

CITY COUNCIL AGENDA

DECEMBER 8, 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 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**
9:02 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (Mayor)**
Pastor Javier Loera, Calvary Chapel San José, presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed and the 3rd and 4th Grade students from Horace Mann Elementary School led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 3.5 heard no earlier than 4:00 p.m.
- **Closed Session Report**
City Attorney Doyle disclosed the following Closed Session actions of December 8, 2009:
 - A. **Authority to Enter Litigation Case as Amicus Curiae:**

Case Name: People v. Liqing Tu

Adverse Party or Parties: People of the State of California and Liqing Tu

Substance of Litigation: Criminal prosecution regarding alleged prostitution.

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

Noes: None.
Disqualified: None.
Absent: None.
Vacant: None.

CLOSED SESSION REPORT (Cont'd.)

B. Authority to Pursue Appellate Review in a Litigation Case:

Case Name: International Association of Firefighters, Local Union 230 v. City of San José

Adverse Party or Parties: International Association of Firefighters, Local Union 230

Substance of Litigation: Petition for Writ of Mandate and to compel arbitration regarding implementation of Government Code Section 3254.5.

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

Noes: None.

Disqualified: None.

Absent: None.

Vacant: None.

1. CEREMONIAL ITEMS

- 1.1 Presentation of commendations from the City of San José and Allied Waste Services of Santa Clara County, and checks for \$1,000.00 to Horace Mann School and HP Pavilion for being leaders in recycling and sustainability. (Liccardo)
(Rules in Lieu referral 11/24/09)
Mayor Reed and Council Member Liccardo recognized and commended Horace Mann School and HP Pavilion for being leaders in recycling and sustainability; each received a plaque from Mayor Reed and \$1,000 from Allied Waste Services of Santa Clara County for their tremendous efforts.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of October 6, 2009.
- (b) Regular Minutes of October 20, 2009.
- (c) Regular Minutes of October 27, 2009.

Approved.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances.

There were none.

2.3 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Council Member Constant from the Evening Meeting of the City Council on November 17, 2009 due to illness. (Constant)
(Rules in Lieu referral 11/24/09)

Excused.

2.4 Amendment to Master Agreement with HF&H Consultants.

Recommendation: Approve a second amendment to the agreement with HF&H Consultants for environmental consultant services for various Environmental Service Department projects by increasing the total compensation by \$300,000 from \$500,000, to an amount not to exceed \$800,000. CEQA: Not a Project. (Environmental Services)

Approved.

2.5 Award of Open Purchase Orders for Supplies, Materials, Equipment and Services.

Recommendation: Approve the award of open purchase orders for supplies, materials, equipment and services for FY 2009-2010 #3 and authorize the Director of Finance to execute the purchase orders. CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)

Approved.

2.6 Sale of City-Owned Property to Senter Road Service Station.

Recommendation: Adopt a resolution:

- (a) Declaring the vacant 0.067 acres of City-owned property on the northwest corner of Capitol Expressway and Senter Road surplus to the needs of the City;
- (b) Approving an agreement between the City and Senter Road Service Station LP for sale of the property in the amount of \$102,148; and
- (c) Authorizing the Director of General Services to execute all sales documents and the deed necessary to complete the transaction.

CEQA: Exempt, File No. PP09-181. (General Services)

Resolution No. 75194 adopted.

2. CONSENT CALENDAR

2.7 Agreement with URL Integration for Project Management Services.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with URL Integration, Inc. to provide Project Management services in the development of the Automated Field Reporting/Record Management System for the City's Police Department for the period from the date of execution by the City through May 18, 2012, in an amount not to exceed \$374,808.46 and authorize any future amendments and all related documents without further Council action other than appropriation of funds. CEQA: Not a Project. (Police)

Resolution No. 75195 adopted.

2.8 FY 2009 Child Sexual Predator Program Grant.

Recommendation:

(a) Adopt a resolution accepting the 2009 Child Sexual Predator Program Grant in the amount of \$447,773 and authorize the City Manager to execute the Grant Agreement, any future amendments, and all related documents without further Council action other than appropriation of funds;

Resolution No. 75196 adopted.

