

CITY COUNCIL AGENDA

AUGUST 4, 2009

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

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 arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two 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 Members: None.

1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 7)**
The Happy Singers sang “God Bless America”.
- **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, with Items 3.2 and 3.3 deferred to 8/11/09.
- **Closed Session Report**
None.

1. CEREMONIAL ITEMS

None.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

None.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28622 – Amending Title 17 of the San José Municipal Code to add a new Chapter 17.84 to establish Green Building Regulations for private development.

Ordinance No. 28622 was adopted, with Staff directed to return to the Transportation and Environment Committee with more information about indoor air quality standards; and further, to follow up with speakers before implementation of the ordinance.

2.3 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Vice Mayor Chirco from the Closed Session of the City Council Meeting on June 23, 2009 due to illness. (Chirco)
(Rules in Lieu referral 7/22/09)
- (b) Request for an excused absences for Council Member Constant from the following meetings due to Medical: Neck Surgery:
- (1) Closed Session and City Council Meetings on August 18, 2009 and August 25, 2009;
 - (2) Rules and Open Government Committee Meetings on August 19, 2009 and August 26, 2009; and
 - (3) Public Safety, Finance and Strategic Support Committee Meeting on August 20, 2009; and
 - (4) City Council Study Session on August 28, 2009.
(Constant)
(Rules in Lieu referral 7/22/09)

Excused.

2. CONSENT CALENDAR

2.4 East Foothills Community Wildfire Protection Plan.

Recommendation: Adopt a resolution supporting the goals of the East Foothills Community Wildfire Protection Plan for the area east of San José developed by the Santa Clara County FireSafe Council and authorizing the Mayor and the Fire Chief to sign the mutual agreement page of the plan. CEQA: Not a Project. (Fire)
(Deferred from 6/9/09 – Item 2.7)

Dropped per Administration.

2.5 Settlement of an Outstanding Executive Home Loan.

Recommendation: Adopt a resolution authorizing the City Manager to accept a settlement of an outstanding Executive Home Loan of \$250,000. CEQA: Not a Project.
(City Manager's Office/City Attorney's Office)

Resolution No. 75010 was adopted, with Staff directed to work through the PSFSSC to develop recommendations to modify the Executive Loan Program by: (1) Establishing a personal down payment requirement; (2) Limiting the percentage of debt the City will acquire; (3) Requiring Council approval of final terms of the agreement.

Noes: Campos, Constant.

2.6 JAG Grant Spending Plan.

Recommendation:

- (a) Approve the proposed 2009-2012 Spending Plan for the FY 2009 Edward Byrne Memorial Justice Assistance Grant (JAG).
- (b) Approve changes to the JAG 2008-2011 spending plan.

Approved.

- (c) Adopt a resolution accepting the 2009 Justice Assistance Grant in the amount of \$582,729 and authorize the City Manager to execute the Grant Agreement and all related documents including the necessary Memorandum of Understanding with participating agencies.

Resolution No. 75011 adopted.

- (d) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund:
 - (1) Increase the estimate for Earned Revenue in the amount of \$582,729; and
 - (2) Establish an appropriation to the Police Department for the 2009 Justice Assistance Grant in the amount of \$582,729.

CEQA: Not a Project. (Police/City Manager's Office)

Resolution No. 75070 adopted.

Ordinance No. 28610 adopted.

2. CONSENT CALENDAR

2.7 DASH Shuttle Agreement.

Recommendation: Approve a Funding Agreement with the Santa Clara Valley Transportation Authority to operate the Downtown Area Shuttle Program for the period between July 1, 2009 to June 30, 2012, in an amount not to exceed \$600,000. CEQA: Not a Project. Council District 3. (Transportation)

Approved.

2.8 Fiscal Actions Related to Redevelopment Agency Capital Project.

Recommendation:

