recommendation: Adopt a resolution authorizing the Director of Finance to donate two surplus Fire Trucks (1981 American LaFrance Water Chief, and a 1990 Mack Pumper) with an estimated cumulative value of \$5,250, to the San José Fire Museum; a non-profit organization. CEQA: Not a Project, CEQA Guidelines Section 15061(b)(3). (Finance)

Resolution No. 75518 adopted.

2.9 Actions Related to the 2010 Justice Assistance Grant.

Recommendation:

- (a) Approve the proposed 2010 JAG Spending Plan for the FY 2010 Edward Byrne Memorial Justice Assistance Grant (JAG).
- (b) Approve changes to the 2009 JAG Spending Plan.
- (c) Adopt a resolution accepting the 2010 Justice Assistance Grant in the amount of \$433,583 and authorize the City Manager to execute any documents required to effectuate the grant, including the Grant Agreement and the necessary Memorandum of Understanding (MOU) with the County of Santa Clara.

Resolution No. 75519 adopted.

- (d) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund:
 - (1) Increase the estimate for Earned Revenue in the amount of \$319,840; and
 - (2) Establish an appropriation to the Police Department for the 2010 Justice Assistance Grant in the amount of \$319,840.

Ordinance No. 28785 adopted.

Resolution No. 75520 adopted.

CEQA: Not a Project, File No. PP10-066(g.), Grant Agreements and MOUs.
(Police/City Manager's Office)

2.10 Actions Related to Establishing the Proposed Maintenance District 23, Berryessa Rd from I-680 to Piedmont Rd.

Recommendation: Adopt a resolution:

- (a) Preliminarily approving the Engineer's Report.
- (b) Setting the public meeting to be held on September 28, 2010 at 1:30 p.m.
- (c) Setting the public hearing and tabulation of property owner ballots for November 16, 2010 at 1:30 p.m.
- (d) Directing that the notice of said meeting and hearing and ballots be mailed to the property owners in district.

CEQA: Exempt, File No PP10-090. Council District 4. (Public Works/Transportation)

Resolution No. 75521 adopted.

Disqualified: Chu.

2. CONSENT CALENDAR

2.11 Mayor Reed's Travel to Washington, D.C.

Recommendation: Approve Mayor Reed's travel to Washington, D.C. on July 26-27, 2010 to participate on a panel to discuss how U.S. metropolitan areas lead nations export growth and boost competitiveness with White House Senior Administration Officials and officials of the EX-IM Bank of the U.S. Source of Funds: All travel costs (airfare, lodging, and incidentals) to be paid by Brookings Institution. (Mayor)
(Rules Committee referral 7/28/10)

Approved.

3. STRATEGIC SUPPORT SERVICES

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

The City Manager reported on recruitment efforts being made to hire a new Police Chief.

3.2 Ordinances to Implement Retirement Boards Governance Changes.

Recommendation: Approve ordinances:

- (a) Amending Section 2.08.130 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise provisions for removal of Retirement Board Members.

Ordinance No. 28786 passed for publication.

Opposed: Liccardo.

- (b) Amending Part 12 of Chapter 2.08 of Title 2 and Section 3.36.330 of Part 3 of Chapter 3.36 of the San José Municipal Code to revise the structure of the Board Of Administration for the Police And Fire Department Retirement Plan, adopt minimum qualification criteria for public members of said Board, revise provisions for compensation of Board Members and revise the definition of a Board quorum.

- (c) Amending Part 10 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise the structure of the Board of Administration for the Federated City Employees Retirement System, adopt minimum qualification criteria for public members of said Board and revise provisions for compensation of Board Members.

CEQA: Not a Project; File No. PP10-068. (City Attorney's Office)

(Deferred from 6/22/10 – Item 3.6 and 8/3/10 – Item 3.2)

Ordinance No. 28787 and 28788 passed for publication, as amended (see Council Member Herrera's memorandum of August 10, 2010 with the following changes, as modified: (1) Public board members must work or live within 50 miles of San José City Hall, and (2) The selection of the retired police and retired fire representatives will be recommended by the retirees at-large as opposed to elected from within police members and from within fire members).