(b) Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund in fiscal year 2009-2010 for the first year costs:

- (1) Establish a City-wide appropriation to the Police Department for the 2009 Child Sexual Predator Program Grant in the amount of \$265,286; and
- (2) Increase the Earned Revenue Estimate from the Federal Government by \$265,286.

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

Ordinance No. 28681 adopted.

Resolution No. 75197 adopted.

2.9 Mayor Reed's Travel to New York, NY.

Recommendation: Approve travel retroactively by Mayor Reed to New York, NY on October 1-2, 2009 to attend the IBM Smarter Cities Forum as a Panelist. Source of Funds: Mayor's Office. (Mayor)

(Rules in Lieu referral 11/24/09)

Approved. Mayor Reed provided a brief report on the trip.

2. CONSENT CALENDAR

2.10 Mayor and Council Special Event Requests.

Recommendation:

- (a) (1) Approve the District 4 “Breakfast with Santa” as a City Council sponsored Special Event.
- (2) Approve and accept donations from various individual, businesses or community groups to support the event.
- (b) Approve the District 6 Movie Event “Flow”, as a City Council sponsored Special Event.

(City Clerk)

(Rules in Lieu referral 11/24/09)

Approved.

2.11 HR 3745 (Baldwin) Community Access Preservation Act 2009.

Recommendation: As recommended by the Rules and Open Government Committee on December 2, 2009, adopt a support position for HR 3745 (Baldwin) Community Access Preservation Act 2009, which would have several positive effects for the City and the community. (City Manager’s Office)

[Rules Committee referral 12/2/09 – Item D(1)(a)]

Approved.

2.12 2010-2011 City Budget Calendar and Budget Study Session Schedule.

Recommendation: As recommended by the Rules and Open Government Committee on December 2, 2009, adopt the proposed 2010-2011 City Budget Calendar and the detailed schedule for City Council Budget Study Sessions on the City’s 2010-2011 Operating Budget and the 2010-2011 Capital Budget and 2011-2015 City Capital Improvement Program. (City Manager’s Office)

[Rules Committee referral 12/2/09 – Item E(1)]

Approved.

2.13 Commission Appointments and Reappointments.

Recommendation: As recommended by the Rules and Open Government Committee on November 18, 2009 and on December 2, 2009:

- (a) Reappoint James Smith and Miguel Olivo to the Small Business Development Commission to terms ending December 31, 2012. (Nguyen)
- (b) Appoint Ramiro Torres to the Historic Landmarks Commission to an unexpired term ending June 30, 2011. (Chirco)
- (c) Appoint Erica Schaefer to the Early Care and Education Commission for an unexpired term ending June 30, 2010, and Keith Morales and Kathleen McDavid to fill two unexpired terms ending June 30, 2012. (Chirco)

2. CONSENT CALENDAR

2.13 Commission Appointments and Reappointments (Cont'd.)

- (d) Appoint Francisco Rodriguez to the Disability Advisory Commission for an unexpired term ending June 30, 2012. (Pyle)
- (e) Reappoint Raj Baines to the Human Rights Commission for a three-year term ending December 31, 2012 and appoint Megan Young, Jaime Contreras and Margaret Akdeniz to fill three three-year terms ending December 31, 2012. (Chu)
- (f) Reappoint James Bojorquez and Darrold “Dan” Wagner to the Advisory Commission on Rents. (Herrera)
- (g) Appoint Joyce Rabourn, Judith Marie Heyter, Nancy Williamson, Milton Cadena, and Chaitanya Vaidya to the Senior Citizens Commission. (Constant)

[Rules Committee referral 11/18/09 – Items G(1) – G(5) and 12/2/09 – Items G(1) – G(2)]

Appointments approved, with the exception of Jaime Contreras (Human Rights Commission), which was pulled and rescinded by Council Member Chu.

2.14 Review of Relevant 2010 Legislative Guiding Principles.

Recommendation: As recommended by the Community and Economic Development Committee on November 30, 2009, review and discuss the Draft 2010 Relevant Legislative Guiding Principles with focus on community and economic development. (City Manager’s Office)

Community and Economic Development Committee referral 11/30/09 – Item D(10)
Item 3.9 was renumbered to Item 2.14.

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that labor negotiations are currently ongoing and Staff is working to reach an agreement with the building inspectors. She added that Staff was in the process of updating the SNI Business Plan and met with 75 neighborhood leaders last week.

