



CITY COUNCIL AGENDA

JANUARY 25, 2011

SYNOPSIS

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
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 Tuesday at 7 p.m. as needed, 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.

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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: All Present.

1:34 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.

6:34 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: All Present.
- **Invocation (District 1)**
Pastor Joseph Leon from Pueblo De Dios Church provided the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance accompanied by students from Country Lane Elementary School.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Redevelopment Agency items to be heard first; Council item 3.3, Joint item 8.4 and Financing Authority item #2 deferred one week, and item 3.4 to be heard before item 3.2.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Silver Creek High School student, Crystal Vo, for her accomplishments in placing 1st at the Network for Teaching Entrepreneurship (NTFE) Bay Area Regionals and placing 3rd at the National Business Plan Competition Finals. (Herrera)
Mayor Reed and Council Member Herrera commended Silver Creek High School student, Crystal Vo, for her accomplishments in placing 1st at the Network for Teaching Entrepreneurship (NTFE) Bay Area Regionals and placing 3rd at the National Business Plan Competition Finals.
- 1.2 Presentation of a proclamation declaring January 25, 2011 as “International Holocaust Remembrance Day” in the City of San José. (Herrera/Kalra/Oliverio)
Mayor Reed and Council Members Herrera, Kalra and Oliverio recognized January 25, 2011 as “International Holocaust Remembrance Day” in the City of San José.
- 1.3 Presentation of a commendation to the Willow Glen High School Football Team for the Division 2 CCS Football Championship. (Oliverio)
Mayor Reed and Council Member Oliverio commended the Willow Glen High School Football Team for the Division 2 CCS Football Championship.
- 1.4 Presentation of a commendation to the Northern California Innocence Project in recognition of their 10-year Anniversary. (Constant)
Mayor Reed and Council Member Constant commended the Northern California Innocence Project and recognized their 10-year Anniversary.
(Rules Committee referral 01/19/11)

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. 28866 – Rezoning certain real property situated at 405 North Third Street from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to *three* residential units (total) on a 0.17 gross acre site. PDC08-033
[Deferred from 12/14/10 – Item 2.2(h) and 1/11/11 – Item 2.2(a)]
Ordinance No. 28866 adopted, with a modification by Staff to modify development standards regarding the elimination of a 2nd driveway .

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Transportation and Environment Committee Report of December 6, 2010. (Liccardo)
[Deferred from 1/11/10 – Item 2.3(c)]
- (b) Rules and Open Government Committee Report of December 8, 2010. (Mayor)
[Deferred from 1/11/10 – Item 2.3(d)]
- (c) Rules and Open Government Committee Report of December 15, 2010. (Mayor)
[Deferred from 1/11/10 – Item 2.3(f)]
- (d) Rules and Open Government Committee Report of January 5, 2011. (Mayor)

Approved.

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Council Member Constant from the Regular Meetings of the Public Safety, Finance and Strategic Support Committee on January 20, 2011 and June 16, 2011 and the Regular Meeting of the Rules and Open Government Committee on September 21, 2011 due to Authorized City Business: League of California Cities Public Safety Committee Meetings in Sacramento, CA and San Francisco, CA. (Constant)
(Rules Committee referral 01/12/11)

Excused.

2.5 City Council Travel Reports.

None.

2.6 Contract with West Valley Construction for Installation of Potable and Non-Potable Water Services and Mains.

Recommendation: Report on bids and award of contract for Installation of Potable and Non-Potable Water Services and Mains: 2010-2011 to the lowest responsive bidder, West Valley Construction, for the estimated term of March 2011 to April 2012, in an amount not to exceed \$627,925. CEQA: Exempt, File No. PP10-163. (Environmental Services/ Public Works)

Approved.

2. CONSENT CALENDAR

2.7 San Francisco Bay Area Water Quality Improvement Fund Grant Applications.

Recommendation: Adopt a resolution authorizing the City Manager to submit grant applications to the U.S. Environmental Protection Agency for the San Francisco Bay Area Water Quality Improvement Fund for the following projects:

- (a) Coyote Creek Homeless and Community Engagement Project for a grant amount of \$680,000;
- (b) San Francisco Bay Protection and Behavior Change Campaign for a grant amount of \$500,000; and
- (c) San José Green Street Effectiveness Demonstrations up to \$1,200,000.

CEQA: Not a Project, File No. PP10-068(a) Grant Application. (Environmental Services)

Resolution No. 75699 adopted.

Disqualified: Liccardo.

