



CITY COUNCIL AGENDA

AUGUST 31, 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**
9:33 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Member: Liccardo. (Excused)

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Member: Liccardo. (Excused)
- **Invocation (District 7)**
Reverend Edward Kwong, San José Christian Alliance Church, presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed 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 Lake Cunningham Regional Park Rangers Stephanie Ferris and Fred Cortopassi for performing heroic measures in the work place where they assisted in the rescue of a visitor by saving his life. (Herrera)
Mayor Reed and Council Member Herrera recognized and commended Lake Cunningham Regional Park Rangers Stephanie Ferris and Fred Cortopassi for their heroism.
- 1.2 Presentation of a proclamation declaring September 8, 2010 as “International Literacy Day” in the City of San José. (Chu)
(Rules Committee referral 8/25/10)
Mayor Reed and Council Member Chu recognized September 8, 2010 as “International Literacy Day” in the City of San José.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none.
- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28793 – Rezoning certain real property situated at the southwest corner of West Julian Street and Pleasant Street (350 West Julian Street) from the LI Light Industrial Zoning District to the DC Downtown Core Zoning District. C10-008
Ordinance No. 28793 adopted.
- (b) ORD. NO. 28794 – Rezoning certain real property situated at the north side of Berryessa Road, approximately 130 feet west of North Capitol Avenue (2471-2481 Berryessa Road), from CP Commercial Pedestrian to CG Commercial General Zoning District. C10-016
Ordinance No. 28794 adopted.
- (c) ORD. NO. 28795 – Rezoning certain real property situated on the east side of Ruby Avenue, approximately 100 feet northerly of Murillo Avenue (2494 Ruby Avenue), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC09-028
Ordinance No. 28795 adopted.
- (d) ORD. NO. 28796 – Rezoning certain real property situated at the southwest corner of Foxworthy Avenue and Almaden Expressway (1175 Hillsdale Avenue; APN: 451-06-066 & -068), to A(PD) Planned Development Zoning District. PDC08-015
Ordinance No. 28796 adopted.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (e) ORD. NO. 28797 – Rezoning certain real property situated at the northern terminus of Grand Oak Way, approximately 250 feet northwest of Hematite Court (6776 San Felipe Road), from the A-Agricultural Zoning District to A(PD) Planned Development Zoning District. PDC08-065

Ordinance No. 28797 adopted.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of August 11, 2010. (Mayor)
- (b) Transportation and Environment Committee Report of August 16, 2010. (Liccardo)
- (c) Public Safety, Finance and Strategic Support Committee Report of August 19, 2010. (Nguyen)

Approved.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Council Member Herrera's Travel to San Diego, CA.

Recommendation: Approve travel by Council Member Herrera to San Diego, CA on September 15-17, 2010 to attend the annual League of California Cities Annual Conference & Expo as one of the City's designated representatives. Source of Fund: Office Budget. (Herrera)

(Rules Committee referral 8/25/10)

Approved.

2.7 Actions Related to Council Member Herrera's Travel to Washington, D.C.

Recommendation:

- (a) Approve Council Member Herrera's travel to Washington, D.C. on September 28-29, 2010 to participate in the Silicon Valley Leadership Group's "CEO/Senior Officer Advocacy" trip. Source of Funds: Valley Transportation Agency
- (b) Request for an excused absence for Council Member Herrera from the Regular City Council Meeting on September 28, 2010.

(Herrera)

(Rules Committee referral 8/25/10)

Approved.

2. CONSENT CALENDAR

2.8 Council Member Herrera's Travel to Seattle, WA.

Recommendation: Approve Council Member Herrera's travel to Seattle, WA on October 27-29, 2010 to participate in the annual San José-Silicon Valley Chamber of Commerce City-to-City trip as one of the City's designated representatives. Source of Funds: Mayor/Council Travel Fund. (Herrera)
(Rules Committee referral 8/25/10)

Approved.