3.2 Reports of the Rules and Open Government Committee Mayor Reed, Chair

- (a) Reports of the Rules and Open Government Committee – November 18, 2009
 - (b) Report of the Rules and Open Government Committee – October 28, 2009
 - (c) Report of the Rules and Open Government Committee – November 4, 2009
 - (d) Report of the Special Rules and Open Government Committee – November 9, 2009
- Accepted.**

3.3 Report of the Public Safety, Finance and Strategic Support Committee – November 19, 2009, Council Member Nguyen, Chair

Accepted.

3. STRATEGIC SUPPORT SERVICES

3.4 Mayor's 2009 Biennial Review of Ethics Ordinances.

Recommendation: Accept the Mayor's Biennial Review of the Ethics Ordinances and provide direction to staff as outlined in the Mayor's Memo. (Mayor)
(Rules Committee referral 11/4/09)
(Deferred from 11/17/09 – Item 3.8)

Deferred to 12/15/09 per Administration.

3.5 Settlement of Property Damage Claims of 414, 420, 426, 432, 438, 444 and 450 Terrace Drive.

Recommendation: Approve proposed settlement and authorize the City Attorney to execute Settlement Agreements and any other documents necessary to effect settlements with homeowners of 414, 420, 426, 432, 438, 444 and 450 Terrace Drive relative to soil conditions present on their properties. CEQA: Exempt. Acting as the Lead Agency, the State Department of Toxic Substances Control (DTSC) on July 27, 2006 found the removal of soil in the rear yards of residences located at Terrace Drive to be categorically exempt under the provisions of Section 15330 of the CEQA Guidelines, as amended. Section 15330 covers minor actions to prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release of hazardous waste or hazardous substances. The City may, as a responsible agency, rely upon the DTSC's prior CEQA determination to inform the City actions currently proposed related to soil conditions in the Terrace Drive rear yards. (City Attorney's Office)

Approved.

3.6 Team San José Performance Measures.

Recommendation:

- (a) Accept Team San José "Client Satisfaction" performance measures for 2009-2010.
- (b) Accept City Manager's verbal report regarding Team San José's labor agreement. CEQA: Not a Project. (Economic Development)

Accepted, as amended:

- (1) **Encourage the Team San José Board of Directors to reconsider the exclusivity provision in its recently implemented labor agreement as it relates to both Team San José and the local Teamsters union; as well as consider all options involving the unions and stakeholders.**
- (2) **Request that the current marketing plan be revised to respond to the negative publicity the Convention Center and the City received when the new labor policy was adopted.**
- (3) **Return to Council with a status report on January 12, 2010.**

Noes: Kalra, Nguyen.

3. STRATEGIC SUPPORT SERVICES

3.7 Review of Initiatives Underway Dealing with the Use of Force by the San José Police Department.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on November 19, 2009:

- (a) Accept the report outlining current efforts underway to review the San José Police Department's use of force.

Accepted.

- (b) Accept the Mayor's recommendation that the City Manager convene a working group including the Independent Police Auditor and the City Auditor to review the San José Police Department's use of force in 2009 and report back to the City Council through the Public Safety, Finance and Strategic Support Committee within 90 days.

Accepted, as amended, add: “and consider including the Independent Police Auditor and the City Auditor...”

- (c) Direct the City Manager to meet with the San José Police Officers Association regarding the formation of the working group. Refer for City Council consideration the inclusion of a member of the public on the working group in view of confidentiality issues.

(City Manager's Office/Police)

[Public Safety, Finance and Strategic Support Committee referral 11/19/09 – Items D(4)]

Approved.

The City Manager directed to reach out to key stakeholders in the community to elicit input prior to presenting the recommendations to the full Council.

3.8 Investment Policy.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on November 19, 2009:

- (a) Accept the FY 2009-10 First Quarter Investment Report.

Accepted.

- (b) Adopt a resolution approving revisions to the City's Investment Policy to update job titles of the City's Investment Officials and to include foreclosure mitigation as one of several criteria used when evaluation an institution's short term investment instruments.

(Finance)

[Public Safety, Finance and Strategic Support Committee referral 11/19/09 – Items D(6)(a)(b)]

Resolution No. 75198 adopted.

