

CITY COUNCIL AGENDA

MARCH 9, 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**
9:00 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 3)**
Monsignor Pat Brown of St. Joseph's Cathedral provided the Invocation.
- **Pledge of Allegiance**
Mayor Reed, accompanied by 3rd Grade Students from Payne Elementary (District 1) led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 2.3(b) deferred to 3/16/10.
- **Closed Session Report**
None.

1. CEREMONIAL ITEMS

None.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of January 12, 2010.
- (b) Joint City Council/Financing Authority Minutes of January 12, 2010.
- (c) Regular Minutes of January 26, 2010.

Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28724 – Rezoning certain real property situated at the west side of North Sixth Street, approximately 800 feet southerly of East Taylor Street, from LI-Light Industrial to A(PD) Planned Development Zoning District. PDC08-010
Ordinance No. 28724 adopted.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of February 17, 2010. (Mayor)
- (c) Neighborhood Services and Education Committee Report of February 11, 2010. (Campos)
[Deferred from 2/23/10 – Item 2.3(e) and 3/2/10 – Item 2.3(d)]

Approved.

- (b) Community and Economic Development Committee Report of February 22, 2010. (Pyle)
SEE ITEMS 4.1, 4.2, AND 9.2 FOR COUNCIL ACTION TO BE TAKEN
Deferred to 3/16/10 per Orders of the Day.

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for excused absences for Councilmember Pyle from the Regular Meeting of the Rules and Open Government Committee on March 3, 2010 due to illness. (Pyle)
(Rules Committee referral 3/3/10)

Excused.

2.5 City Council Travel Reports.

Mayor Reed provided a verbal report of his Legislative Advocacy trips to Washington D.C. and Los Angeles March 3-5, 2010.

2. CONSENT CALENDAR

2.6 Funding for the Continued Operation of the Two One-Stop Homelessness Prevention Centers.

Recommendation: Adopt a resolution:

- (a) Approving a grant of up to \$100,000 to EHC Lifebuilders for staffing, client assistance, and other administrative and overhead costs at the One-Stop Homeless Prevention and Service Center located at the Boccardo Reception Center, 2011 Little Orchard Street, San José.
- (b) Approving a grant of up to \$191,000 to InnVision the Way Home for staffing and operating costs at the One-Stop Homeless Prevention and Service Center located at the Georgia Travis Center, 297 Commercial Street, San José.
- (c) Authorizing the Director of Housing to negotiate and execute all necessary documents.

CEQA: Not a Project. (Housing)

Resolution No. 75298 adopted.

2.7 Partnership with Rotary Club for Children's Garden in Guadalupe River Park & Gardens.

Recommendation: Adopt a resolution:

- (a) Supporting a partnership with the Rotary Club of San José to develop a children's garden in Guadalupe River Park & Gardens; and
- (b) Authorizing the Director of Parks, Recreation and Neighborhood Services to negotiate an agreement with the Rotary Club of San José for review and approval by Council outlining the roles and responsibilities of the parties for the development of the children's garden.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15262. (Parks, Recreation and Neighborhood Services)

Resolution No. 75299 adopted.

2.8 Amendment to Hitachi Park Maintenance Agreement.

Recommendation: Approve the Second Amendment to the Park Maintenance Agreement between the City and Hitachi Global Storage Technologies, Inc. to extend the term of the maintenance agreement from March 31, 2010 to June 30, 2011 for the RAMAC, Raleigh Linear Green, and Charlotte Commons parks. CEQA: EIR Resolution No. 72772. Council District 2. (Parks, Recreation and Neighborhood Services)

Deferred to 3/23/10 per Administration

2. CONSENT CALENDAR

2.9 VTA Governance Structure Changes.

Recommendation: Adopt a resolution to amend the Joint Powers Agreement for the Administration of the Santa Clara County Congestion Management Program changing the governance structure related to small city groupings, with no impact to the City.

CEQA: Not a Project. (Transportation)

Resolution No. 75300 adopted.

2.10 Administration of American Recovery and Reinvestment Act Funds from the California Energy Commission's State Energy Program.

