CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

CITY COUNCIL AGENDA

OCTOBER 26, 2010

SYNOPSIS

PETE CONSTANT	DISTRICT 1		PIERLUIGI OLIVERIO	DISTRICT 6
ASH KALRA	DISTRICT 2		MADISON P. NGUYEN	DISTRICT 7
SAM LICCARDO	DISTRICT 3	CHUCK REED MAYOR	ROSE HERRERA	DISTRICT 8
KANSEN CHU	DISTRICT 4		JUDY CHIRCO, VICE MAYOR	DISTRICT 9
NORA CAMPOS	DISTRICT 5		NANCY PYLE	DISTRICT 10

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Office of the City Clerk

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

  9:30 a.m. - Closed Session, Call to Order in Council Chambers
  Absent Council Member: None.

  1:29 p.m. - Regular Session, Council Chambers, City Hall
  Absent Council Member: None.

  7:02 p.m. - Public Hearings, Council Chambers, City Hall
  Absent Council Member: None.

- Invocation (District 9)

  Ida Price Middle School Saxophone Quartet presented the Invocation. Catherine Lorigan, Band Director.

- Pledge of Allegiance

  Mayor Reed and the students from San José Christian Elementary led the Pledge of Allegiance.

- Orders of the Day

  The Orders of the Day and the Amended Agenda were approved, as amended, with Item 11.2 deferred to 12/07/10.

- Closed Session Report

  No Report.

1. CEREMONIAL ITEMS

1.1 Presentation of a commendation to Microsoft Corporation for its support of the Mineta San Jose International Airport's Art + Technology Program. (Economic Development)
Mayor Reed recognized and commended Microsoft Corporation.

1.2 Presentation of a commendation recognizing Lynbrook High School Student Cynthia Day for placing silver in the Ninth Annual China Girls Mathematical Olympiad. (Constant)
Heard in the Evening.
Mayor Reed and Council Member Constant recognized and commended Lynbrook High School student Cynthia Day.

1.3 Presentation of a commendation to El Observador, the South Bay's only bilingual newspaper, for 30 years of producing Spanish language publications and serving the Latino community in San José. (Mayor/Campos)
Mayor Reed and Council Member Campos recognized and commended El Observador for its 30 years of producing Spanish language publications.

1.4 Presentation of a commendation to the District 5 Neighborhood Action Coalition leaders for their years of dedication to the City of San José and District 5 community. (Campos)
(Rules Committee referral 10/20/10)
Mayor Reed and Council Member Campos recognized and commended the District 5 Neighborhood Action Coalition.

1.5 Presentation of commendations to business leaders for their commitment to preserving the vitality of the District 5 business community and for their unyielding support of the recreational and educational needs of the residents in the City of San José. (Campos)
(Rules Committee referral 10/20/10)
Mayor Reed and Council Member Campos recognized and commended business leaders for their commitment to preserving the vitality of the District 5 community.

1.6 Presentation of a commendation to the Dr. Martin Luther King, Jr. Association of Santa Clara Valley Board for their continued efforts to honor Dr. King's memory by furthering his legacy of non-violent social and political activism. (Chu)
(Rules Committee referral 10/20/10)
Heard in the Evening.
Mayor Reed and Council Members Chu and Pyle recognized and commended the Dr. Martin Luther King, Jr. Association of Santa Clara Valley Board.

2. CONSENT CALENDAR

2.1 Approval of Minutes.
There were none.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances.
There were none.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.
(a) Rules and Open Government Committee Report of October 6, 2010. (Mayor)
Deferred to 11/2/10 per City Clerk.

(b) Neighborhood Services and Education Committee Report of October 14, 2010. (Campos)
Approved.

2.4 Mayor and Council Excused Absence Requests.
There were none.

2.5 City Council Travel Reports.
There were none.

2.6 Agreements to Submeter Dwellings at Mobilehome Parks.

Recommendation:
(a) Approve an agreement with Moss Creek Mobile Home Community, L.P. to submeter dwellings at Moss Creek Mobile Home Park, and
(b) Approve an agreement with Brandenburg, Staedler and Moore-Woodbridge, L.P. to submeter dwellings at Woodbridge Mobile Home Park.
CEQA: Exempt, File No. PP10-161. (Environmental Services)
Approved.

