



CITY COUNCIL AGENDA

SEPTEMBER 28, 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 Member: Herrera, Liccardo, Nguyen; Reed. (Excused)

1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Member: Herrera, Liccardo, Nguyen; Reed. (Excused)
- **Invocation (District 8)**
Evergreen Studio of Music and the Arts Youth Chorus sang “Lean On Me”.
- **Pledge of Allegiance**
Vice Mayor Chirco led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Open Forum heard after Consent Calendar.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to AchieveKids for their commitment to nurturing and educating children with severe mental and physical disabilities for the past 50 years. (Chu)
(Rules Committee referral 9/15/10)
(Deferred from 9/21/10 – Item 1.7)
Vice Mayor Chirco and Council Member Chu recognized and commended AchieveKids.
- 1.2 Presentation of proclamation declaring the Month of September 2010 as “National Alcohol and Drug Addiction Recovery Month” in the City of San José. (Constant)
(Orders of the Day)
Vice Mayor Chirco and Council Member Constant recognized the Month of September 2010 as “National Alcohol and Drug Addiction Recovery Month” in 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. 28811 – Amending Section 20.200.740 of Chapter 20.200 of Title 20 of the San José Municipal Code to clarify the definition of a Massage Parlor Use to not include State-Certified Massage Therapists or Practitioners.

Ordinance No. 28811 adopted.

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

Recommendation: Approval of Council Committee Reports.

- (b) Transportation and Environment Committee of September 13, 2010. (Liccardo)
(d) Rules and Open Government Committee Report of September 1, 2010. (Mayor)
(e) Neighborhood Services and Education Committee Report of September 9, 2010. (Campos)

Approved.

- (a) Rules and Open Government Committee Report of September 8, 2010. (Mayor)
(c) Public Safety, Finance and Strategic Support Committee of September 16, 2010. (Nguyen)

Deferred to 10/5/10 per City Clerk.

2. CONSENT CALENDAR

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Council Member Campos from the Evening Session of the City Council on September 21, 2010 due to illness. (Campos)
- (b) Request for an excused absence for Council Member Herrera from the Regular Meeting of the Community & Economic Development Committee on September 27, 2010 and the Joint Redevelopment Agency/City Council Proposed FY 2010-2011 Operating and Capital Budget Study Session Meeting on September 30, 2010 due to Authorized City Business: Silicon Valley Leadership Group Advocacy Trip to Washington, D.C. (Herrera)
- (c) Request for an excused absence for Council Member Nguyen from the Closed Session and Regular City Council Meeting on September 28, 2010 due to Authorized City Business: Silicon Valley Leadership Group Advocacy Trip to Washington, D.C. (Nguyen)

(Rules Committee referral 9/22/10)

Approved.

2.5 City Council Travel Reports.

There were none.

2.6 Agreement for Mobile Identification Interface Services.

Recommendation: Adopt a resolution authorizing the Director of Finance to:

- (a) Execute the Second Amendment to the existing Mobile Identification Interface Services Agreement with Mobizent LLC (Edison, NJ) to expand the scope of remote real-time finger print identification services to Santa Clara County public safety agencies, including software licenses and three years of maintenance and support, and increase the total compensation by \$480,677 to a revised not to exceed annual amount of \$1,091,544;
- (b) Execute change orders not-to-exceed contingency amount of \$164,123 to add or delete equipment or services as may be required for the Santa Clara County Mobile ID expansion project, subject to appropriation of funds;
- (c) Execute options to renew software maintenance and support for the Santa Clara County Mobile ID Expansion project after the initial three year term, subject to the annual appropriation of funds; and
- (d) Execute purchase orders for the purchase of additional handheld devices and accessories as required for the San José Police Department and other public agencies participating in the Santa Clara County Mobile ID Expansion project, subject to the annual appropriation of funds.

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

Resolution No. 75568 adopted.