2.8 Open Purchase Order with Granite Construction Co. for the Purchase of Asphalt Concrete.

Recommendation: Authorize the Director of Finance to execute a change order to the existing Open Purchase Order 44517 with Granite Construction Co. (San Jose, CA) to encumber an additional \$350,000 for a total amount not to exceed \$1,300,000 for the purchase of asphalt concrete. CEQA: Not a Project, File No. PP10-066(a), Purchase Order. (Finance)

Approved.

2.9 Amendment to the Housing Trust Fund.

Recommendation: Approve an ordinance amending the provisions governing the Housing Trust Fund (Section 4.80.3015 of Title 4 of the Municipal Code) to allow administrative expenditures for personal services and non-personal expenses. CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making, Municipal Code or Policy (new or revised). (Housing)

Ordinance No. 28878 passed for publication.

2.10 Grant Application to Caltrans Under the Bicycle Transportation Account Program for the Coyote Creek Trail Project.

Recommendation: Adopt a resolution that:

- (a) Authorizes the City Manager, or designee, to submit a grant application in the amount not to exceed \$1,055,000 to Caltrans under the Bicycle Transportation Account program for the Coyote Creek Trail (Highway 237 Bikeway to Tasman Drive) project;

(Item Continued on the next page)

2. CONSENT CALENDAR

2.10 Grant Application to Caltrans Under the Bicycle Transportation Account Program for the Coyote Creek Trail Project (Cont'd.)

- (b) Certifies that the City will have the required local match of \$350,000 and any additional sufficient funds to complete the Project available prior to commencement of any work on the Project included in the application;
- (c) Certifies that the City has or will have sufficient funds to operate and maintain the Project;
- (d) Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines for the Project;
- (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, and payment requests, which may be necessary for the completion of the Project; and
- (f) Authorizes the City Manager, or designee, to resubmit the grant application in subsequent years for the same amount and grant requirements described in this memorandum if the City is unsuccessful in receiving a grant award with the initial grant application.

CEQA: Exempt, File No. PP10-144. Council District 4. (Parks, Recreation and Neighborhood Services)

Resolution No. 75700 adopted.

2.11 Agreement with Festival Fun Parks, LLC, dba Palace Entertainment “Raging Waters” for the Lease at Lake Cunningham Regional Park.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a Sixth Amendment to the agreement with Festival Fun Parks, LLC, dba Palace Entertainment (“Raging Waters”) for the lease at Lake Cunningham Regional Park to adjust Section 4.02 “Investment in Capital Improvements”, Section 4.03 “Maintenance”, Section 9.02 “Accounting and Operations Reports” and Exhibit E “Insurance Requirements” as follows:

- (a) Amend annual capital investment to allow banking for three years of capital funding, so that larger capital investments, such as new attractions, can be added to the facility.
- (b) Set the on-going capital repair amount to \$35,000 for each year.
- (c) Lessee shall increase the minimum maintenance allocation fund by 7.4% every three years. Ensure that the minimum maintenance allocation is not tied to the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers.
- (d) Amend the contact information for the agreement from the Director of Conventions, Arts and Entertainment to the Director of Parks, Recreation and Neighborhood Services (PRNS) and amend all references to City Hall from the 801 North First Street to 200 East Santa Clara Street.

(Item Continued on the next page)

2. CONSENT CALENDAR

2.11 Agreement with Festival Fun Parks, LLC, dba Palace Entertainment “Raging Waters” for the Lease at Lake Cunningham Regional Park (Cont’d.)

- (e) Amend Exhibit E (Insurance Requirements) to bring Raging Waters into compliance with the City’s current requirements.
- (f) Amend recipient of Annual Financial Report to include Director of Parks, Recreation and Neighborhood Services.
- (g) Lessee shall provide Director of PRNS an annual report certifying that the capital investment has been satisfied.

CEQA: Not a Project, File No. PP10-066(f), Lease of equipment of existing space for the same use. (Parks, Recreation and Neighborhood Services)

Resolution No. 75701 adopted.

2.12 Grant Agreement with the Association of Bay Area Governments for the Bay Trail Reach 9 Project.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to accept and execute a grant agreement with the Association of Bay Area Governments in the amount of \$200,000 for the Bay Trail Reach 9 (San Tomas Aquino Trail to Alviso Slough) project, with a City contribution of \$350,000;

Resolution No. 75702 adopted.

- (b) Adopt an Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 4 (Fund 381):
 - (1) Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$550,000 for the TRAIL: Bay Trail Reach 9.
 - (2) Decrease the Reserve: TRAIL: Future Trail Projects by \$550,000.

CEQA: Mitigated Negative Declaration, File No. PP09-182. Council District 4. (Parks, Recreation and Neighborhood Services/City Manager’s Office)

Ordinance No. 28879 adopted.