2.9 Silicon Valley Workforce Investment Board Nominations.

Recommendation: As recommended by the Rules and Open Government Committee on August 25, 2010:

- (a) Appoint Ralph Aceves, Founder, President, and CEO of Ovalpath, Inc., to serve as a private sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law.
- (b) Appoint José A. González, CEO of Infolink, 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 8/25/10 – Items G(1)(a) - G(1)(b)]

Approved.

2.10 2010 League of California Cities Resolutions.

Recommendation: As recommended by the Rules and Open Government Committee on August 25, 2010, approve the recommended City positions for six resolutions to be considered at the Annual League of California Cities (LOCC) Conference to be held in San Diego, September 15-17. (City Manager's Office)

[Rules Committee referral 8/25/10 – Item H(2)]

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone provided an update on the Police Chief recruitment, and reported that an information memorandum will be circulated about a recent press conference held by Local 230 IAFF regarding Fire Department Dynamic Deployment.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Contract Amendment for the Neighborhood Stabilization Program.

Recommendation:

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

- (1) Increase the estimate for Earned Revenue by \$1,300,000.
- (2) Increase the Neighborhood Stabilization Program appropriation in the Housing Department by \$1,300,000.

Ordinance No. 28805 adopted.

Resolution No. 75545 adopted.

(b) Adopt a resolution to authorize the Director of Housing to negotiate and execute a contract amendment up to an additional \$2,068,859, for a total award of \$5,868,859, with Community Rehabilitation Partners to implement the federally-funded Neighborhood Stabilization Program Single-Family Acquisition, Rehabilitation, and Resale Program.

CEQA: Exempt, File No. PP09-166. Council Districts 2, 3, 5, 7 and 8. SNI: K.O.N.A., Mayfair, Tully Senter, Gateway East, West Evergreen, Spartan Keyes, Five Wounds/Brookwood Terrace, East Valley/680 Communities, Edenvale/Great Oaks. (Housing/City Manager's Office)

Resolution No. 75546 adopted.

4.2 Actions Related to the Kings Crossing Apartments.

Recommendation:

(a) Adopt a resolution:

- (1) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as "City of San José Multifamily Housing Revenue Note (Kings Crossing Apartments), Series 2010C" in an aggregate principal amount not to exceed \$25,380,000 (the "Governmental Lender Note" or "Note").
- (2) Approving a loan of Note proceeds to Kings Crossing, L.P., a California limited partnership created by Charities Housing Development Corporation to finance the construction of the Kings Crossing Apartments located at the corner of N. King Road and Dobbin Drive in San José.
- (3) Approving in substantially final form the Borrower Loan Agreement, Funding Loan Agreement, Assignment of Deed of Trust, and Regulatory Agreement and Declaration of Restrictive Covenants (the "Documents").
- (4) Authorizing the Assistant Director of Finance, Treasury Division Manager, Debt Administrator, and Director of Housing, or their designees, to execute and, as appropriate, to negotiate, execute and deliver these Documents and other related Note documents as necessary.

Resolution No. 75547 adopted.

Noes: Oliverio.

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Actions Related to the Kings Crossing Apartments (Cont'd.)

- (b) (1) Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.
- (2) Adopt a resolution authorizing the Director of Housing to negotiate and execute an agreement between the City, Kings Crossing L.P., Citibank N.A., and Family Supportive Housing, Inc. memorializing the City's agreement to fund of that portion of a City's conditional grant to Family Supportive Housing, Inc. ("FSH") necessary to pay FSH's share of the shared costs of the work that is needed for both the Kings Crossing L.P. and FSH projects, regardless of an non-construction related default by FSH.

CEQA: EIR Resolution No. 74196, File No. PDC07-015. (Housing/Finance)

Resolution No. 75548 adopted.

Noes: Oliverio.

4.3 Public Hearing on Rezoning Real Property located at the northwest corner of Winfield Boulevard and Blossom River Way.

Recommendation: Conduct a public hearing and consider an ordinance rezoning the real property located at the northwest corner of Winfield Boulevard and Blossom River Way (1009 Blossom River Way) to allow for the conversion of some of the existing independent living units to assisted living units at an existing Senior Living Facility on a 7.91 gross acre site (Ventas Inc, Owner). CEQA: Mitigated Negative Declaration.