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2009-2010:
- (1) Increase the Beginning Fund Balance by \$2,239,462.
 - (2) Establish an appropriation to the Department of Transportation for the Post Street Sidewalk Repair Project (PSM 585) in the amount of \$26,194.
 - (3) Establish an appropriation to the Department of Transportation for the 13th Street SNI Couplet Conversion and Pedestrian Improvement Project – Julian and St. James Streets (PSM 582) in the amount of \$1,742,590.
 - (4) Establish an appropriation to the Department of Transportation for the 13th Street SNI Couplet Conversion and Pedestrian Improvement Project – Hensley Historic District SJSU to Japantown Pedestrian Corridor Project (PSM 582) in the amount of \$207,410.
 - (5) Establish an appropriation to the Department of Transportation for the 13th Street SNI Couplet Conversion and Pedestrian Improvement Project – Jackson Street: LRT to Japantown Pedestrian Corridor Project Embossed Crosswalk at 4th and Jackson (PSM 582) in the amount of \$100,000.
 - (6) Establish an appropriation to the Department of Public Works for the Stockton Avenue/Julian Street Parking Lot Project (PSM 586) in the amount of \$36,540.
 - (7) Increase the appropriation to the Department of Public Works for the Non-Project Specific DPW Services project (PSM 393 Amendment #3) in the amount of \$69,000.
 - (8) Establish an appropriation to the Department of Housing for the Underwood Multi-Family Exterior Improvement Program (PSM 588) in the amount of \$57,728.

Resolution No. 75071 adopted.

Ordinance No. 28611 adopted.

(Item continued on the next page)

2. CONSENT CALENDAR

2.8 Fiscal Actions Related to Redevelopment Agency Capital Project (Cont'd.)

Recommendation:

- (b) Adopt resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:
- (1) The Post Street Sidewalk Repair Project as more specifically described in the memorandum from the Redevelopment Agency, dated May 20, 2009.
Resolution No. 75072 adopted.
 - (2) The 13th Street SNI Couplet Conversion and Pedestrian Improvement Projects as more specifically described in the memorandum from the Redevelopment Agency, dated April 21, 2009.
Resolution No. 75073 adopted.
 - (3) The Stockton Avenue/Julian Street Parking Lot Project as more specifically described in the memorandum from the Redevelopment Agency, dated July 10, 2009.
Resolution No. 75074 adopted.

CEQA: Post Street Sidewalk Repair Project: CEQA: Exempt, File no. PP09-148; 13th Street SNI Couplet Conversion and Pedestrian Improvement Project – Julian and St. James Streets: Negative Declaration and addenda thereto, File No. PP02-05-115 and PP08-126; 13th Street SNI Couplet Conversion and Pedestrian Improvement Project – Hensley Historic District SJSU to Japantown Pedestrian Corridor Project: Negative Declaration and addenda thereto, File No. PP02-05-115 and PP04-293; 13th Street SNI Couplet Conversion and Pedestrian Improvement Project – Jackson Street: LRT to Japantown Pedestrian Corridor Project Embossed Crosswalk at 4th and Jackson: Exempt, File No. PP07-054; Stockton Avenue/Julian Street Parking Lot Project: Not a Project; Non-Project Specific DPW Services: Not a Project; and Underwood Multi-Family Exterior Improvement Program: Not a project. (Public Works/Transportation/Housing/City Manager's Office)

2.9 AB 1177 (Fong and Hill) – Interagency Council on Homelessness.

Recommendation: As referred by the Rules and Open Government Committee on June 17, 2009, adopt a position of support for AB 117 (Fong and Hill) – Interagency Council on Homelessness. (Housing)

[Rules Committee referral 6/17/09 – Item 6.1(a)]

Position of support adopted.

2. CONSENT CALENDAR

2.10 AB 767 (Ammiano) – Housing and Emergency Shelter Trust Fund of 2006.

Recommendation: As referred by the Rules and Open Government Committee on June 17, 2009, adopt a position of support for AB 767 (Ammiano) – Housing and Emergency Shelter Trust Fund of 2006: Reversion of Funds. (Housing)

[Rules Committee referral 6/17/09 – Item 6.1(b)]

Position of support adopted.

2.11 Council Member Chu’s Travel to Olympic Valley, CA and Sacramento, CA.

Recommendation: Approve travel by Council Member Chu to Olympic Valley, CA and Sacramento, CA on July 16-17, 2009 and July 17-18, 2009 to attend the League of California Cities Board Meeting and the League of California Cities Local Government summit on Governance and Fiscal Reform. Source of Funds: Mayor/Council Travel Fund. (Chu)
(Rules in Lieu referral 7/22/09)

Approved.

2.12 Appointments to Boards, Commissions and Committees.

Recommendation: As recommended by the Rules and Open Government Committee on July 29, 2009:

(a) Appoint David Phillip Oster to a term ending June 30, 2012 on the Mobilehome Advisory Commission.

(b) Appoint Kasey Ong to the Youth Commission for District 4.