3. STRATEGIC SUPPORT SERVICES

3.9 Review of Relevant 2010 Legislative Guiding Principles.

Recommendation: As recommended by the Community and Economic Development Committee on November 30, 2009, review and discuss the Draft 2010 Relevant Legislative Guiding Principles with focus on community and economic development. (City Manager's Office)

Community and Economic Development Committee referral 11/30/09 – Item D(10)

Item 3.9 was renumbered to Item 2.14.

3.10 Acceptance of the Comprehensive Annual Financial Report.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on November 19, 2009, acceptance of the Comprehensive Annual Financial Report. (Finance)

[Public Safety, Finance and Strategic Support Committee referral 11/19/09 – Item D(5)(a)]

Accepted, Staff will issue an information memorandum clarifying the ending fund balance.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee Council Member Pyle, Chair

No Report.

4.2 Historic Landmark Nomination and Mills Act Historical Property Contracts.

Recommendation: As recommended by the Historic Landmarks Commission, consider the following Historic Landmark Nominations and Mills Act Historical Property Contracts:

- (a) Historic Landmark Nomination and Mills Act Historical Property Contract for the Purdy House located at 438 N. Second Street (City Landmark No. HL08-189 and California Mills Act No. MA09-010). SNI: 13th Street. Council District 3.
 - (1) Conduct a public hearing and adopt a resolution designating the Purdy House, as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
 - (2) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Purdy House (William and Jordan Saenz Baker, Property Owners) and adopt a resolution approving the contract.

The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the 438 N. Second Street as Historic Landmark No. 189 and approving associated Historical Property Contract File No. MA09-010 with the condition that “installing new fencing” not be included as an item in the Preservation Plan. CEQA: Exempt. (PBCE)

Resolution No. 75199 adopted.

Resolution No. 75200 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Historic Landmark Nomination and Mills Act Historical Property Contracts (Cont'd.)

- (b) Historic Landmark Nomination and Mills Act Historical Property Contract for the Latta House located at 445 N. Third Street (City Landmark No. HL08-183 and California Mills Act No. MA09-002). SNI: 13th Street. Council District 3.
- (1) Conduct a public hearing and adopt a resolution designating the Latta House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
 - (2) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Latta House (Courtney and Jonathan Carr, Property Owners) and adopt a resolution approving the contract.

The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Latta House as Historic Landmark No. 183 and approving associated Historical Property Contract File **Resolution No. 75201 adopted.**
Resolution No. 75202 adopted.

- (c) Historic Landmark Nomination and Mills Act Historical Property Contract for the Frank and Nellie Wolfe House #9 located at 643 S. Sixth Street (City Landmark No. HL09-182 and California Mills Act No. MA09-001). SNI: University. Council District 3.
- (1) Conduct a public hearing and adopt a resolution designating the Frank and Nellie Wolfe House #9 as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
 - (2) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Frank and Nellie Wolfe House #9 (Jason Rowan and Batsirai Mutasa, Property Owners) and adopt a resolution approving the contract.

The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Frank and Nellie Wolfe House #9 as Historic Landmark No. 182 and approving associated Historical Property Contract File No. MA09-001. CEQA: Exempt. (PBCE)
Resolution No. 75203 adopted.
Resolution No. 75204 adopted.

- (d) Historic Landmark Nomination and Mills Act Historical Property Contract for the Former Second Presbyterian Manse located at 655 S. Sixth Street (City Landmark No. HL09-187 and California Mills Act No. MA09-008). SNI: University. Council District 3.
- (1) Conduct a public hearing and adopt a resolution designating the Former Second Presbyterian Manse, as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Historic Landmark Nomination and Mills Act Historical Property Contracts (Cont'd.)

- (d) (2) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Former Second Presbyterian Manse (David Dudek, Property Owner) and adopt a resolution approving the contract.

The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Former Second Presbyterian Manse as Historic Landmark No. 187 and approving associated Historical Property Contract File No. MA09-008 with the condition that the Preservation Plan only include improvements to the main house. CEQA: Exempt. (PBCE)

Resolution No. 75205 adopted.

Resolution No. 75206 adopted.

- (e) Historic Landmark Nomination and Mills Act Historical Property Contract for the Petree House located at 102 S. Twelfth Street (City Landmark No. HL09-185 and California Mills Act No. MA09-005). SNI: University. Council District 3.