2.7 Contract Change Order #3 for the Nisich Park Development Project.

Recommendation:
(a) Approve a Contract Change Order Number 3 in the amount of $320,865 for a total contract amount of $1,388,193 with Star Construction, Inc. for the Nisich Park Development Project and adoption of a resolution authorizing the Director of Public Works to execute the Contract Change Order No. 3.
Resolution No. 75609 adopted.

(b) Approve an increase in the contingency budget for the Nisich Park Development Project in the amount of $30,000 for a total contingency budget of $83,000.
(c) Approve an increase in the project delivery budget for the Nisich Park Development Project in the amount of $21,000 for a total project delivery budget of $506,000.
Approved.

(Item continued on the next page)

2. CONSENT CALENDAR

2.7 Contract Change Order #3 for the Nisich Park Development Project (Cont'd.)

(d) Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 7 (Fund 385):

(1) Decrease the appropriation to the Parks, Recreation and Neighborhood Services Department for the Nisich Park Development Project by $27,000; and

(2) Increase the Ending Fund Balance by $27,000.

Ordinance No. 28833 adopted.

(e) Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):

(1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Nisich Park Development Project by $171,000.

(2) Decrease the Reserve: Future PDO/PIO Projects by $171,000.

CEQA: Statement of Exemption, File No. PP06-164, dated November 2, 2006. Council District 7. SNI: Tully/Senter. (Public Works)

Ordinance No. 28834 adopted.

2.8 2010 National League of Cities Voting Delegate and Alternate at the Annual Business Meeting.

Recommendation: As recommended by the Rules and Open Government Committee on October 20, 2010, approve the proposed designation of Council Member Pete Constant as the voting delegate and Council Member Kansen Chu as the alternate voting delegate at the December 4, 2010 Annual Business Meeting for the National League of Cities (NLC). (City Manager's Office)

[Rules Committee referral 10/20/10 – Item H(3)]

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone presented highlights about the continued efforts for the recruitment of the new Police Chief.

3.2 Pension Sustainability Audit.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on October 21, 2010, accept the Pension Sustainability Audit. (City Auditor)

[Public Safety, Finance and Strategic Support Committee referral 10/22/10 – Item D(4)]

Accepted.

3. STRATEGIC SUPPORT SERVICES

3.3 Suspension of Supplemental Retiree Benefit Reserves Payments.

Recommendation: As recommended by the Rules and Open Government Committee on October 20, 2010, discuss and consider action to amend the San José Municipal Code to temporarily suspend bonus payments from the retirement plans' Supplemental Retiree Benefit Reserves (SRBR). (Mayor)
[Rules Committee referral 10/20/10 – Item H(2)]
Council temporarily suspended Supplemental Retiree Benefit Reserves payments and directed Staff to:
(1) Continue retirement reform discussions.
(2) Analyze a hardship provision.
(3) Analyze the current distribution formula.
(4) Analyze potential IRS implications.
Noes: Campos, Chu, Kalra, Pyle.

3.4 Actions Related to Airport Operations Staff Consolidation.

Recommendation:
(a) Adopt the following 2010-2011 Appropriation Ordinance amendments in the Airport Maintenance and Operation Fund (Fund 523):
(1) Decrease Personal Services by $225,000
(2) Decrease Non-Personal/Equipment by $25,000
(3) Increase the Operating Contingency by $250,000
Ordinance No. 28835 adopted.

(b) Authorization for the addition of three (3.0) FTE Senior Airport Operations Specialist positions to support a new Airport Operations Center.
(c) Authorization for the elimination of nine (9.0) FTE Communications Services Operator positions.
CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Airport/City Manager's Office)
(Deferred from 10/19/10 – Item 3.3)
Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Ordinance Amendments to Chapters 20.70 and 20.90 of Title 20.

Recommendation: Conduct a public hearing and consider an ordinance of the City of San José amending Chapters 20.70 and 20.90 of Title 20 of the San José Municipal Code to revise and add parking requirements for bicycles and clean air vehicles, and to make other related, technical and nonsubstantive conforming amendments to said Chapters 20.70 and 20.90 of Title 20. CEQA: Exempt, File No. PP10-168. The Planning Commission voted 6-0-1 (Commissioner Cahan absent) to recommend that the City Council approve the proposed ordinance per Planning Staff's recommendation with a modification to Table 20-210 to require one bicycle parking space for each multiple-family unit. (PBCE)
Citywide
The public hearing was held.
Ordinance No. 28836 passed for publication, as amended, to include: permanently anchored bicycle racks shall be installed to allow the frame and one or both wheels of the bicycle to be securely locked to the rack.