2. CONSENT CALENDAR

2.7 Amendments to the City Pay Plan for Various Classifications.

Recommendation: Adopt a resolution to:

- (a) Amend the City of San José Pay Plan effective September 28, 2010 to create the following classifications:
 - (1) Debt Administrator (1288)
 - (2) Audiovisual Engineer (8034)
 - (3) Sign Shop Technician (3717)
 - (4) Apprentice Plant Mechanic (3627)
- (b) Amend the City of San José Pay Plan effective September 28, 2010 to change the job classification title of:
 - (1) School Safety Supervisor (formerly titled Supervising School Crossing Guard (2443)

CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)
Resolution No. 75569 adopted.

2.8 Grant Applications for the Thompson Creek Reach 1A Trail Project.

Recommendation:

- (a) Adopt a resolution that:
 - (1) Authorizes the City Manager, or designee, to submit a grant application in an amount not to exceed \$200,000 to the State of California (Natural Resources Agency) under the Habitat Conservation Fund Program for the Thompson Creek Reach 1A (Tully Road to Quimby Road) Trail project.
 - (2) Certifies that City will have available, prior to commencement of any work on the Project included in the application, the required match of \$200,000 and sufficient funds of approximately \$1,222,000, which includes the required local match of \$200,000, to complete the \$1,422,000 Project if the grant is awarded.
 - (3) Certifies that City has or will have sufficient funds to operate and maintain the Project.
 - (4) Certifies that City has reviewed, understands, and agrees to the provisions contained in the contract shown in the grant administration guide.
 - (5) Delegates the authority to the City Manager or designee to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project.
 - (6) Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines for the Project.

Resolution No. 75570 adopted.

2. CONSENT CALENDAR

2.8 Grant Applications for the Thompson Creek Reach 1A Trail Project. (Cont'd.)

- (b) Adopt a resolution authorizing the City Manager, or designee, to:
 - (1) Subject to City receiving the grant in Recommendation #1 above, submit an additional grant application to the Santa Clara County Open Space Authority (OSA) under the 20% Funding Program in the amount of \$200,000 for the Project to be used as a local match for the HCF grant.
 - (2) Accept any grant funds awarded to the City and negotiate and execute all necessary documents related to any grant funding.

CEQA: Mitigated Negative Declaration, File No. PP04-283. (Parks, Recreation and Neighborhood Services)

Resolution No. 75571 adopted.

2.9 Grant Application to Support Construction of the Lower Guadalupe River Trail - Tasman Drive Under-Crossing Project.

Recommendation: Adopt a resolution that:

- (a) Authorizes the City Manager or designee to submit a grant application in an amount not to exceed \$165,000 to the State of California Department of Parks and Recreation, under the Recreational Trails Program for the Lower Guadalupe River Trail: Tasman Drive Under-Crossing project;
- (b) Certifies that City will have available prior to commencement of any work on the Project included in the application, a local match of \$45,000 and sufficient funds to complete the Project if the grant is awarded;
- (c) Certifies that City will operate and maintain the proposed Project in perpetuity;
- (d) Certifies that City has reviewed, understands, and agrees to provisions contained in the contract shown in the grant procedural guide; and
- (e) Delegates the authority to the City Manager or designee to conduct all negotiations, execute and submit all documents, including, but not limited to, applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project.

CEQA: Mitigated Negative Declaration, File No. PP04-323. (Parks, Recreation and Neighborhood Services)

Resolution No. 75572 adopted.

2.10 Grant Agreements with Our City Forest.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute the following grant agreements with Our City Forest:

- (a) An Annual Operating Grant Agreement for 2010-2011, not to exceed \$148,878;
- (b) A Matching Grant Agreement in an amount not to exceed \$120,000 for Our City Forest to apply towards its local match required for an AmeriCorps Grant.

CEQA: File No. PP10-151. (Transportation)

Resolution No. 75573 adopted.

2. CONSENT CALENDAR

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

Recommendation:

- (a) Approve Mayor Reed'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: Mayor's Office Budget.
 - (b) Request an excused absence for Mayor Reed from the Regular City Council Meeting on September 28, 2010 due to Official City Business: Silicon Valley Leadership Group's "CEO/Senior Officer Advocacy Trip". (Mayor)
- (Rules Committee referral 9/22/10)

Approved.