Recommendation: Adopt resolutions authorizing the Administration of American Recovery and Reinvestment Act funds from the California Energy Commission's State Energy Program as follows:

- (a) State Energy Program Area 1 Property Assessed Clean Energy Financing: Authorize Sacramento County to accept a grant award on the City's behalf from the California Energy Commission's State Energy Program for the implementation of the California Statewide Communities Development Authority CaliforniaFIRST program and to enter into all necessary contracts and agreements, and amendments thereto, on its behalf to implement and carry out the CaliforniaFIRST program.

Resolution No. 75301 adopted.

- (b) State Energy Program Area 2 Residential Energy Efficiency Retrofits: Authorize the Association of Bay Area Governments to accept a grant award on behalf of the City related to the Retrofit Bay Area Program, a comprehensive residential energy efficiency outreach, retrofit, and job creation program and to recognize the County of Santa Clara as the lead local implementer for Santa Clara County local governments as the recipient of funds to implement and carry out the Retrofit Bay Area Program in Santa Clara County.

CEQA: SEP Area 1: Exempt per County of Sacramento Control Number 2009-PWE-70128; and SEP Area 2: Exempt, File No. PP10-038. (Environmental Services)

Resolution No. 75302 adopted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report) None.

3. STRATEGIC SUPPORT SERVICES

3.2 FY 2009-10 First Quarter Revenue Collection Strategic Plan Report.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on December 17, 2009:

(a) Accept the FY 2009-10 First Quarter Revenue Collection Strategic Plan Report;
Accepted.

(b) Adopt a resolution authorizing the Director of Finance to write off 126 uncollectible accounts in an amount totaling \$1,702,757.42. (Finance)
[Public Safety, Finance and Strategic Support Committee referral 12/17/09 – Item D(3)]
(Deferred from 1/12/10 – Item 3.7, et al., and 2/23/10 – Item 3.2)

Resolution No. 75303 adopted.

Absent: Oliverio

3.3 Resolution Submitting to the Electors on June 8, 2010 a Proposed Ballot Measure Amending Various Sections of the City's Charter.

Recommendation: Adopt a Resolution calling and giving notice of, on its own motion, a Special Municipal Election to be held on June 8, 2010, to submit to the electors of the City of San José a proposed ballot measure to revise various sections of the City's Charter as follows: (1) amending Section 403 to change when the Redistricting Advisory Commission submits its report; (2) amending Section 600 to permit members of the City Council to abstain from voting if there is an appearance of a conflict; (3) adding a new section to Article VIII to grant the City Clerk the power of appointment; (4) adding a new section to Article IX to permit a Council Appointee to be placed on administrative leave; and (5) amending Section 1600 to permit appointment to Council when only one candidate is nominated to office. CEQA: Not a Project. (City Attorney/City Clerk)

Dropped per City Clerk

3.4 Resolution Submitting to the Electors on June 8, 2010 a Proposed Ballot Measure regarding the City's Cardrooms.

Recommendation:

(a) Council discussion and consideration of the proposed alternatives for a cardroom ballot measure.

Council approved Alternative #1 as outlined in the March 5, 2010 Council Memorandum, as amended (strike from the proposed Ordinance E.6 in its entirety: “The players of the proposed Permissible Game or under the rule modification is available to all Cardroom Permittees”).

(Item Continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.4 (Cont'd.)

- (b) If the City Council approves a cardroom ballot measure, adopt a resolution calling and giving notice of, on its own motion, a Special Municipal Election to be held on June 8, 2010, to submit to the electors of the City of San José a proposed ballot measure to increase the Cardroom Tax, to expand the number of cardroom tables and to make other modifications to the City's Municipal Code regarding permissible card games and betting limits.

Resolution No. 75304 adopted, as amended (to save tax dollars, rebuttal arguments shall not be allowed, and the full text of the draft ordinance will not be printed in the Voters' Sample Ballots).

Noes: Campos, Chirco, Kalra, Liccardo, Nguyen.

- (c) If the City Council approves a cardroom ballot measure, staff recommends approval of the proposed regulatory requirements as discussed in the staff report and incorporated in the draft resolutions.

CEQA: Resolution No. 65459. (City Manager/City Attorney)

See (a) for Action.

3.5 Ethics Update.

Recommendation: Accept staff's presentation to the City Council on ethical issues related to a recent California Supreme Court decision on Government Code Section 1090. (City Attorney's Office)

Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report out Regarding the City's Policy Exempting Affordable Housing from Payment of Parkland Dedication/Park Impact Fees.