2.13 Memorandum of Understanding Regarding the Operation of the Automated Fingerprint Identification System.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute a Second Amendment to the Memorandum of Understanding regarding the operation of the Automated Fingerprint Identification System to provide local law enforcement agencies access to the California Identification System in order to change the methodology for allocating costs among participating agencies from one based upon population to one based upon historical usage; and
- (b) Negotiate and execute future amendments to the Memorandum of Understanding without further Council action other than the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding. (Police)

Resolution No. 75703 adopted.

2. CONSENT CALENDAR

2.14 Agreement with Shapell Industries for the Purchase of Land for the Future Site of the Southeast Branch Library.

Recommendation: Adopt a resolution authorizing the Director of Public Works to negotiate and execute a purchase agreement with Shapell Industries, Inc., a Delaware corporation, in the amount of \$1,000,000 for the purchase of land located at Evergreen Village, San Jose, CA (a portion of APN N. 659-56-063) for the future site of the Southeast Branch Library, and to negotiate and execute related amendments to the Evergreen Village CC&Rs and all other documents necessary to complete the transaction. CEQA: Addendum to the Evergreen Specific Plan EIR Resolution No. 63719, File No. PP10-008. Council District: 8. (Public Works/Library)

Resolution No. 75704 adopted.

2.15 Annual Status Report on Library Bond Program.

Recommendation: Accept the annual status report on the Branch Library Bond Projects for FY 2009-2010. CEQA: Not a Project, File No. PP10-069(a), Annual Report. (Citizen Oversight Committee for the Library Bond Projects)

Deferred to 3/1/11 per Administration.

2.16 FY 2009-2010 Independent Auditor's Report and the Independent Accountant's Report of the Hayes Mansion Conference Center.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on December 16, 2010, accept the reports on the activities of the Hayes Mansion for the fiscal year ended June 30, 2010. The reports include:

- (a) The Independent Auditor's Report and Financial Statements;
- (b) The Independent Accountant's Report on applying Agreed-Upon Procedures; and
- (c) The Public Safety, Finance and Strategic Support Committee Report (Management Letter).

(Finance)

[Public Safety, Finance and Strategic Support Committee referral 12/16/10 – Item D(5)]

Deferred to 2/1/11 by the Rules and Open Government Committee.

2. CONSENT CALENDAR

2.17 FY 2009-2010 Independent Auditor's Report of the San José Convention Center and Cultural Facilities.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on December 16, 2010, accept the reports on the activities of the San José Convention Center and Cultural Facilities for the fiscal year ended June 30, 2010.

The reports include:

- (a) The Independent Auditor's Report and Financial Statements; and
- (b) The Public Safety, Finance and Strategic Support Committee Report (Management Letter).

(Finance)

[Public Safety, Finance and Strategic Support Committee referral 12/16/10 – Item D(6)]

Accepted.

2.18 Council Member Constant's Travel to Sacramento, CA, Ontario, CA, and San Francisco, CA.

Recommendation: Approve travel by Council Member Constant to attend the League of California Cities Public Safety Policy Committee Meetings on:

- (a) January 21, 2011 in Sacramento, CA. Mode of Transportation: Drive;
- (b) April 7, 2011 in Ontario, CA. Mode of Transportation: Flight;
- (c) June 16, 2011 in Sacramento, CA. Mode of Transportation: Drive; and
- (d) September 21-23, 2011 in San Francisco, CA. Mode of Transportation: Drive.

Source of Funds: Mayor & Council Travel Fund for Airfare Only. (Constant)

(Rules Committee referral 01/12/11)

Approved.

2.19 Council Member Rocha's Travel to Sacramento, CA.

Recommendation: Approve travel by Council Member Rocha to Sacramento, California on January 19-21, 2011 to attend the League of California Cities New Mayors and Council Members Academy. Source of Funds: Mayor & Council Travel Fund.

(Rocha)

(Rules Committee referral 01/12/11)

Approved.

2. CONSENT CALENDAR

2.20 Appointments and Re-appointments to the Project Diversity Screening Committee.

Recommendation: As recommended by the Rules and Open Government Committee on January 19, 2011:

- (a) Re-appoint Buu Thai, Al Reinig and Nathaniel Montgomery to the Project Diversity Screening Committee for terms ending December 31, 2012. (Nguyen)
- (b) Appoint Hobin Kim to the Project Diversity Screening Committee for a term ending December 31, 2012 and appoint Jeannie LoFranco as Chair of the Project Diversity Screening Committee for an unexpired term ending December 31, 2011. (Mayor) [Rules Committee referral 01/19/11 – Items G(1)(a) – G(1)(b)]

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Figone provided a labor update, reporting that the Manager's Office has begun 2011 negotiations with all of the bargaining units, except for OE3, who have yet to respond.