2.12 Measure B – VTA's Local Transportation Investment Fund.

Recommendation: As recommended by the Rules and Open Government Committee on September 22, 2010, adopt a support position for Measure B, the Local Transportation Investment Fund, on the November 2, 2010 General Election Ballot. (Transportation/City Manager's Office)

[Rules Committee referral 9/22/10 – Item H(2)]

Support position for Measure B adopted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report) City Manager Debra Figone provided an update on Police Chief Recruitment and Outreach Meetings.

3.2 Ratification of Final Expenditures in Various Appropriations for FY 2009-2010.

Recommendation:

- (a) Adopt an ordinance ratifying the final 2009-2010 appropriation increases detailed in the report.

Ordinance No. 28816 adopted.

- (b) Adopt the following 2009-2010 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:

- (1) Increase the Earned Revenue estimate by \$1,573,665;
- (2) Increase the Transfer to Council District 1 by \$95,692;
- (3) Increase the Transfer to Council District 2 by \$67,110;
- (4) Increase the Transfer to Council District 3 by \$97,815;
- (5) Increase the Transfer to Council District 4 by \$65,096;
- (6) Increase the Transfer to Council District 5 by \$120,497;

3. STRATEGIC SUPPORT SERVICES

3.2 Ratification of Final Expenditures in Various Appropriations for FY 2009-2010 (Cont'd.)

- (b) (7) Increase the Transfer to Council District 6 by \$91,509;
- (8) Increase the Transfer to Council District 7 by \$115,876;
- (9) Increase the Transfer to Council District 8 by \$92,071;
- (10) Increase the Transfer to Council District 9 by \$82,892;
- (11) Increase the Transfer to Council District 10 by \$61,552;
- (12) Increase the Transfer to City-Wide by \$444,055;
- (13) Increase the Transfer to the General Fund – Parks Eligible Maintenance Costs by \$239,500.

Ordinance No. 28817 adopted.

Resolution No. 75574 adopted.

- (c) Adopt the following 2009-2010 Appropriation Ordinance and Funding Sources Resolution amendments in the Convention and Cultural Affairs Fund:
 - (1) Increase the Earned Revenue estimate by \$625,000;
 - (2) Increase the Non-Personal/Equipment appropriation by \$758,000;
 - (3) Decrease the Ending Fund Balance estimate by \$133,000.

Ordinance No. 28818 adopted.

Resolution No. 75575 adopted.

- (d) Adopt the following 2009-2010 Appropriation Ordinance amendments in the Stores Fund:
 - (1) Increase the Workers' Compensation Claims appropriation by \$13,493; and
 - (2) Decrease the Ending Fund Balance estimate by \$13,493.

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

Ordinance No. 28819 adopted.

3.3 Annual Review and Proposed Amendments of the City's Investment Policy.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on September 16, 2010, accept the Annual Review and Proposed Amendments of the City's Investment Policy, and adopt a resolution approving revisions to City Council Policy 1-12, the City of San Jose Investment Policy, including but not limited to, clarifying technical terms, increasing portfolio diversification, and reducing portfolio concentration risk. (Finance)

Resolution No. 75576 adopted.

3.4 Audit Report of the City's Procurement Card Transactions.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on September 16, 2010, accept the Audit Report of the City's Procurement Card Transactions. (City Auditor)

Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Public Hearing on the Consolidated Annual Performance Evaluation Report, the Analysis of Impediments to Fair Housing Choice and the Citizen Participation Plan.

Recommendation: Conduct a Public Hearing on the Consolidated Annual Performance Evaluation Report FY 2009-2010, the Analysis of Impediments to Fair Housing Choice and the Citizen Participation Plan and Approval of the Documents. CEQA: Not a Project, File No. PP10-069, Staff Reports, Assessments, Annual Reports, Information Memos. (Housing)

(Continued from 9/21/10 – Item 4.1)

**The Public Hearing was held. There were no public comments.
Approved.**

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 Public Meeting to Establish the Proposed Maintenance District 23, Berryessa Rd from I-680 to Piedmont Rd.