(1) Conduct a public hearing and adopt a resolution designating the Petree House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.

(2) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Petree House (Seamus and Jennifer Turner, Property Owners) and adopt a resolution approving the contract.

The Historic Landmarks Commission (HLC) recommends (4-0-1-1; Cohen absent, Colombe abstaining) that the City Council adopt resolutions designating the Petree House as a Historic Landmark No. 185 and approving associated Historical Property Contract File No. MA09-005. CEQA: Exempt. (PBCE)

Resolution No. 75207 adopted.

Resolution No. 75208 adopted.

- (f) Historic Landmark Nomination and Mills Act Historical Property Contract for the Cox House located at 198 S. Twelfth Street (City Landmark No. HL09-188 and California Mills Act No. MA09-009). SNI: University. Council District 3.

(1) Conduct a public hearing and adopt a resolution designating the Cox House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.

(2) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Cox House (Gary Rucker and Michael Howerton, Property Owners) and adopt a resolution approving the contract.

The Historic Landmarks Commission (HLC) recommends (4-0-1-1; Cohen absent, Colombe abstaining) that the City Council adopt resolutions designating the Cox House as a Historic Landmark No. 188 and approving associated Historical Property Contract File No. MA09-009. CEQA: Exempt. (PBCE)

Resolution No. 75209 adopted.

Resolution No. 75210 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Historic Landmark Nomination and Mills Act Historical Property Contracts (Cont'd.)

(g) Historic Landmark Nomination and Mills Act Historical Property Contract for the Riggs House located at 577 S. Twelfth Street (City Landmark No. HL09-186 and California Mills Act No. MA09-006). SNI: University. Council District 3.

(1) Conduct a public hearing and adopt a resolution designating the Riggs House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.

(2) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Riggs House (Suzanne Rice and Neil McCarthy, Property Owners) and adopt a resolution approving the contract.

The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Riggs House as a Historic Landmark No. 186 and approving associated Historical Property Contract File No. MA09-006. CEQA: Exempt. (PBCE)

Resolution No. 75211 adopted.

Resolution No. 75212 adopted.

(h) Historic Landmark Nomination and Mills Act Historical Property Contract for the Field-Gross House located at 167 S. Fourteenth Street (City Landmark No. HL09-184 and California Mills Act No. MA09-003). SNI: University. Council District 3.

(1) Conduct a public hearing and adopt a resolution designating the Field-Gross House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.

(2) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Field-Gross House (Bernadette Drechsler, Property Owner) and adopt a resolution approving the contract.

The Historic Landmarks Commission (HLC) recommends (4-0-1-1; Cohen absent, Colombe abstaining) that the City Council adopt resolutions designating the Field-Gross House as a Historic Landmark No. 184 and approving associated Historical Property Contract File No. MA09-003. CEQA: Exempt. (PBCE)

[Continued from 12/1/09 – Item 4.5(a)-(h)]

Resolution No. 75213 adopted.

Resolution No. 75214 adopted.

4.3 Mills Act Historical Property Contract for the Stern/Fischer Residence.

Recommendation: Conduct a public hearing on the Historical Property Contract (California Mills Act No. MA09-004) between the City of San José and the owners of the Stern/Fischer Residence, located at 132 Pierce Avenue, (City Landmark No. HL01-123) (James F. Cox, Property Owner) and adopt a resolution approving the contract. The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt a resolution approving Historical Property Contract File No. MA09-004. SNI: University. CEQA: Exempt. Council District 3. (PBCE)

[Continued from 12/1/09 – Item 4.6(b)]

Resolution No. 75215 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Brookwood Terrace Family Apartments.

Recommendation: Adopt a resolution supplementing the authority previously granted to issue not to exceed \$13,600,000 of City of San José Multifamily Housing Revenue Bonds (Brookwood Terrace Family Apartments), Series 2009B (the "Bonds") to allow such issuance in two series, with (i) the Series B-1 Bonds (the "Series B-1 Bonds") issued as fixed rate bonds directly placed with the U.S. Treasury Department (the "Treasury") and (ii) the Series B-2 Bonds (the "Series B-2 Bonds") issued either as publicly offered variable rate demand bonds credit enhanced by a letter of credit from JP Morgan Chase (the "Bank") or as variable rate bonds directly placed with the Bank; and authorizing the Assistant Director Finance to negotiate and approve changes to the Bond Documents previously approved by the City Council and to negotiate and approve other documents necessary to enable the issuance of the Bonds in two series. CEQA: Mitigated Negative Declaration, File No. PDC08-038. Council District 3. SNI: Five Wounds/Brookwood Terrace. (City Attorney's Office)

Deferred to 12/15/09.