4.2 Ordinance Amendments to Title 9 – Construction and Demolition Diversion Deposit Program.

Recommendation: As recommended by the Transportation and Environment Committee on October 4, 2010, approve an ordinance amending Chapter 9.10 of Title 9 of the San José Municipal Code to allow for construction debris diversion in accordance with the provisions of California Green Building Standards Code. CEQA: Exempt, File No. PP10-168. (Planning, Building and Code Enforcement)

Ordinance No. 28837 passed for publication.

4.3 Ordinance Implementing 2010 California Building Standards.

Recommendation: As recommended by the Community and Economic Development Committee and Public Safety, Finance and Strategic Support Committee, accept Staff's report to:

(a) Approve an ordinance amending Title 24 of the San José Municipal Code to:
  (1) Adopt the 2010 editions of the California Building Code (CBC), California Residential Code (CRC), California Electrical Code (CEC), California Mechanical Code (CMC), California Plumbing Code (CPC), California Historical Building Code (CHBC), California Existing Building Code (CEBC), California Green Building Standards Code (CALGreen) and the 2009 edition of the International Existing Building Code Appendix Chapters A2, A3 and A4; and
  (2) Adopt local amendments regarding certain structural design requirements, fire sprinkler regulations, and other building requirements.

Ordinance No. 28838 passed for publication.

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Ordinance Implementing 2010 California Building Standards Cont'd.)

(b) Approve an Ordinance amending Chapter 17.12 of the San José Municipal Code to:

(1) Adopt the 2010 edition of the California Fire Code (CFC);

(2) Standards referenced in 2010 CFC;

(3) Adopt local amendments regarding fire sprinkler requirements, firefighter elevator requirement for high-rise buildings, firefighter access requirements on roofs with photovoltaic panels, and the requirements relating to the design and installation of fire protection and special systems and hazardous material systems.

CEQA: Exempt, File No. PP10-168.

Ordinance No. 28839 passed for publication.

4.4 Accept the Staff Report on Environmental Mitigation Monitoring or Reporting Program (MMRP).

Recommendation: As recommended by the Transportation and Environment Committee on October 4, 2010, accept the Staff Report on Environmental Mitigation Monitoring or Reporting Program (MMRP). CEQA: Not a Project, File No. PP10-069(a), Staff Reports and Assessments. (Planning, Building and Code Enforcement)

Accepted.

4.5 Revisions to the Public Entertainment Ordinance.

Recommendation:

(a) Approve an ordinance amending Chapter 6.60 of the San José Municipal Code to amend the definition of public entertainment to limit the application of the ordinance to venues with occupancy greater than 100, limit the discretion of the Chief of Police in approving applications for permits and licenses and in setting conditions on permits and licenses, more clearly outline the application process for permits and licenses, specify time lines by when an application for a permit or license must be acted upon, adjust requirements for security, extend the term of permits, create a renewal process for permits and licenses, provide for managers to move between public entertainment venues without being required to re-apply for a new license, and clarify various provisions to ensure consistency throughout the Code.

Ordinance No. 28840 passed for publication.

(b) Adopt a resolution to amend the 2010-2011 Schedule of Fees and Charges (Resolution No. 72737, as amended), to:

(1) Change the Public Entertainment Business Permit Fee from $1,145 per 2 years to $1,321 per 4 years;

(2) Add a Public Entertainment Business Permit Renewal Fee and establish the fee at $744 per 4 years;

(3) Change the Public Entertainment Ownership License Fee from $1,145 per 2 years to $674 per 4 years;

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Revisions to the Public Entertainment Ordinance (Cont'd.)

(b) (4) Add a Public Entertainment Ownership License Renewal Fee and establish the fee at $374 per 4 years;

(5) Change the Public Entertainment Management License Fee from $1,145 per 2 years to $674 per 2 years;

(6) Add a Public Entertainment Management License Renewal Fee and establish the fee at $374 per 2 years;

(7) Add a Public Entertainment Management License Change of Venue Fee for Managers only and establish the fee at $162 per venue change.