Recommendation: As recommended by the Community and Economic Development Committee on February 22, 2010, consider the following:

- (a) Direct the City Attorney to draft an ordinance amending the Park Impact Ordinance (SJMC 14.25) and Park Dedication Ordinance (19.38) to eliminate the exemption for low-income units; and
- (b) Direct staff to come back to Council to amend the Schedule of Parkland Fees to establish parkland fees for low-income units at 50% of the applicable fees for each residential unit type. (Housing/Parks, Recreation and Neighborhood Svcs.)

[Community and Economic Development Committee referral 2/22/10 – Item D(3)]

Accepted, with Staff directed to define and address in the ordinance "pipeline" projects.

Noes: Oliverio.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Santa Clara Valley Habitat Conservation Plan.

Recommendation: As recommended by the Community and Economic Development Committee on February 22, 2010, accept the status report and staff recommendations regarding the removal of fish from the covered species list, pursuit of alternatives to the Zone D Fee, preference for a Joint Powers Authority as the implementation governing body, and other elements of the Draft Santa Clara Valley Habitat Plan. (Planning, Building and Code Enforcement)

[Community and Economic Development Committee referral 2/22/10 – Item D(6)]

Accepted.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 2010 – 2011 Clean Tech Legislative Agenda.

Recommendation: As recommended by the Rules and Open Government Committee on February 17, 2010, approve the 2010-2011 Clean Tech Legislative Agenda. (Mayor)

[Rules Committee referral 2/17/10 – Item A(2)(a)]

(To be Deferred from 3/2/10 – Item 2.7)

Approved.

7.2 2009 Green Vision Annual Report and Approve the Proposed 2010 Work Plan.

Recommendation: Accept the 2009 Green Vision Annual Report and approve the proposed 2010 Work Plan. CEQA: Not a Project. (City Manager's Office)

(To be Deferred from 3/2/10 – Item 7.1)

Accepted.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Staff Response to Council Referral of February 8, 2010 regarding Economic Development Incentives.

Recommendation:

- (a) Accept the staff report regarding Business Attraction/Retention and Development Initiatives.
- (b) Discussion and direction to the City Manager regarding the suspension of business taxes for certain small businesses.
- (c) Discussion and direction to the City Manager regarding staff recommendation for a Downtown parking incentive to allow free or discounted parking; and
- (d) Direct the City Manager to include a discussion of an appropriate City investment strategy in development incentives in the context of the overall City budget, including alternative amounts to be invested, potential return on investment and priority areas for investment, in the Community and Economic Development City Service Area presentation during the City Budget Study Sessions in May.

CEQA: Not a Project. (Economic Development)

(Deferred from 2/23/10 – Item 9.3)

Deferred to 3/16/10 per Administration

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 Monument Policy.

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

- (a) Adopt a City Council resolution approving a Council Policy to establish criteria and guidelines for the consideration and installation of monuments on City property. The policy will give guidance for installation of monuments on parks, plazas and certain other types of City property.
- (b) Adopt a Redevelopment Agency Board resolution requiring the Agency to conform to the City's Monument Policy, as adopted and modified from time to time.

(City Manager's Office/Redevelopment Agency)

[Community and Economic Development Committee referral 2/22/10 – Item D(5)]

Deferred to 3/23/10 per Administration

- **Open Forum**

- (1) **The following individuals expressed strong opposition to PG&E's plan to remove 140 trees from the TJ Martin and Fontana Parks in South San José: Pier Maggiani, Vince Pazelli, Russ Petruzzelli, Keyvan Eliasieh, Rosemary Bowring, Bob Heldt and Theresa Wellman. Mayor Reed requested that Staff follow-up on the permissibility of PG&E's actions.**
- (2) **Andrew Abraham Diaz voiced objections to being disqualified as a candidate for District 7 because he failed to get the requested number of signatures on his nomination petition.**
- (3) **Xochitl Pasaye extended an invitation to "Inauguración de Recaudación de Fondos Cena Baile de Gala" presented by the Climate Project, to be held March 19, 2010.**
- (4) **Geoffrey Mangers requested that the City of San José join him as a plaintiff in litigation he is pursuing against the County of Santa Clara.**

- **Adjournment**

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