PDC10-004 – District 9

The Public Hearing was held.

Ordinance No. 28806 passed for publication.

4.4 Administrative Hearing on Appeal and Actions Related to a Proposed Planned Development Zoning for Property Located on the West Side of Guadalupe Mines Road.

Recommendation:

- (a) Conduct an Administrative Hearing and consider adoption of a resolution adopting a Mitigated Negative Declaration for a Planned Development Zoning from A(PD) Planning Development Zoning District to R-1-8(PD) Planned Development Zoning District to allow for the demolitions of four (4) commercials-industrial buildings and the construction of 94 single-family detached residences on a 15.8 gross acre site, located on the west side of Guadalupe Mines Road, approximately 1,130 feet southerly of Via Campagna (6411 Guadalupe Mines Road).

The Administrative Hearing was held.

Resolution No. 75550 adopted denying the appeals.

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Administrative Hearing on Appeal and Actions Related to a Proposed Planned Development Zoning for Property Located on the West Side of Guadalupe Mines Road (Cont'd.)

- (b) Conduct a public hearing and consider an ordinance rezoning the real property located on the west side of Guadalupe Mines Road, approximately 1,130 feet southerly of Via Campagna (6411 Guadalupe Mines Road) from A(PD) Planned Development Zoning District to R-1-8(PD) Planned Development Zoning District to allow for the demolition of 4 commercial/industrial buildings and the construction of 94 single-family detached residences on a 15.8 gross acre site (Brokaw Interests, Owner; Trumark Companies Chris Davenport, Developer). CEQA: Mitigated Negative Declaration to be adopted.

Director of Planning, Building and Code Enforcement and Planning Commission recommend approval with the following conditions and plan revisions to be included in the proposed rezoning:

The project shall be fully compliant with the Riparian Corridor Policy with a riparian setback development standard of 100 feet except for a 30-foot riparian setback on the south end of the site (defined by the south edge of "public street A" to the southern property line).

All streets are public streets with full cross sections.

Oak trees within the area proposed for residential development are reviewed for integration into the development including revised site grading to preserve natural grades.

The net density does not exceed 8.0 housing units per net acre as defined by the General Plan.

(4-1-2, Kamkar Opposed; Cahan and Platten Absent)

PDC10-005 – District 10

(Continued from 8/17/10 – Item 11.4)

Heard last.

The Public Hearing was held.

Ordinance No. 28808 passed for publication as amended by memoranda from Council Member Pyle, dated August 26, 2010 and August 31, 2010, outlining the following conditions of conditional of approval:

- (1) Develop project with an average 70 foot riparian setback.**
- (2) Develop Streets A and B as public streets with sidewalks, park strips and on street parking on both sides as proposed.**
- (3) The remaining streets to be developed as 30 foot private streets with sidewalks, park strips and on street parking as proposed.**
- (4) Oak trees outside the riparian setback to be replaced at the standard rate per City guidelines and the project will continue to evaluate the preservation of additional oak trees within the context of the proposed grading plan.**

(Action continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Administrative Hearing on Appeal and Actions Related to a Proposed Planned Development Zoning for Property Located on the West Side of Guadalupe Mines Road (Cont'd.)

(Action Cont'd.)

- (5) Given the concerns with existing condition of traffic weaving on the section of Camden between Coleman/Guadalupe Mines and Hicks Road, the Developer has offered to contribute \$15,000 to help pay for the costs of a traffic study and potential mitigation work; Staff should accept these additional funds and look at ways to address this issue.
- (6) Increase the amount of impervious surface to be removed to 101,000 square feet require the Developer to use pervious pavers in all driveway aprons.
- (7) Direct the Developer to work with the City Parks Staff to determine the appropriate location for the playground and appropriate equipment.
- (8) Require the development to provide the City with easement rights through the entire length of the property along the creek for trail purposes.
- (9) Require the Developer to work with City Staff to balance the use of retaining walls, drainage and ADA regulations.
- (10) Direct the Developer to continue to work with professional arborists and biologists to ensure that the preserved trees in the Riparian Corridor are not negatively impacted by fill or grading.

