



CITY COUNCIL AGENDA

APRIL 13, 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**
9:25 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:34 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 4)**
Avatamsaka Buddhist Lotus Society presented the Buddha-Dharma-Sangha prayer.
- **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 Item 2.3(a) deferred to 04/20/10.
- **Closed Session Report**
Mayor Reed announced the appointment of LaDoris Hazzard Cordell as the new Independent Police Auditor.

Council Vote: Ayes:	Campos, Chirco, Chu, Herrera, Kalra, Liccardo, Nguyen, Pyle.
Noes:	Constant, Oliverio; Reed.
Disqualified:	None.
Absent:	None.

CLOSED SESSION (Cont'd.)

City Attorney Doyle disclosed the following Closed Session actions of April 13, 2010:

A. Authority to Initiate Litigation:

Authority to initiate litigation was given in two matters. The names of the action(s) and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action(s) are formally commenced.

Council Vote: Ayes: Campos, Chirco, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Noes: None.

Disqualified: None.

Absent: None.

1. CEREMONIAL ITEMS

- 1.1 Presentation of commendations to D9 Stars. (Chirco)
Mayor Reed and Vice Mayor Chirco recognized and commended the “D9 Stars” Hilary Eden, Patti Linder-Dodd and Jim Zetterquist.**
- 1.2 Presentation of a proclamation declaring the week of April 11 through April 17, 2010 as “National Public Safety Dispatcher’s Week” in the City of San José. (Mayor)
Mayor Reed recognized the week of April 11 through April 17, 2010 as “National Public Safety Dispatcher’s Week” in the City of San José.**
- 1.3 Presentation of a commendation to the National Association of Latino Arts and Culture for their 20 years of dedication to promoting, advancing, and cultivating the Latino arts field. (Campos)
(Rules Committee referral 3/30/10)
Mayor Reed and Council Member Campos recognized and commended the National Association of Latino Arts and Culture for their 20 years of dedication to promoting, advancing, and cultivating the Latino arts field.**
- 1.4 Presentation of a commendation recognizing Mrs. Ulleseit’s 5th grade class from James Franklin Elementary School for their efforts in accomplishing their goal of collectively writing a novel for National Novel Writing Month. (Herrera)
(Rules Committee referral 04/07/10)
Mayor Reed and Council Member Herrera recognized and commended Mrs. Ulleseit’s 5th grade class from James Franklin Elementary School for their efforts of collectively writing a novel for “National Novel Writing Month”.**

2. CONSENT CALENDAR

2.1 Approval of Minutes.

There were none presented.

2.2 Final adoption of ordinances.

There were none presented.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of March 24, 2010. (Mayor)
Deferred to 04/20/10 per Orders of the Day.

2.4 Mayor and Council Excused Absence Requests.

There were none presented.

2.5 City Council Travel Reports.

Council Member Constant provided an oral report on his trip to Washington, D.C., attending as a member of the National League of Cities' Public Safety and Crime Prevention Steering Committee. He summarized the purpose and outcome of the trip.

2.6 Foreign Trade Subzone at Lam Research Corporation Facilities.

Recommendation: Adopt a resolution:

- (a) Authorizing the City Manager to submit an application to the Foreign Trade-Zones Board for establishing a Foreign Trade Subzone at Lam Research Corporation facilities in Fremont and Livermore.
- (b) Authorizing the City Manager to negotiate and execute an agreement with Lam Research Corporation for management and operation of the Subzone upon the Foreign Trade-Zones Board's approval of the application.

CEQA: Not a Project. (Economic Development)

Resolution No. 75332 adopted.

2.7 The Albino, Erminia and Alba Joyce Martini Memorial Fund.

Recommendation:

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Gift Trust Fund for Public Art in City Hall from the estate of Alba Joyce Martini for 2009-2010:
- (1) Increase the estimate for Earned Revenue by \$100,000.
- (2) Establish an appropriation to the Office of Economic Development for The Albino, Erminia and Alba Joyce Martini Memorial Fund in the amount of \$100,000.

Ordinance No. 28733 adopted.

Resolution No. 75333 adopted.

2. CONSENT CALENDAR

2.7 The Albino, Erminia and Alba Joyce Martini Memorial Fund (Cont'd.)

- (b) Appoint the Arts Commission to oversee the use of the funds in compliance with the terms of the will.