4.5 Designating San José as a Recovery Zone under the American Recovery and Reinvestment Act.

Recommendation: Adopt a resolution:

- (a) Finding and determining that significant poverty, unemployment, rate of home foreclosures and general distress exist throughout the City of San José as a consequence of the recent housing market collapse, the impact of the national recession and the fiscal crisis experienced by the State of California and local communities.
- (b) Designating the entire geographic region of the City of San José as an Economic Recovery Zone in order to make the City eligible to issue Recovery Zone Economic Development Bonds (RZEDB) and Recovery Zone Facility Bonds (RZFB).
- (c) Authorizing the City Manager or her designee to take such other actions, including negotiating and executing agreements, as may be necessary to ensure that the City of San José is designated a Recovery Zone in the event the California Debt Limit Allocation Committee reallocates RZFB and RZEDB funding activity.

CEQA: Not a Project. (Economic Development)

Resolution No. 75216 adopted, Staff to provide the Council with "talking points" to help inform the public.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.6 Proposed Earthquakes Practice Field.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a Ground Lease between the City and the Earthquakes LLC for the development of a 2.6 acre soccer practice field as an interim use on the 74.8 acre City-owned Airport West Property located at 1125 Coleman Avenue. CEQA: Resolution No. 71716. Council District 3. (Economic Development)

Resolution No. 75217 adopted, with Staff directed to issue an information memorandum after the ground lease is executed.

4.7 Report on RFP for Multi-Family Loan Portfolio Management System.

Recommendation:

- (a) Accept report on Request for Proposal for the purchase of a Multi-Family Loan Portfolio Management System and adoption of a resolution authorizing the Director of Finance to:
 - (1) Execute an agreement with MK Partners, Inc. for the implementation of the Multi-Family Loan Portfolio Management System in an amount not to exceed \$246,700 including all professional and technical support services required to implement the system as well as hosting services that will be provided by Salesforce.com Inc. under a separate subscription agreement.
 - (2) Execute change orders not to exceed a contingency amount of \$40,000 to cover any unanticipated changes in the system design and implementation.
 - (3) Execute ten one-year options to renew the agreements for continued technical support and hosting services subject to annual appropriation of funding.
- (b) Adopt the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Fund (Fund 443) for 2009-2010:
 - (1) Decrease the Ending Fund Balance by \$286,700.
 - (2) Increase the Housing Department's Non-Personal/Equipment Appropriation in the amount of \$286,700.

CEQA: Not a Project. (Finance/City Manager's Office)
(Deferred from 11/3/09 – Item 2.5, et al, and 12/1/09 – Item 4.4)
Deferred to 12/15/09 per Administration.

5. NEIGHBORHOOD SERVICES

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

5. NEIGHBORHOOD SERVICES

5.2 Greenprint Update.

Recommendation: As referred by the Neighborhood Services and Education Committee on November 12, 2009:

- (a) Adopt the Final Greenprint 2009 Update with the changes indicated in the Final Errata Sheet.

The Final Greenprint 2009 Update was approved, as amended:

- (1) **The memorandum from Council Member Liccardo, dated December 4, 2009, was approved, with the following:**
- (a) **On Page 108, add to either the Neighborhood Community Parks or the Regional Parks list: “the east side of the Guadalupe River Bank from Interstate 280 to Willow Street, for public open space”, with language elsewhere in the Greenprint (crafted in consultation with the City Attorney) indicating that the City will work in collaboration with the Santa Clara Valley Water District to effectuate this goal.**
- (b) **On Page 109, add to the Trails list: Union Pacific Railroad from Highway 101 to the Guadalupe River Trail, with legally sufficient language (crafted in consultation with the City Attorney) elsewhere in the Greenprint document to indicate that such trail would only be built upon relinquishment of that rail line and/or upon the City’s purchase of it.**
- (2) **Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 25, 2009, recommending additional changes to the draft Greenprint 2009 Update based upon feedback received from the Parks and Recreation Commission on October 7, 2009 and the Neighborhood Services and Education Committee meeting on November 12, 2009, was approved.**
- (3) **Direct the Parks, Recreation and Neighborhood Services Staff to work with the City Attorney’s Office on appropriate language to add the development of 12 to 14 acres of land at the Arcadia property for new public park use as a priority one project for the Evergreen Action Plan (District 8).**
- (b) Authorize the City Manager to make any grammatical changes, minor edits, corrections and other changes which do not impact the major policies and substance of the document during the final editing and production process.