3.2 Council Labor Negotiation Guidelines.

Recommendation: As recommended by the Rules and Open Government Committee on December 15, 2010, adopt a resolution modifying Council Labor Negotiation Guidelines (Council Policy 0-39) to provide for more transparency in the negotiation process.

(Mayor)

[Rules Committee referral 12/15/10 – Items H(3)]

(Deferred from 1/11/10 – Item 2.12)

Resolution No. 75705 adopted, with the recommendation that Council Labor Negotiation Guidelines (Council Policy 0-39) be modified as follows: Section 5: “Nothing in this policy shall prohibit members of the City Council, Council staff or any Council Appointee from listening to bargaining unit representatives or persons acting on their behalf. Members of the City Council shall not knowingly respond to or discuss any confidential closed session discussion.”; Section 11: “Nothing in this policy will prohibit or restrict questions for clarification purposes”, and Section 12: “Nothing in this policy shall limit, restrict, or modify any of the powers provided to Council Appointees under the City Charter”.

3. STRATEGIC SUPPORT SERVICES

3.3 Tax Qualification Ordinances for Retirement Plans.

Recommendation:

- (a) Approve an ordinance amending Chapter 3.28 of Title 3 of the San José Municipal Code to incorporate provisions related to primary purpose of the Federated City Employees Retirement Plan, use of retirement plan assets, prohibited retirement plan transactions, pension benefit vesting, pension benefit and contribution limits, required benefit payments, permissive purchases of service credit, rollover of employee contributions into other tax qualified plans and accounts, permissive retirement plan investment vehicles, qualified domestic relations orders and contributions, benefits, service credit for qualified military service, date of establishment of medical benefits account, and to make other technical amendments related to Internal Revenue Code provisions for qualified governmental retirement plans.
- (b) Approve an ordinance amending Chapter 3.36 of Title 3 of the San José Municipal Code to incorporate provisions related to primary purpose of the Police and Fire Department Retirement Plan, use of retirement plan assets, prohibited retirement plan transactions, pension benefit vesting, pension benefit and contribution limits, required benefit payments, permissive purchases of service credit, rollover of employee contributions into other tax qualified plans and accounts, permissive retirement plan investment vehicles, qualified domestic relations orders and contributions, benefits, service credit for qualified military service, date of establishment of medical benefits account, and to make other technical amendments related to Internal Revenue Code provisions for qualified governmental retirement plans.

CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Attorney's Office)

Deferred to 2/1/11 per Orders of the Day.

3.4 Discussion and Direction Regarding Labor Negotiations on Second Tier Retirement Benefits for New Employees.

Recommendation: Discussion and Direction to the City Manager regarding labor negotiations on second tier retirement benefits for new employees. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

Approved, with Staff directed to explore issues of prospective changes in formulative benefits, clarify the Council's intent to provide benefits greater than Social Security and to return back for further direction as necessary.

3.5 Audit of Police Department Staffing.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on December 16, 2010, accept the audit of Police Department Staffing. (City Auditor)

[Public Safety, Finance and Strategic Support Committee referral 12/16/10 – Item D(7)]

Deferred to 2/1/11 by the Rules and Open Government Committee.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Cultural Connection: San José's Cultural Plan for 2011-2020.

Recommendation: Adopt the Cultural Connection: San José's Cultural Plan for 2011-2020. CEQA: Not a Project, File No. PP10-066(e), Services that involved no physical changes to the environment. (Economic Development)

(Deferred from 1/11/10 – Item 4.1)

Deferred to 2/1/11 by the Rules and Open Government Committee.

4.2 CalHome Program Grant.

Recommendation: Adopt a resolution:

- (a) Authorizing the Director of Housing to accept a \$1,500,000 CalHome Program grant from the California Department of Housing and Community Development; and
- (b) To negotiate and execute the grant agreement and any amendments or other documents necessary to implement the CalHome Program.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15267, Financial Assistance to Low- or Moderate-Income Housing. (Housing)

Resolution No. 75706 adopted.

4.3 Actions Related to the Consolidated Annual Action Plan.

Recommendation:

- (a) Hold a public hearing on a Substantial Amendment to the 2010-2011 Consolidated Annual Action Plan to allocate \$114,109 of Emergency Shelter Grant funds to a Downtown outreach-to-the-homeless program and to the operation of the cold weather shelter at the Boccardo Regional Reception Center.
Public hearing held.