Recommendation: Conduct a public meeting to receive public comments on the formation of Maintenance District 23 (Berryessa Road from I-680 to Piedmont Road). CEQA: Exempt, File No. PP10-090. Council District 4. (Public Works/Transportation)

The Public Hearing was opened. There were no public comments received.

Disqualified: Chu.

6.2 Grant for Federal Surface Transportation Program Street Maintenance.

Recommendation: Adopt a resolution that:

- (a) Authorizes the City Manager, or designee, to submit a grant application to the Metropolitan Transportation Commission (MTC) in the total amount of \$7,987,000 for Federal Surface Transportation Program (STP) funding for the 2010 STP Resurfacing and Rehabilitation project (“Project”);
- (b) Commits the City to provide the required local match funds of \$1,035,000 and to pay for any additional cost to complete the Project;
- (c) Assures the Project will be completed in compliance with the submitted application, MTC Regional Funding Delivery Policy, and the grant program requirements;
- (d) Authorizes the City Manager, or designee, to accept grant funding from the Metropolitan Transportation Commission and negotiate and execute any documents to accept the grant funds.

CEQA: Exempt, File No. PP06-066. Council Districts: 2, 8, 9 and 10. (Transportation)

Resolution No. 75577 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board was convened at 2:18 p.m. to consider Item 9.1 in a Joint Session.

9.1 Approval of Citywide Insurance Placement.

Recommendation: Adopt a resolution authorizing the Director of Human Resources to select and purchase certain City and Redevelopment Agency insurance policies (property and liability for the City; property only for the Redevelopment Agency) for the period October 1, 2010 to October 1, 2011, at a cost not to exceed \$1,900,000, with the following insurance carriers:

- (a) Coverage Property including Boiler & Machinery: Insurance Carrier(s) Factory Mutual Insurance Company or Chartis.
- (b) Coverage Airport Owners and Operators Liability including War Risks & Extended Perils Coverage (Primary and Excess); Insurance Carrier Chartis.
- (c) Coverage Secondary Employment Law Enforcement Professional Liability; Insurance Carrier; Indian Harbor Insurance Company.
- (d) Coverage Automobile Liability (Airport fleet vehicles and Shuttle Buses physical damage only/WPCP fleet vehicles); Insurance Carrier Travelers Property Casualty Insurance.
- (e) Coverage Police Aircraft Hull & Liability including War Risks & Extended Perils; Insurance Carrier Chartis.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for purchase of insurance. (City Manager's Office/Redevelopment Agency)

Resolution No. 75578 adopted.

- **Open Forum**

- (1) **David Wall expressed opposition to the participation of the San José Chief of Police in uniform on an advisory board.**
- (2) **Maria Cortes shared a public harassment incident that occurred on September 27, 2010 in the St. James Park/Lightrail Station area. Chief Deputy City Manager Edward Shikada will follow-up with Ms. Cortes.**

- **Adjournment**

The Council of the City of San José was adjourned at 2:19 p.m.

8. JOINT REDEVELOPMENT AGENCY ITEM

The Redevelopment Agency Board convened at 2:16 p.m. to consider Item 8.1 in a Joint Session.

8.1 Approval of amendments to the FY 2010-11 City and Agency Cooperation Agreements and related fiscal actions.

Recommendation:

- (a) Adoption of a resolution by the Redevelopment Agency Board approving amendments to the Redevelopment Agency's FY 2010-11 Adopted Operating and Capital Budget, adding \$755,925 for City Support Services and amending the FY 2010-11 Agency appropriations resolution.

Redevelopment Agency Resolution No. adopted.

- (b) City Council and Redevelopment Agency Board approval of an amendment to the FY 2010-11 Cooperation Agreement for the Merged Redevelopment Project Area to make payments to the City for October 2010 Redevelopment Services and project expenses.

Approved.

- (c) City Council and Redevelopment Agency Board approval of an amendment to the FY 2010-11 Cooperation Agreement for the Operating Expenses to make payments to the City for October 2010 Redevelopment Services and project expenses.

Approved.

The Council of the City of San José and Redevelopment Agency Board was adjourned at 2:17 p.m.