(Chu)

[Rules Committee referral 6/17/09 – Item 9.1]

Approved.

3. STRATEGIC SUPPORT SERVICES

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

The City Manager reported on employee impacts, including redeployments and layoffs, resulting from budget decisions.

3.2 Report of the Rules and Open Government Committee – June 10, 2009

Mayor Reed, Chair

Deferred to 8/11/09 per Orders of the Day.

3. STRATEGIC SUPPORT SERVICES

3.3 Report of the Rules and Open Government Committee – June 17, 2009

Mayor Reed, Chair

Deferred to 8/11/09 per Orders of the Day.

3.4 Report of the Rules and Open Government Committee – June 24, 2009

Mayor Reed, Chair

No Report. Meeting Canceled.

3.5 Report of the Public Safety, Finance and Strategic Support Committee – June 18, 2009

Council Member Nguyen, Chair

Report Accepted.

3.6 Agreements with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers.

Recommendation: Adopt a resolution:

- (a) Approving the terms of a Memorandum of Agreement with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 041 and 042, and authorizing the City Manager to execute the agreement with a term of July 1, 2009 to June 30, 2010.
- (b) Approving the terms of a Memorandum of Agreement with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 043, and authorizing the City Manager to execute the agreement with a term of July 1, 2009 to June 30, 2010.

CEQA: Not a Project. (Employee Relations)

Resolution No. 75075 adopted.

3.7 Public hearing on the Sewer Service and Use Charges and Storm Sewer Service Charges

Recommendation: Conduct a public hearing on the Sewer Service and Use Charges and Storm Sewer Service Charges report filed by the Director of Finance with the City Clerk's Office and adopt a resolution approving the placement of recommended charges on the 2009-2010 tax roll; with such modifications as Council may make based on public hearing testimony. CEQA: Not a Project. (Finance)

Public Hearing Held.

Resolution No. 75076 adopted.

3.8 Audit of Employee Medical Benefits.

Recommendation: As referred by the Public Safety, Finance and Strategic Support Committee on June 18, 2009, accept the audit of the Employee Medical Benefits. (City Auditor)

[Public Safety, Finance and Strategic Support Committee referral 6/18/09 – Item 3.3]

Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Report of the Community & Economic Development Committee – June 22, 2009**
Council Member Pyle, Chair
Report Accepted.

- 4.2 Ordinance Amending the Procedure for Initiating a City Landmark.**

Recommendation: Consider an ordinance of the City of San José Amending Part 2 of Chapter 13.48 of Title 13 of the San José Municipal Code, entitled “Designation,” to revise Section 13.48.110.C to allow the City Council greater discretion on whether to initiate the procedure for the designation of a landmark so nominated. CEQA: Not a Project. (Planning, Building and Code Enforcement)

(Continued from 6/30/09)

Continued to 9/1/09 per Administration

- 4.3 Funding Commitment for Site Acquisition for the Markham Terrace Apartments.**

Recommendation: Adopt a resolution approving a funding commitment of up to \$6,280,000 of Low and Moderate Income Housing Funds to Charities Housing Development Corporation, or its legal affiliate, for a land acquisition loan to acquire the Markham Terrace property, located at 2112 Monterey Road, from EHC Lifebuilders. CEQA: Mitigated Negative Declaration, File Nos. GP08-07-04 and PDC09-015. Council District 7. (Housing)

Resolution No. 75077 adopted.

- 4.4 Funding for Archer Street Apartments Project.**

Recommendation:

- (a) Adopt a resolution:
- (1) Approving an increase in the construction/permanent funding of up to \$717,000, bringing the total City construction/permanent funding up to \$5,297,000, to Charities Housing Development Corporation (“Charities”), or its designated affiliate, for a land acquisition/predevelopment/construction/permanent loan for the development of the 42-unit 90 Archer Street Apartments project (“Project”), located at 90 Archer Street, to be made available to extremely low-income and very low-income households.
 - (2) Approving the forgiveness of up to \$125,000 in accrued interest on the City’s predevelopment and acquisition loans.
 - (3) Committing the use of \$1,800,000 of HOME Investment Partnership (“HOME”) program funds, previously committed to Charities for the future development of a rental housing project to lower-income households, as a project-specific award of funds to the 90 Archer project.

Resolution No. 75078 adopted.

Noes: Oliverio.

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Funding for Archer Street Apartments Project (Cont'd.)