Noes: Kalra, Oliverio.

5. NEIGHBORHOOD SERVICES

5.1 Amendment to the Development, Operations and Maintenance Agreement with the Viet Heritage Society.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute a fourth amendment to the agreement with the Viet Heritage Society for the development, maintenance, and operations of the Vietnamese Heritage Garden to:
 - (1) Modify the current project delivery model to reflect a Phased project (Phase Ia, Phase Ib, and Phase II).
 - (2) Define the elements contained within Phases Ia and Ib;
 - (3) Update key project delivery dates.
 - (4) Amend the payment amounts and schedule associated with Phases Ia and Ib.
 - (5) Modify the period of Viet Heritage Society maintenance responsibility to include the maintenance of Phase Ia through completion of Phase Ib.

Resolution No. 75549 adopted.

(Item continued on the next page)

5. NEIGHBORHOOD SERVICES

5.1 Amendment to the Development, Operations and Maintenance Agreement with the Viet Heritage Society (Cont'd.)

(b) City Council certification that:

- (1) Funding strategies will be pursued so that the projected funding for the operation and maintenance of the Vietnamese Heritage Garden should be made available beginning in 2011-2012, the first year of operation.
- (2) Appropriate efforts will be undertaken so that those funding strategies cover the entire cost of the project, including operation and maintenance costs, as to not require a decrease in existing basic neighborhood services.

CEQA: File No. PP04-228 (Addendum to an EIR). Council District 7. SNI: Tully/Senter. (Parks, Recreation and Neighborhood Services)

Approved.

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Public Hearing on a Commercial Solid Waste and Recyclables Collection Franchise.

Recommendation: Hold a public hearing on the application of On the Move Trucking and Recycling for a Commercial Solid Waste and Recyclables Collection Franchise, approve the ordinance granting the franchise, and approve the Commercial Solid Waste and Recyclables Collection Franchise Agreement for a term from October 27, 2010 to June 30, 2012 with the option of three one-year extensions. CEQA: Exempt, File No. PP08-228. (Environmental Services)

The Public Hearing was held.

Ordinance No. 28807 passed for publication.

7.2 Stormwater Permit Annual Report.

Recommendation: Authorize submittal of the 2009-2010 Stormwater Permit Annual Report and certification to the San Francisco Bay Regional Water Quality Control Board in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit requirements, pursuant to the Federal Clean Water Act. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities. (Environmental Services)

Approved.

7. ENVIRONMENTAL & UTILITY SERVICES

7.3 Stormwater Permit Implementation.

Recommendation: As recommended by the Transportation and Environment Committee on August 16, 2010:

- (a) Accept the status report on Stormwater Permit Implementation including:
 - (1) Storm Drain Inlet Marking Program
 - (2) Trash Reduction Efforts
 - (3) Regional Coordination

Accepted.

- (b) Direct the City Attorney's office to prepare an ordinance amending Chapters 15.14, 20.95, and 20.100 of the San José Municipal Code as needed to address provisions in the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit related to legal controls on: operation and maintenance of stormwater treatment systems and construction sites.

CEQA: Not a Project, File No. PP10-068(c), revisions to an existing policy.

(Environmental Services/Public Works/Planning, Building and Code Enforcement)

Approved.

8. PUBLIC SAFETY SERVICES

8.1 Response to the Civil Grand Jury Report entitled, "Disaster Preparedness in our County and Cities."

Recommendation: Accept the staff response to the Civil Grand Jury Report entitled, "Disaster Preparedness in our County and Cities." CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities. (Fire)

Accepted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**

Robert Cortese thanked Council Members for coming to the Italian Festival, suggested using grazing goats for grass fire control on Communication Hill, and proposed Communication Hill would be an ideal location for a model glider park.

- **Adjournment**

This Council of the City of San José was adjourned at 4:25 p.m. in memory of Maria Elena Montellano, resident of Alviso and beloved owner of Maria Elena's Restaurant who passed away on June 29, 2010. (Chu/Campos)