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

Approved.

2.8 Code Reinspection Fee.

Recommendation: Adopt a resolution amending the Schedule of Fees and Charges (Resolution No. 72737, as amended) to establish a General Code Reinspection Fee of \$141.75 for services provided by the City's Code Enforcement Division effective immediately. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Resolution No. 75334 adopted.

2.9 Fiscal Actions for Redevelopment Agency Capital Projects.

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 estimate for Earned Revenue by \$504,800.
- (2) Establish an appropriation to the Department of Public Works for the Municipal Stadium Transformer Replacement Project (PSM 602) in the amount of \$24,800.
- (3) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the Nisich Park Project (PSM 604) in the amount of \$480,000.

Ordinance No. 28734 adopted.

Resolution No. 75335 adopted.

Noes: Liccardo.

- (b) Adopt resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:

- (1) The Municipal Stadium Transformer Replacement Project as more specifically described in the memorandum from the Redevelopment Agency, dated January 29, 2009, and

Resolution No. 75336 adopted.

Noes: Liccardo.

- (2) The Nisich Park Project as more specifically described in the memorandum from the Redevelopment Agency, dated February 24, 2010.

CEQA: Municipal Stadium Transformer Replacement Project: Exempt, File No. PP09-015; Nisich Park Project: Exempt, File No. PP06-164, dated November 2, 2006. (Parks, Recreation and Neighborhood Services/Public Works/City Manager's Office)

Resolution No. 75337 adopted.

Noes: Liccardo.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported on ongoing labor negotiations and efforts to seek 10% concessions. She noted that two memorandums will be released shortly regarding compensation changes for the Association of Building, Mechanical and Electrical Inspectors (ABMEI) and unrepresented employees of Unit 99.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Special Event Services and Costs.

Recommendation: As recommended by the Community and Economic Development Committee on March 22, 2010:

(a) Adopt a resolution:

(1) Amending the Schedule of Fees and Charges (Resolution No. 72737, as amended):

(a) To increase the cap on gated event ticket prices and to reduce the collection of gate fees from 5% to 0% of gate fees for the period of January 1, 2009 to June 30, 2010.

(b) To repeal the Special Events Traffic Enforcement Unit Fee.

(2) Authorizing the Chief Development Officer to issue refunds to event organizers who paid gate fees retroactive to January 1, 2009.

Resolution No. 75338 adopted, as amended.

(b) Direct the City Manager and City Attorney's Office to present Council with recommended amendments to San Jose Municipal Code Section 11.12.050 to authorize the City Manager to temporarily or permanently appoint staff to perform traffic control in accordance with the requirements of Subdivisions (e) of the California Vehicle Code Section 21100.

CEQA: Statutorily Exempt. (City Manager's Office)

(Deferred from 04/06/10 – Item 4.3)

Approved, as amended.

The memorandum from Mayor Reed and Council Members Liccardo and Pyle, dated April 09, 2010, was approved as modified. Approve Staff recommendations, with the following direction:

(1) *Return to Council during the "Fees and Charges" discussion in May/June with a policy to grant the City Manager the immediate authority to deviate from the Council Policy on "full cost recovery" based on content-neutral, fiscally-based criteria and consider such options as City Sponsorship and predetermined rebates on City fees.*

(2) *Return to Council in June with a revised fee schedule that eliminates arbitrary elements in fees that do not appear directly related to service costs, as suggested by some of the examples cited in the San José Downtown Association's memorandum dated March 22, 2010.*

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Special Event Services and Costs (Action Cont'd.)

- (3) *After consultation with the City Attorney, return to the Community and Economic Development Committee in the Fall with criteria identifying events or circumstances to guide the City Manager's use of her discretion. The criteria might include:*
- (a) *Revenue generated to the General Fund, Parking Fund and other City Funds.*
 - (b) *Economic Impact.*
 - (c) *Attendance levels.*
 - (d) *The history and duration of the event's success.*
 - (e) *Publicity event brings to the City.*
 - (f) *Proven record of safe management.*
 - (g) *The uniqueness of the event to San José.*
- (4) *Include recommendations regarding how a scaled City service fee might be applied for these events or a method of recovering costs from revenues subsequently received by the City.*

5. NEIGHBORHOOD SERVICES

5.1 Schedule of Parkland Fees.

Recommendation: Conduct a public hearing and consider the adoption of a resolution setting forth the new Schedule of Parkland Fees to reflect the 2009 Residential Land Value Study to be effective on June 14, 2010. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

(Continued from 3/16/10 – Item 5.1)

Deferred to 04/20/10.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Amendments to the On-Airport Rental Car Operations and Lease Agreements.