Recommendation:

- (b) Approve the following Appropriation Ordinance amendments in the HOME Investment Partnership Program Fund (Fund 445) for FY 2009-2010:
- (1) Increase the Loans and Grants appropriation by \$417,656; and
 - (2) Decrease the Unrestricted Fund Balance by \$417,656.

CEQA: Resolution No. 72768 and Addendum thereto, File No. PDC06-085. Council District 3. SNI: Rincon De Los Esteros. (Housing/City Manager's Office)

Ordinance No. 28623 adopted.

Noes: Oliverio.

4.5 Santa Clara Valley Habitat Conservation Plan.

Recommendation: As referred by Community and Economic Development Committee on June 22, 2009, review and discuss issues for the continued preparation of the Draft Santa Clara Valley Habitat Plan. (Planning, Building and Code Enforcement)
[Community and Economic Development Committee referral – Item 3.6]

Reviewed.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee Council Member Campos, Chair. No Report.

5.2 Annual Trail Report.

Recommendation: Approve a staff report regarding accomplishments outlined in the Annual Trail Report. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Deferred per Rules and Open Government Committee.

5. NEIGHBORHOOD SERVICES

5.3 Construction Contract for the Educational Park Branch Library.

Recommendation:

- (a) Consider a request to reconsider the City Council's action to reject all bids and direct Staff to re-advertise and re-bid the Educational Park Branch Library project. (Herrera)

Motion to reconsider approved.

Noes: Campos, Chu, Kalra, Nguyen, Pyle.

- (b) If a motion to reconsider passes:

- (1) Award the construction contract for the Educational Park Branch Library to the low bidder, Barry Swenson Builder, to include the base bid and Add Alternate Nos. 1 through 5 in the amount of \$7,136,300, and approve a contingency in the amount of \$1,070,445.

Approved.

Noes: Campos, Chu, Kalra, Nguyen, Pyle.

- (2) Approve the first amendment to the agreement for consultant services with Anderson Brule Architects, for the Project, extending the term of the agreement from October 31, 2010 to April 30, 2011, modifying the scope of services, and increasing the amount of compensation by \$90,000, for a total agreement amount not to exceed \$1,280,000.

CEQA: Mitigated Negative Declaration, File No. PP08-024. Resolution approved by Council on November 6, 2007. Council District 4.

(Public Works/ Library)

Approved.

Noes: Campos.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee Council Member Liccardo, Chair.

No Report.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Proposal for a Power Purchase and Site Lease Agreement.

Recommendation: Accept this Report on the Request for Proposal for a Power Purchase and Site Lease Agreement for Solar Photovoltaic Power Production rejecting the sole proposal that was received and authorizing the City Manager to:

- (a) Enter into negotiations with SunPower Corporation (San José, CA) for a Power Purchase Agreement (PPA) to purchase solar energy for a maximum 25 year term.
- (b) Present to Council a fully negotiated PPA for final review and approval after successful negotiation of the agreement.

CEQA: Not a Project. (Finance/Environmental Services)
(Deferred from 6/23/09 – Item 3.7)

Deferred to 8/18/09 per Administration.

8. PUBLIC SAFETY SERVICES

8.1 Community Policing Center Service Delivery Model.

Recommendation: Approve a revised service delivery model for the San José Police Department's Community Policing Centers (CPCs) and/or CPC Services. CEQA: Not a Project. (Police/Parks, Recreation and Neighborhood Services/Library)

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 State Budget Impacts.

Recommendation: Presentation and discussion of the State budget impacts on the City of San José and the Redevelopment Agency. (Mayor)
(Rules Committee referral 7/29/09)

Accepted.

- **Notice of City Engineer’s Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9992	Montecito Vista Way between Esfahan Drive and Motecita Vista Drive	7	ROEM Development Corporation	4 Lots / 56 Units	Single Family Attached	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10039	East side of San Felipe Road, 700 feet north of Silver Creek Road	8	DAL Properties-LLC	21 Lots/ 15 Units	Single Family Detached

- **Notice of City Engineer’s Award of Construction Projects**

None.

- **Open Forum**

None.

- **Adjournment**

The Council of the City of San José was adjourned at 6:06 p.m. in memory of Paula Merloa, who passed away on July 11, 2009. Ms. Merloa was a lifelong District 7 resident and served as a voice for residents as a commissioner on the Mobilehome Advisory Commission from November 2005 until May 2009. Her passion was serving the community and bringing more resources to mobilehome residents. (Nguyen)