(8) Add a Public Entertainment Identification Card Fee and establish the fee at $48 per 2 years.

CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making. (OED/ City Manager's Office)

Resolution No. 75610 adopted.

5. NEIGHBORHOOD SERVICES

5.1 Grant Application for the Hetch-Hetchy Trail Ramp/Staircase Project.

Recommendation: Adopt a resolution that:

(a) Authorizes the City Manager, or designee, to submit a grant application in the amount of $1,500,000 to the Metropolitan Transportation Commission (MTC) under the Community Design and Transportation (CDT) Capital Grant program for the Hetch-Hetchy Trail Ramp/Staircase Project (Project);

(b) Certifies that the City will have available, prior to commencement of any work on the Project included in the application, the required local match of $645,000 and any additional sufficient funds to complete the Project;

(c) Certifies that the City has or will have sufficient funds to operate and maintain the Project;

(d) Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines for the Project; and

(e) Delegates the authority to the City Manager, or designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project.

CEQA: Mitigated Negative Declaration, File No. PP04-323. (Parks, Recreation and Neighborhood Services)

Resolution No. 75611 adopted.

5. NEIGHBORHOOD SERVICES

5.2 Joint Use Agreement with Alum Rock Union Elementary School District and Related Funding Actions.

Recommendation:

(a) Adopt a resolution that:

(1) Authorizes the City Manager to negotiate and execute a joint use agreement with Alum Rock Union Elementary School District ("District") for a 25 year term from project acceptance for the design, construction, operation, maintenance, joint use and funding of an artificial turf soccer field, a synthetic running track and support amenities ("Project") on William L. Sheppard Middle School property in an amount not to exceed $1,500,000.

(2) Authorizes the City Manager to execute an amendment to the Agreement, subject to the completion of CEQA review by the District, to include lights to illuminate the soccer field as a part of the Project and to increase the City's contribution to the Project by $500,000 for a total of $2,000,000.

(3) Authorizes the City Manager to terminate the Agreement on behalf of the City for any reason deemed prudent by the City Manager, including without limitation if the Project does not include lights to illuminate the soccer field.

Resolution No. 75612 adopted.

(b) Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund, Parks Purposes Council District 5 (Fund 382):

(1) Increase the Alum Rock School District Sports Field Partnership (Sheppard Middle School) project by $500,000.

(2) Decrease the Ending Fund Balance by $500,000.

CEQA: File No. PP10-175, Categorical Exemption, CEQA Guidelines Section 15314. Council District 5. SNI: Alum Rock. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 28841 adopted.

5.3 Neighborhoods Commission Pilot 2009-2010 Annual Report and Pilot Work Plan 2010-2011.

Recommendation: As recommended by the Neighborhood Services and Education Committee on September 21, 2010, accept the Neighborhoods Commission Pilot 2009-2010 Annual Report and approve the Neighborhoods Commission Pilot Work Plan 2010-2011. CEQA: Not a Project, File No. PP10-069(a), Staff Reports and Assessments. (City Manager's Office)

[Neighborhood Services and Education Committee referral 9/9/10 – Item D(6)]

Heard first in the Evening.

Accepted.

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Municipal Water System's Water Supply Assessment for Envision San José 2040 General Plan Update.

Recommendation: Approve the San José Municipal Water System's Water Supply Assessment for Envision San José 2040 General Plan Update. CEQA: Statutorily Exempt, File No. PP10-066 (d), Planning and Feasibility Studies; CEQA Guidelines Section 15262. (Environmental Services)

Approved.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Open Forum

  There were none presented.

- Adjournment

  The Council of the City of San José adjourned the afternoon session at 5:46 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar.

11.2 Rezoning real property located at/on the west side of N. Third Street.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the west side of N. Third Street, 340 feet south of Hensley Street (405 N Third Street) in the Hensley Historic District from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to six residential units within the existing structure(s) on a 0.17 gross acre site (Layne Sharon J, Owner; Bill Priest, Developer). SNI: 13th Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval of 4 units only (5-2-0, Do and Jensen opposed).
PDC08-033 – District 3
(Continued from 4/27/10 – Item 11.2, et al and 9/21/10 – Item 11.2)

Deferred to 12/07/10 per Orders of the Day.