Recommendation:

- (a) Approve second amendments to the On-Airport Rental Car Operations and Lease Agreements with Avis Budget Car Rental, LLC; DTG Operations, Inc.; EAN, LLC; Fox Rent A Car, Inc.; and The Hertz Corporation to provide for the City to demolish and remove all tenant improvements constructed by the On-Airport Rental Car Companies after the companies move to the new Consolidated Rental Car Facility, and to provide for the payment by the On-Airport Rental Car Companies of all such demolition costs incurred by the City.

Approved.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Amendments to the On-Airport Rental Car Operations and Lease Agreements (Cont'd.)

- (b) Adopt a resolution authorizing the Director of Aviation to negotiate and execute any future amendments to the On-Airport Rental Car Operations and Lease Agreements as necessary to allocate maintenance, repair and utility expenses between the City and the On-Airport Rental Car Companies.

CEQA: Resolution Nos. 67380 and 71451, File No. PP 10-060. (Airport)

Resolution No. 75339 adopted.

6.2 Streets Resurfacing and Rehabilitation Project.

Recommendation:

- (a) Report on bids and award a construction contract for the San José Various Streets Resurfacing and Rehabilitation Project to the low bidder, Top Grade Construction, Inc. in the amount of \$5,167,464.
- (b) Approve a five percent (5%) contingency in the amount of \$258,375.

CEQA: Exempt, File No. PP06-066. (Transportation)

Approved.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Notice of City Engineer's Pending Decision on Final Maps
There were none presented.
- Notice of City Engineer's Award of Construction Projects
There were none presented.

- **Open Forum**

Ross Signorino suggested that the route for the proposed high speed rail travel from San José to Los Angeles in lieu of San Francisco to Los Angeles, in order to allow less competition to the already financially strapped Norman Y. Mineta San José International Airport.

Urging the City Council to keep the Washington United Community Youth Center open were Cristian Avendano, Mario R. Mendez, Krystal Sanchez, Vanessa Romo, Jeanette Mercado, Michelle Wheeler, Brinay Carrera and Rubi Reyes.

- **Adjournment**

The Council of the City of San José was adjourned at 4:00 p.m. in memory of Arts Commissioner Tim Shannon who unexpectedly passed away at his home on April 6, 2010. Tim was a popular theatre teacher at Fremont High School and a charismatic City of San José Arts Commissioner and served on its Executive Committee. He was a passionate advocate for arts education, a creative thinker, an active contributor to civic life and a warm, considerate person. (Mayor/Liccardo)

The Council of the City of San José reconvened to Closed Session at 4:05 p.m.

8. JOINT/REDEVELOPMENT AGENCY

The Joint Redevelopment Agency Board convened at 3:28 p.m. to consider Items 8.1, 8.2, 8.3, 8.4, 8.5, 8.6 and 8.7 in a Joint Session.

8.1 Approval of a Cooperation Agreement authorizing conveyance of property at 406 N. Autumn Street.

Recommendation: City Council and Redevelopment Agency Board approval of a Cooperation Agreement authorizing the conveyance of the property located at 406 N. Autumn Street from the City to the Agency. CEQA: Autumn Extension/Coleman Widening EIR, Resolution No. 74870. [JULIAN/STOCKTON]
Deferred to 04/20/10.

8.2 Approval of a Purchase and Sale and Development Agreement with Sobrato Interests III for the sale of Properties located in San Antonio Plaza Redevelopment Project Area.

Recommendation:

- (a) The Redevelopment Agency Board approval of a Purchase and Sale and Development Agreement with Sobrato Interests III for the sale of Agency-owned properties located at 285 South Market Street and 8 East San Fernando Street for a sale price in the amount of \$20,000,000, less related closing costs.
- (b) The City Council adopt a resolution approving the sale of certain sites located at 285 South Market Street and 8 East San Fernando Street to Sobrato Interests III, accepting the 33433 Summary Report and Re-Use Valuation, and finding that the sale of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the San Antonio Plaza Project Area, and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and obligations authorized.