- (b) Adopt a resolution approving the Substantial Amendment and authorizing the Director of Housing, on behalf of the City, to:
 - (1) Submit the Substantial Amendment to the U.S. Department of Housing and Urban Development (HUD).
 - (2) Negotiate and execute with HUD all agreements and documents for the expenditure of \$114,109 of ESG funds.

Resolution No. 75707 adopted.

- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund:
 - (1) Increase the appropriation to the Housing Department for the Emergency Shelter Grants project in the amount of \$114,109.
 - (2) Increase the estimate for Earned Revenue by \$114,109.

CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts for services that involve no physical changes to the environment. (Housing/City Manager's Office)

Ordinance No. 28880 adopted.

Resolution No. 75708 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Envision San José 2040 General Plan Draft Environmental Impact Report and Actions on Pending General Plan Amendments and Requests for Different Draft Envision 2040 General Plan Land Use/Transportation Diagram Designations.

Recommendation:

- (a) Direct the Administration to:
 - (1) Complete additional environmental impact analyses of two additional Draft Envision 2040 General Plan land use designation options for residential uses on the Rancho del Pueblo golf course site (GP10-05-01) and the Edenvale iStar site (GP07-02-01); and
 - (2) Conduct community outreach on the development options/sale of the Rancho del Pueblo golf course site.

Approved.

Noes: Campos, Oliverio.

- (b) Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the existing contract with David J. Powers and Associates for:
 - (1) Revised scope of work to perform the additional analyses associated with Rancho del Pueblo and the Edenvale iStar sites;
 - (2) Extended term to perform such additional work; and
 - (3) An additional contract amount of \$155,000 for this additional work.

Resolution No. 75709 adopted.

Noes: Campos, Oliverio.

- (c) Provide direction regarding the type and intensity of uses and buildings outside the Urban Growth Boundary (UGB).
- (d) Reject the Request for a Different Draft Envision 2040 Land Use designation (Request No. ESJ2040-012) to convert 15 acres in the Edenvale Redevelopment Area from Transit Employment Center to Urban Residential.
- (e) Refer to the Diridon Station Area Plan process the Request for a Different Draft Envision 2040 Land Use designation (Request No. ESJ2040-005) to convert 1.68 acres on the east side of Stockton Avenue north of The Alameda from Transit Employment Center to Transit Residential.
- (f) Reject two Requests for Different Draft Envision 2040 Land Use designations and associated General Plan Amendments to increase the allowed residential density on properties located on both sides of Highway 87 north of Alma Avenue from the current maximum of 55 DU/AC to 95 DU/AC within the Tamien Station Area Specific Plan (Request Nos. ESJ2040-013 and -014/GP10-03-001 and GP10-06-01) until such time as a comprehensive specific planning process is initiated in the future for the Tamien Station Area Planned Community/Specific Plan by the City Council.

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 (Cont'd.)

CEQA: Not a Project, File No. PP10-069(a), Assessments of Work Done. The proposed action will allow staff and the consultants to proceed with the analysis of potential environmental impacts of the proposed General Plan Update as required by CEQA. (Planning, Building and Code Enforcement)

Approved with a 3-week deferral of the Tamien Station Area amendments pending creation of a project description and following discussion with VTA staff.

Noes: Campos, Oliverio.

4.5 Public Hearing to Establish Kirk Park/Community Center Rule 20A Underground Utility District.

Recommendation: Conduct a Public Hearing and approve an ordinance to establish Kirk Park/Community Center Rule 20A Underground Utility District along Foxworthy Avenue, between Yucca Avenue and Briarwood Avenue. CEQA: Addendum to a Mitigated Negative Declaration, File No. PP10-002. The Mitigated Negative Declaration adopted for the project identifies mitigation measures that will be included in any specific construction project that disturbs the physical environment. These measures and their manner of implementation are identified in the Mitigated Negative Declaration, File No. PP08-257. These measures are incorporated into the project design and the encroachment permit. Council District 9. (Public Works)

Public hearing held.

Ordinance No. 28881 passed for publication.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Items 8.1 “Discussion of proposed State budget actions and impacts to Redevelopment Agency budgeting”, 8.2 “Approval of a Capital Equipment and Assistance Agreement and a Participation Agreement with Maxim”, 8.3 “Approval of a Capital Equipment and Assistance Agreement with SunPower”, and 8.4 “In response to the Governor’s proposed State budget package and proposals for FY 2011-12, which include recommending the elimination of redevelopment agencies...” 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, 9.2 AND 9.3 IN A JOINT SESSION

9.1 Council confirmation of Vice Mayor Madison Nguyen and appointment as Vice Chair of the Redevelopment Agency.

Recommendation: As recommended by the Rules and Open Government Committee on December 1, 2010:

- (a) Approve the appointment of Madison Nguyen as Vice Mayor.
- (b) Approve the appointment of Madison Nguyen as Vice Chairperson of the Redevelopment Agency.