Opposed: Liccardo.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 2009 Development Services Customer Satisfaction Survey Results.

Recommendation: As recommended by the Community and Economic Development Committee on June 28, 2010, accept staff's report on the results of the 2009 Development Services Customer Satisfaction Survey. (Planning, Building and Code Enforcement) [Community and Economic Development Committee referral 6/28/10 – Item D(2)] (Deferred from 8/3/10 – Item 4.1)

Accepted.

4.2 Santa Clara Valley Habitat Conservation Plan – Status Report.

Recommendation: As recommended by the Community and Economic Development Committee on June 28, 2010, accept the status report and the following staff recommendations regarding consideration of the draft Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (Plan or HCP/NCCP):

- (a) Continue to work with Wildlife Agencies to ensure feasible and reasonable requirements are identified in the HCP/NCCP, including but not limited to financial obligations;
- (b) Continue to ensure that the costs incurred to meet the Plan requirements as adopted by the partner agencies are less than or equal to the benefits of the Plan;
- (c) Continue to ensure that the Draft Plan does not put the City's General Fund at risk for being responsible to fund Plan implementation in the absence of development fees or other assumed revenue sources; and
- (d) Continue to be diligent in the review and comment of non-local partner agencies' CEQA documents with regard to direct and indirect impacts on the Plan area from projects outside the Plan area, and encourage the Wildlife Agencies to do the same.

(Planning, Building and Code Enforcement)

[Community and Economic Development Committee referral 6/28/10 – Item D(3)]

(Deferred from 8/3/10 – Item 4.1)

Deferred to 8/17/10.

4.3 Actions Related to the NUMMI Re-Employment Project.

Recommendation:

- (a) Adopt a resolution accepting the NUMMI Re-Employment Grant award in the amount of \$6,274,772;

Resolution No. 75522 adopted.

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Actions Related to the NUMMI Re-Employment Project (Cont'd.)

- (b) Adopt the following appropriation ordinance and funding sources resolution amendments in the Workforce Investment Act Fund (290) for 2010-2011 for the initial grant awards received as follows:
- (1) Increase the estimate for Earned Revenue by \$2,976,901;
 - (2) Establish an appropriation to the Office of Economic Development for the 25% Additional Assistance Grant Bridge Funding – NUMMI Project in the amount of \$970,000; and

Ordinance No. 28789 adopted.

Resolution No. 75523 adopted.

Recommendation:

- (b) (3) Establish an appropriation to the Office of Economic Development for a National Emergency Grant Dislocated Workers – NUMMI Project in the amount of \$2,006,901.

CEQA: Not a Project; File No. PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager's Office)

Approved.

4.4 BEGIN Program Grants.

Recommendation:

- (a) Adopt a Resolution Authorizing the Director of Housing to accept Building Equity and Growth in Neighborhoods (BEGIN) housing program grants from the California Department of Housing and Community Development (HCD) when issued and to negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the following BEGIN grants:

- (a) (1) A \$2,000,000 grant to fund down payment assistance loans to first-time homebuyers purchasing in The 88 condominium development.
- (2) An \$820,000 grant to fund down payment assistance loans to first-time homebuyers purchasing in The Works condominium development.
- (3) A \$2,400,000 grant to fund down payment assistance loans to first-time homebuyers in the Axis condominium development.
- (4) A \$2,000,000 grant to fund down payment assistance loans to first-time homebuyers in the 360 Residences condominium development.
- (5) A \$1,176,500 grant to fund down payment assistance loans to first-time homebuyers in the Villa Fontana condominium development.

Resolution No. 75524 adopted.

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 BEGIN Program Grants (Cont'd.)

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

(1) Increase the estimate for Earned Revenue by \$2,820,000.

(2) Increase the CalHome (BEGIN) Program project by \$2,820,000.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. Council Districts 3 and 6. SNI Area: Julian/Stockton & Spartan/Keyes. (Housing/City Manager's Office)

Ordinance No. 28790 adopted.

Resolution No. 75525 adopted.