Approved.

- (c) Adopt a resolution repealing City Council Policy 1-6 “Park and Recreation Priority for Expenditure of Funds Collected from the Construction Tax and Property Conveyance Tax” and City Council Policy 6-8 “City Improvement of School Sites for Public Recreation.”

CEQA: EIR Resolution No. 65459 and addendum thereto, File No. PP08-284. (PRNS)
[Neighborhood Services and Education Committee referral 11/12/09 – Item D(4)]

Resolution No. 75218 adopted.

5. NEIGHBORHOOD SERVICES

5.3 Deferment of Parkland In-Lieu Fees.

Recommendation: As referred by the Rules and Open Government Committee on October 28, 2009, consider adoption of a resolution amending the Schedule of Parkland In-Lieu Fees and Credits (Resolution No. 73587) charged pursuant to the Park Impact and Parkland Dedication Ordinance (Chapters 14.25 and 19.38 of the San José Municipal Code) to retroactively defer payment of parkland in-lieu fees and interest and penalty until the earlier of January 15, 2011, or the date of issuance of the first building permit for residential projects with approved parcel or final maps and for which building permits have not been issued. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services) [Rules Committee referral 10/28/09 – Item H(2)]

Resolution No. 75219 adopted.

6. TRANSPORTATION & AVIATION SERVICES

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

No Report.

6.2 Ordinance ceasing processing of new applications for taxicab driver permits.

Recommendation: Approve an ordinance amending Chapter 6.64 of the San José Municipal Code to authorize the Chief of Police to cease the processing of any new applications for taxicab driver permits when certain economic indicators demonstrate a decline in the demand for taxicab services, with such authorization sunseting within three (3) years of taking effect unless extended by the City Council; clarify the authorization of the Chief of Police to allow the transfer of permitted taxicab drivers between licensed taxicab companies; and, clarify provisions of Chapter 6.64 to ensure consistency throughout the Code.

[Transportation and Environment Committee referral – 11/2/09 – Item D(6) and Rules Committee referral 11/18/09 – Item H(7)]

Ordinance No. 28682 passed for publication, as amended.

Approved, as modified, by directing the City Attorney to add language in the ordinance specifying a 10 business day turnaround time (from receipt to approval).

Additional direction provided to Staff as follows:

- (1) **The memorandum from Mayor Reed and Council Member Liccardo, dated December 4, 2009, was approved, with the following additions:**
 - (a) **Affirm the flexibility of Airport Staff to enable a taxicab company to retain its existing allocation of airport permits during the period in which the City is not issuing driver permits under this policy.**
 - (b) **Staff directed to return to Council during the fee-setting process in June 2010, or sooner, with an amendment to the fee schedule to substantially increase the fine for operating a taxicab without a valid certificate, license and/or permit (i.e. “bandit cabs”).**

6. TRANSPORTATION & AVIATION SERVICES

6.2 Ordinance ceasing processing of new applications for taxicab driver permits. (Action Cont'd.)

- (1)
 - (c) Staff directed to provide a phone number and email address to drivers and companies to report “bandit cabs”.
 - (d) Staff directed to return to the Transportation and Environment Committee in eighteen months to assess whether the policy should remain in effect, be modified or terminated.
- (2) The memorandum from Council Member Kalra, dated December 8, 2009, recommending approval of the memorandum from Mayor Reed and Council Member Liccardo and the following:
 - (a) Direct the Department of Transportation Staff to compile a report of the current system of allocation of taxi cab company airport permits and return to the Transportation and Environment Committee and subsequently to the full Council within 90 days. This report need not cover the criteria which allow companies to qualify for airport permits, only the allocation process.

Noes: Chu.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Notice of City Engineer’s Pending Decision on Final Maps
None.