(Mayor/Redevelopment Agency)

[Rules Committee referral 12/1/10 – Items H(8) – H(9)]

Approved.

9.2 Good Neighbor Committee Recommendations.

Recommendation: City Council and Redevelopment Agency Board adopt resolutions to:

- (a) Accept the Good Neighbor Committee’s recommendations as outlined in the attached Diridon Station Area Framework for Implementation;
- (b) Direct the City Manager and the Redevelopment Agency Executive Director to consider including the Diridon Station Area Framework for Implementation priorities in potential agreements, contracts and projects where appropriate as they become realized; and,
- (c) Direct the City Manager and Redevelopment Agency Executive Director to reengage the Good Neighbor Committee to meet periodically, or as needed, to be updated on progress and to provide input as projects develop.

CEQA: Not a Project, File No. PP10-068 (b), General Procedure & Policy Making.

(City Manager/Redevelopment Agency)

Resolution No. 75710 adopted.

Redevelopment Agency Board Resolution No. 6004 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.3 Diridon Station Area Master Plan.

Recommendation: City Council:

- (a) Accept staff report and presentation on the scope and status of the draft Diridon Station Area Master Plan.

Accepted.

- (b) Direct staff to prepare an Environmental Impact Report (EIR) for the recommended Preferred Land Use Master Plan for the Diridon Station Area and complete the Draft Plan. After completion of the EIR, the City Council will have the opportunity to decide on the final land use plan.
- (c) Provide staff direction to include the following elements in the Draft Diridon Station Area Master Plan:
- (1) Create a great place in the City of San José that is both a local and regional destination and expand the Diridon Transit Station into a center of functional and architectural significance.
 - (2) Provide a variety of commercial and mixed-use development opportunities, with maximum densities in accordance with the goals of the City's current General Plan and future General Plan 2040. The recommended Preferred Land Use Plan proposes a maximum development scenario of 4,950,000 S.F. of office/commercial; 420,000 S.F. of retail/restaurant; 2588 residential units; and 900 hotel rooms. By environmentally clearing the maximum development scenario Council would have flexibility to approve any project that falls within those maximums.
 - (3) Develop a multi-modal transportation system with convenient access for all users and with a plan to improve pedestrian, bicycle, transit, and automobile connectivity between the station and adjacent land uses in Downtown, surrounding neighborhoods, and the Airport.
 - (4) Provide a long-range parking strategy to share use and reduce parking requirements as transportation options develop in the Diridon Station Plan Area, in accordance with the proposed policies and goals for Envision San José 2040 General Plan.
 - (5) Provide a near-term phasing plan for transportation and parking (Phase I Transportation/Parking Plan) that addresses the next 10 years of development in the Plan Area.

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.3 Diridon Station Area Master Plan (Cont'd.)

- (d) Adopt a resolution authorizing the City Manager to negotiate and execute the following agreements:
- (1) A funding agreement with the California High Speed Rail Authority (CHSRA) to provide the City up to \$200,000 to analyze station design and access and circulation relating to the High Speed Train project.
 - (2) A First Amendment to the existing agreement between the City and Field Paoli Architects to increase the compensation by up to \$159,000 from \$950,000 to an amount not to exceed \$1,109,000, expand the scope of services to include a phasing analysis for near-term development in the Diridon Station Area and amend the schedule of performance.
 - (3) A First Amendment to the existing agreement between the City and ARUP to increase the compensation by up to \$146,000 from \$99,000 to an amount not to exceed \$245,000, expand the scope of services to include station planning and an analysis of parking access and circulation relating to the High Speed Train project and amend the schedule of performance.

Resolution No. 75711 adopted.

- (e) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Building and Structure Construction Tax Fund.
- (1) Increase the appropriation to the Department of Transportation for the High Speed Rail Project by \$305,000;
 - (2) Increase the estimate for Earned Revenue by \$200,000; and
 - (3) Decrease the Ending Fund Balance by \$105,000.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15262, Planning and Feasibility Studies, File No. PP10-066(d). Council Districts 3 and 6. SNI: Burbank/Del Monte; Delmas Park. (Transportation/Planning, Building and Code Enforcement/)

Ordinance No. 28882 adopted.

Resolution No. 75712 adopted.

- **Open Forum**

Angelica Arpin discussed issues she has encountered with the City Inspectors and a permit process for her property. Mayor Reed referred Ms. Arpin to Assistant City Manager Ed Shikada to address her concerns.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar.