4.5 Amendment to Title 20 Zoning Ordinance – Proposed Ordinance for Downtown Districts and Uses in Historic Landmarks.

Recommendation: Conduct a public hearing and consider an ordinance amending Title 20 of the San José Municipal Code to include amendments to: (1) Section 20.70.010 of chapter 20.70 to expand the applicability of the Downtown Zoning District to the area bounded by Julian Street, the Guadalupe River, Santa Clara Street, and Route 87 and modify the geographic description accordingly; (2) Section 20.30.100 of Chapter 20.30 to amend Table 20-50, Residential Districts Land Use Regulations, to allow with a Conditional Use Permit any use not set forth in Table 20-50 for designated City of San José Historic Landmark Structures; (3) Section 20.40.100 of Chapter 20.40 to amend Table 20-90, Commercial Districts Land Use Regulations, to allow with a Special Use Permit any use not set forth in Table 20-90 for Designated City of San José Historic Landmark Structures; (4) Section 20.50.100 of Chapter 20.50 to amend Table 20-110, Industrial Districts Land Use Regulations, to allow with a Special Use Permit any use not set forth in Table 20-110 for designated City of San José Historic Landmark Structures; (6) Chapter 20.80, Specific Use Regulations, to add a new part to establish regulations for uses of designated City of San José Historic Landmark Structures; (7) Section 20.90.220 of Chapter 20.90 to allow a reduction in the required parking for a designated City of San José Historic Landmark Structures; and (8) Chapter 20.200, Definitions, to add a definition of Historic Landmark Structure. CEQA: Use of San José 2020 General Plan Final Environmental Impact Report, Resolution No. 65459, File No. PP10-129. (Planning, Building and Code Enforcement)

Public Hearing Held

Ordinance No. 28791 passed for publication.

5. NEIGHBORHOOD SERVICES

5.1 Grant Application for the Los Gatos Creek Trail Project.

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

- (a) Submit a grant application in the amount not to exceed \$1,250,000 to the Santa Clara Valley Transportation Authority (“VTA”) under the VTA Bicycle Expenditure Program for the development of construction documents for the Los Gatos Creek 5B/C (San Carlos St. to Montgomery Ave.) Trail project (“Project”) with an additional local match requirement of \$320,000; and
- (b) Accept any grant funds awarded to the City and negotiate and execute all necessary documents related to any grant funding from the Metropolitan Transportation Corporation (“MTC”) to the City for the Project; and
- (c) Keep the Los Gatos Creek 5B/C trail segment between San Carlos Street and Montgomery Avenue open 24 hours a day, seven days a week once the trail segment is constructed, for the life of the trail, except during emergencies, maintenance, and unforeseeable circumstances, as required by VTA/MTC as part of the grant requirement.

CEQA: Mitigated Negative Declaration, File No. PP06-112. (Parks, Recreation and Neighborhood Services)

Resolution No. 75526 adopted.

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Open Forum
None.
- Continue RDA Board Meeting

- **Adjournment**

The Council of the City of San José adjourned at 4:14 p.m. in memory of Edith Shain, made famous by the Life Magazine photo “VJ Day in Time Square,” which was taken August 14th, 1945, marking the end of World War II. A long-time supporter of Spirit of '45 Campaign events in San Jose, Edith passed away on June 20th, 2010. (Herrera)

8. JOINT REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 3:18 p.m. to consider Item 8.1 in a Joint Session.

8.1 Acceptance of the report on the Strong Neighborhoods Business Plan Update.

Recommendations:

As referred by the Neighborhood Services and Education Committee on June 10, 2010:

(a) Accept the report on the Strong Neighborhoods Business Plan Update with the goals of:

- (1) Removing barriers to neighborhood action,
- (2) Stabilizing neighborhoods in crisis,
- (3) Supporting neighborhood action, and
- (4) Connecting resources to priorities.

Accepted.

(b) Adoption of resolutions by the City Council and Agency Board directing the City Manager and Redevelopment Agency Executive Director to implement the Strong Neighborhoods Business Plan Update.

CEQA: Not a Project. [Neighborhood Services and Education Committee referral
6/10/10 – Item D(6)]

(Deferred 6/22/10, Item 8.3)

Resolution No. 75527 adopted.

Redevelopment Agency Resolution No. 5980 adopted.

The Council of the City of San José and Redevelopment Agency Board was adjourned at 4:14 p.m.