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

In accordance with Council Resolution No. 73532, the construction Contract Process Streamlining Policy approved on December 5, 2006, the following is a list of projects that were awarded or rejected by the Director of Public Works in August, September, October and November 2009:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Penitencia Creek Park Reach 6 Interim Improvements	4	Wattis Construction, Inc.	\$116,310	8/13/09
Public Works General Engineering Contract 2009-2011	Citywide	Fermin Sierra Construction, Inc.	\$1,000,000	8/25/09
South De Anza Boulevard Sanitary Sewer	1	Stoloski & Gonzalez Inc.	\$182,681	8/28/09
24 th Street Streetscape Improvements (Re-Bid)	3	San José Signal Electric, Inc.	\$282,750	9/1/09
Fire Station #36 Median Island and Bicycle Trail Head Improvements	8	Suarez & Munoz Construction, Inc.	\$108,915	9/2/09
Albany-Kiely Storm Drain Improvement Phase V-VI	1	Rodan Builders, Inc.	\$855,053.80	9/8/09
Environmental Services Building Tenant Improvements	Citywide	Zolman Construction & Development Inc.	\$170,000	9/11/09
Aborn Park Play Lots	8	Maxicrete, Inc.	\$381,000	9/21/09
SNI ST01: Seven Trees Boulevard Sidewalk Improvement t	7	Ameca General Engineering	\$247,214	10/1/09
NYM SJIA Electrical Trades Contract 09-10	Citywide	BBJ Electric, Inc.	\$150,000	10/21/09
Sanitary Sewer Condition Assessment – CCTV Inspection 2009-2010	Citywide	National Plant Services, Inc.	\$447,000	11/16/09

- **Open Forum**

None were presented.

- **Adjournment**

The Council of the City of San José was adjourned at 6:06 p.m.



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

1:30 P.M.

TUESDAY, DECEMBER 8, 2009

CHAMBERS

**1. Call to Order
6:09 p.m.**

2. Actions Related to the Authority's \$116 Million Commercial Paper Program.

Recommendation:

(a) Adopt a resolution of the City Council to:

- (1) Approve and authorize the execution of an amendment to the Letter of Credit and Reimbursement Agreement related to the City of San José Financing Authority's Lease Revenue Commercial Paper Notes Program in order to allow for a three-year extension of the existing credit facility, from January 26, 2010 to January 27, 2013, and authorize other related actions.

Resolution No. 75220 adopted.

Disqualified: Pyle.

(b) Adopt a resolution of the City of San José Financing Authority Board to:

- (2) Approve and authorize the execution of an amendment to the Letter of Credit and Reimbursement Agreement and other related actions in connection with the City of San José Financing Authority's Lease Revenue Commercial Paper Notes Program in order to allow for a three-year extension of the existing credit facility, from January 26, 2010 to January 27, 2013.

CEQA: Not a Project. (Finance)

SJFA Resolution No. 94 adopted.

Disqualified: Pyle.

**3. Adjourn the San José Financing Authority.
6:10 p.m.**

8. JOINT REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 6:07 p.m. to consider Item 8.3 in a Joint Session.

8.1 City Council/Redevelopment Agency Board approval of the Mayor's Redevelopment Budget Message.

Recommendation: City Council and Redevelopment Agency Board consideration and approval of the Mayor's Redevelopment Agency Budget Message. (Mayor)

Deferred to 12/15/09.

8.2 Approval of the Agency's FY 2009-2010 Revised Capital and Operating Budgets and the FY 2010-2015 CIP.

Recommendations: Redevelopment Agency Board approval of:

- (a) The Redevelopment Agency's Revised FY 2009-2010 Revenue, Capital and Operating Budgets
- (b) The Redevelopment Agency's Capital Improvement Program (CIP) for FY 2010-2015.

Deferred to 12/15/09.

8.3 Approval of amendments to Cooperation Agreements for the loan of Agency employees to the City.

Recommendation: City Council and Redevelopment Agency Board approval of:

- (a) The third amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San Jose, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Senior Policy Advisor, Economic Development and Land Use by one year; and,
- (b) The third amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San Jose, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Schedule Coordinator by one year.

CEQA: Not a Project.

Approved.

The Council of the City of San José and Redevelopment Agency Board was adjourned at 6:08 p.m.