11.2 Rezoning real property located at the northwest corner of North 10th Street and East Taylor Street.

Recommendation: Consider an ordinance rezoning the real property located at the northwest corner of North 10th Street and East Taylor Street (357 East Taylor Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow for the demolition of 242,000 square feet of office/light industrial space and to allow a mixed use development including up to 5,500 square feet of commercial space and up to 403 multi-family residential units, and the retention of 129,646 square feet of light industrial space (currently Gordon Biersch) (CP Associates, Owner). SNI: 13th Street. CEQA: Mitigated Negative Declaration.
PDC08-036 – District 3

Correction to agenda regarding number of residential units as indicated in Public Noticing and noted above per staff.

Ordinance No. 28883 passed for publication.

Resolution No. 75713 adopted.

- **Open Forum**

None.

- **Adjournment**

The Council of the City of San José adjourned at 10:31 p.m. in memory of Herman R. Alvarez who passed away January 23, 2011 and is honored for his community service and the pursuit of human rights and social justice. (Mayor)

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

1:30 P.M.

TUESDAY, JANUARY 25, 2011

CHAMBERS

- 1. Call to Order and Roll Call**
- 2. Agreement with The Housing Trust of Santa Clara County for Construction of the Ford and Monterey Special Needs Apartments.**

Recommendation:

- (1) Adopt a resolution of the City Council:
 - (a) Authorizing the Director of Housing to negotiate and execute an amended consortium agreement with The Housing Trust of Santa Clara County (“HTSCC”) under the Neighborhood Stabilization Program 2 (“NSP2”) in an amount up to \$3,000,000 for construction of the 20-unit Ford and Monterey Special Needs Apartments;
 - (b) Approving a funding commitment to Eden Housing, Inc. (“Eden”), or its designated affiliate for up to \$3,000,000 for a Project construction/permanent loan funded from NSP2 (Fund 448);
 - (c) Approving a pledge of a City owned 3.06 acre land parcel as collateral to secure a \$500,000 predevelopment from the Housing Trust of Santa Clara County to Eden Housing, Inc. or its designated affiliate (“Eden”) and authorizing the Director of Housing to negotiate and execute an intercreditor agreement with HTSCC;
 - (d) Authorizing the Director of Housing to negotiate and execute an agreement with the City of San José Financing Authority related to the ground lease revenues of the Project and ultimate disposition of the Project improvements and the Project site (the “Site”).
- (2) Adopt a resolution of the City of San José Financing Authority Board:
 - (a) Authorizing the Executive Director of the City of San José Financing Authority, (the “Authority”), or designee, to acquire the Site from the City and negotiate and execute a ground lease of the Site to the Borrower for a term of up to 75 years with an annual rent of \$1.00 for the first 55 years; and,

(Item continued on the next page)

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
FINANCING AUTHORITY/AGENDA (CONT'D.)**

1:30 P.M.

TUESDAY, JANUARY 25, 2011

CHAMBERS

2. Agreement with The Housing Trust of Santa Clara County for Construction of the Ford and Monterey Special Needs Apartments. (Cont'd.)

Recommendation:

- (2) (b) Authorizing the Executive Director of the Authority, or designee, to negotiate and execute an agreement with the City of San José related to the ground lease revenues from the Project and the ultimate disposition of the Project Improvements and the Site.

CEQA: Mitigated Negative Declaration, File No. PDC09-022. Council District 2.
(Housing/Finance)

(Rules Committee referral 01/19/11)

Deferred to 2/1/11 per Orders of the Day.

8. JOINT/REDEVELOPMENT AGENCY

The Joint Redevelopment Agency Board convened at 1:51 p.m. to consider Items 8.1, 8.2, and 8.3 in a Joint Session.

8.1 Discussion of proposed State budget actions and impacts to Redevelopment Agency budgeting.

Recommendation:

- (a) Acceptance of the Agency's Financial Progress Report;
- (b) Discussion of proposed State budget actions and impacts to Redevelopment Agency and City of San Jose budgets; and,
- (c) Direction to Agency and City Administrations.

CEQA: Not a project. **[Merged]**

No action required.

8.2 Approval of a Capital Equipment and Assistance Agreement and a Participation Agreement with Maxim.

Recommendations:

- (a) Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to negotiate and execute a Capital Equipment and Assistance Agreement with Maxim Integrated Products, Inc., and the City of San Jose, in which the Redevelopment Agency will provide an amount not to exceed \$500,000 for the acquisition of industrial and manufacturing equipment to be installed at Maxim's new global headquarters and existing fabrication facility in the Rincon de Los Esteros Redevelopment Project Area; and making certain findings as required by California redevelopment law.

Redevelopment Agency Resolution No. 6001 adopted.