CEQA: Downtown Strategy 2000 EIR, Resolution No. 72767; PP05-272. **SAN ANTONIO PLAZA]**
Deferred to 04/20/10.

8.3 Approval of Purchase and Sale Agreement for acquisition of a portion of 111 West Saint John Street for the North San Pedro Housing Project.

Recommendation:

- (a) Redevelopment Agency Board approval of a Purchase and Sale Agreement with Community Towers I, LLC, Community Towers II, LLC, Community Towers III, LLC and Community Towers IV, LLC in the amount of \$510,600 plus related closing costs, for the acquisition of a portion of 111 West Saint John Street to allow for development of the North San Pedro Housing Project.

Approved.

- (b) Adoption of a resolution by the City Council authorizing the City Manager to accept the property and execute any and all related documents.

CEQA: Resolution No 72170. (Proposition 1C Funding) [JULIAN-STOCKTON]
Resolution No. 75340 adopted.

8. JOINT/REDEVELOPMENT AGENCY

8.4 Approval of Purchase and Sale Agreement for acquisition of a portion of 210 West Saint James Street for the North San Pedro Housing Project.

Recommendation:

- (a) Redevelopment Agency Board approval of a Purchase and Sale Agreement with Green Valley Corporation in the amount of \$149,600 plus related closing costs, for the acquisition of a portion of 210 West Saint James Street to allow for development of the North San Pedro Housing Project.

Approved.

- (b) Adoption of a resolution by the City Council authorizing the City Manager to accept the property and execute any and all related documents.

CEQA: Resolution No 72170. (Proposition 1C Funding) [~~JULIAN-STOCKTON~~]

Resolution No. 75340 adopted.

8.5 Approval of Purchase and Sale Agreement for acquisition a portion of 180 West Saint James Street for the North San Pedro Housing Project.

Recommendation:

- (a) Redevelopment Agency Board approval of a Purchase and Sale Agreement with St. James Enterprises in the amount of \$611,400 plus related closing costs, for the acquisition of a portion of 180 West Saint James Street to allow for development of the North San Pedro Housing Project.

Approved.

- (b) Adoption of a resolution by the City Council authorizing the City Manager to accept the property and execute any and all related documents.

CEQA: Resolution No 72170. (Proposition 1C Funding) [~~JULIAN-STOCKTON~~]

Resolution No. 75340 adopted.

8.6 Approval of an amendment to the Inclusionary Housing Policy.

Recommendation: Redevelopment Agency Board and City Council approval of an amendment to the City/Agency Inclusionary Housing Policy in Redevelopment Project Areas, temporarily suspending inclusionary housing requirements related to newly constructed rental units until the earlier of: January 1, 2013, or the effective date of the City's Inclusionary Housing Ordinance to ensure compliance with case law. CEQA: PP08-258, addendum to the General Plan Update EIR, Resolution No. 65459. [~~MERGED~~]

Continued and referred to the Rules and Open Government Committee for a determination of a return date within four weeks.

8. JOINT/REDEVELOPMENT AGENCY

8.7 Approval of actions related to the installation of new fixed seats for the Civic Auditorium.

Recommendation:

- (a) Adoption of a resolution by the Agency Board approving the proposed increase of \$386,027.70 to the Agency's FY 2009-10 Adopted Capital Budget Miscellaneous Revenue and adjustments to the Agency's FY 2009-10 Adopted Capital Budget by adding \$386,027.70 to the Civic Auditorium Project line item in the Park Center Redevelopment Area, amending the FY 2009-2010 Agency appropriations resolution.

Redevelopment Agency Board Resolution No. 5957 adopted.

- (b) Agency Board approval of a contract with Irwin Seating Company in the amount of \$386,027.70, including three alternates, for the Civic Auditorium Fixed Seating Project.

CEQA: Exempt, File No. PP09-122. **[PARK CENTER]**

Approved.

The Council of the City of San José and Redevelopment Agency Board was adjourned at 3:47 p.m.