- (b) Adoption of a resolution by the City Council authorizing the City Manager to:
 - (1) Negotiate and execute a Capital Equipment and Assistance Agreement with Maxim and the Redevelopment Agency, in which the City will provide an amount not to exceed \$500,000 for the acquisition of equipment to be installed at Maxim's new headquarters and existing fabrication facility in San Jose, and for payment of fees and taxes associated with Maxim's relocation and expansion; and,
 - (2) Negotiate and execute a Participation Agreement with Maxim that will provide funding in an amount equal to 50% of the City's 5% of net new utilities taxes generated by Maxim's new headquarters facility for five consecutive years.

CEQA: Not a Project, File No. PP10-066(a). **[Rincon de los Esteros]**

Resolution No. 75714 adopted.

8. JOINT/REDEVELOPMENT AGENCY

8.3 Approval of a Capital Equipment and Assistance Agreement with SunPower.

Recommendations:

- (a) Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to negotiate and execute a Capital Equipment and Assistance Agreement with SunPower Corporation and the City of San Jose, in which the Agency will provide an amount not to exceed \$500,000 for the acquisition of industrial and manufacturing equipment to be installed at SunPower's new global headquarters in the Rincon de Los Esteros Redevelopment Project Area; and making certain findings as required by California redevelopment law.
Redevelopment Agency Resolution No. 6002

- (b) Adoption of a resolution by the City Council authorizing the City Manager to:
 - (1) Negotiate and execute a Capital Equipment and Assistance Agreement with SunPower and the Redevelopment Agency, in which the City will provide an amount not to exceed \$500,000 for the acquisition of equipment to be installed at SunPower's new headquarters in San Jose
 - (2) Negotiate and execute a Participation Agreement with SunPower that will provide funding in an amount equal to 50% of the City's 5% of net new utilities taxes received from SunPower for five consecutive years, and 50% of the City's 1% of net new sales taxes received from SunPower for five consecutive years.

CEQA: Not a Project, File No. PP10-066(a). [RINCON DE LOS ESTEROS] Resolution No. 75715 adopted.

8.4 In response to the Governor's proposed State budget package and proposals for FY 2011-12, which include recommending the elimination of redevelopment agencies "to realign the delivery of state services to counties and local governments" and eliminate a projected State deficit of \$25.4 billion, the City Manager and Agency Executive Director recommend the following actions intended to provide flexibility to fund the Agency's existing debt obligations and to reaffirm the Agency's obligations and appropriation of funding for its previously approved FY 2010-11 Operating Budget, its Three-Year Capital Improvement Plan and other contractual obligations.

- (a) City Council and Agency Board by motion, makes a good faith, reasonable determination by a 2/3 vote of the body that an issue has arisen that must be resolved in less than 4 days.

Action taken at Special Meeting on Jan 19, 2011.

(Item Continued on the next page)

8. JOINT/REDEVELOPMENT AGENCY

8.4 (Cont'd.)

Recommendation:

- (b) Adoption of resolutions by the Agency Board and City Council authorizing the Executive Director and City Manager to negotiate and execute a Cooperation Agreement between the City of San Jose and the San Jose Redevelopment Agency relating to funding certain Redevelopment Agency capital improvements, public improvements and obligations located within currently designated redevelopment project areas.

(Deferred from Jan 19, 2011, Special Meeting.)

Deferred to 2/1/2011.

- (c) Adoption of resolutions by the Agency Board, the San Jose Financing Authority Board and the City Council authorizing the Agency Executive Director, the City Manager, the Executive Director of the Financing Authority and the Housing Department Director to negotiate and execute agreements necessary to protect and secure existing obligations and to acquire, construct, develop and implement projects specified in the Agency and City's approved capital improvement plan and City's five-year affordable housing plan as specified herein.

Action taken at Special Meeting on Jan 19, 2011.

- (d) Adoption of a resolution by the City Council making certain findings and determinations as may be necessary.

Dropped.

- (e) Adoption of resolutions by the Agency Board and City Council authorizing the Director of Housing to negotiate and execute agreements in the amount of \$1.43 million of Low- and Moderate-Income Housing funds (20% funds) to Eden Housing or its affiliate for the Ford & Monterey Special Needs Housing Project (Project) in order to meet federal Stimulus (NSP2) timeframes; and make a finding that the use of 20% Low- and Moderate-Income Housing Funds outside a redevelopment project area for the affordable housing to be provided by the Project and its Phase II benefits the Agency's redevelopment project areas.

Action taken at Special Meeting on Jan 19, 2011.

The Joint meeting of the Council of the City of San José and Redevelopment Agency Board was adjourned at 2:20 p.m.