11.3 Prezoning Real Property Generally Bounded by Central Park Way, Union Avenue and Camden Avenue.

Recommendation:

(a) Consideration of and vote on a Majority Protest to Prezoning C10-010 filed pursuant to Part 5 of Chapter 20.120 of the City's Zoning Code to protest a prezoning to the R-1-5 Single-Family Residence Zoning District as to approximately 94.5 acres and CN Commercial Neighborhood Zoning District as to approximately 8.5 acres for an approximately 103 gross acre County pocket.

Motion to override protest was approved. The protest was denied.

(b) Consider an ordinance prezoning the real property generally bounded by Central Park Way, Union Avenue, and Camden Avenue from County of Santa Clara to R-1-5 Single Family Residence Zoning District as to approximately 94.75 acres and CN Commercial Neighborhood Zoning District as to approximately 8.24 acres for an approximately 103 gross acre unincorporated County of Santa Clara pocket consisting of approximately 330 parcels (Owners: Multiple). CEQA: San José 2020 General Plan EIR, Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (5-0-1-1).
C10-010 – District 9

Ordinance No. 28842 passed for publication.

11. PUBLIC HEARINGS

11.4 Initiation of the Annexation/Reorganization of Cambrian No. 36.

Recommendation: Adopt a resolution initiating proceedings and setting December 7, 2010 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Cambrian No. 36 which involves the annexation to the City of San José of approximately 103 gross acres of land generally bounded by Central Park Drive to the north, State Highway 17 to the west, Camden Avenue to the south and Union Avenue to the east, and the detachment of the same from the appropriate special districts, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service and maintain the area within the Central Fire District with the Santa Clara County Fire Department providing first response as currently occurs. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan," and certified on August 16, 1994, by the City of San José City Council. Council District 9. (Planning, Building and Code Enforcement)
(Continued from 10/5/10 – Item 11.4)
Heard before Item 11.3.
Resolution No. 75614 adopted.
Noes: Campos, Constant, Kalra.

11.5 Administrative Hearing and consideration of an Appeal of the Planning Commission's decision to approve a Conditional Use Permit.

Recommendation: Conduct an Administrative Hearing and consider an Appeal of the Planning Commission's decision to approve a Conditional Use Permit to demolish existing gas station buildings, construct a new 3,200 square foot pump canopy and 2,400 square foot retail building with 24-hour use, but without the off-sale of alcohol on a 1.28 gross acre site in the CP Commercial Pedestrian Zoning District, located at 4610 Pearl Avenue (Aujla Gurvinder, Owner). CEQA: Exempt. The Director of Planning, Building and Code Enforcement recommends the City Council approve the subject Conditional Use Permit to allow the demolition of an existing gas station and construction of a new gas station facility with a 2,400 square foot retail building, without 24-hour operation and without the off-sale of alcohol.
CP09-042 – District 9
The Administrative Hearing was held. The appeals were denied.
Resolution No. 75613 adopted, approving the Planning Commission recommendation to approve the CUP, without 24-hour operation and off-sale of alcohol.

- Open Forum

There were none presented.

- Adjournment

The Council of the City of San José was adjourned at 10:03 p.m. in memory of Diane Perovich, a longtime San José resident and beloved member of the Almaden community. (Pyle)

8. JOINT REDEVELOPMENT AGENCY ITEM

The Redevelopment Agency Board convened at 4:54 p.m. to consider Items 8.1, 8.2 and 8.3 in a Joint Session.

8.1 City Council and 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 FY 2010-11 Budget Message. (Mayor)
Approved, as amended.
(1) Staff directed to allocate $50,000 for neighborhood business and marketing.
(2) City Manager and Executive Director directed to further analyze Budget Documents 5 and 6 (RDA Organizational Assessment and Council/RDA Administration Consolidation).
Noes: Constant, Herrera, Oliverio; Reed.

8.2 Approval of the Agency's FY 2010-11 Capital and Operating Budgets.

Recommendation: Approval by the Redevelopment Agency Board of the revised FY 2010-11 Capital and Operating Budgets and the Three-Year Spending Plan ending FY 2012-13 for the Redevelopment Agency of the City of San Jose. **[MERGED]**
Approved.
Noes: Constant, Liccardo.

8.3 Authorization to execute Amended Reimbursement Agreements with JP Morgan Chase Bank, NA, and related actions.

Recommendation:
(a) Adopt a resolution by the Redevelopment Agency Board:
(1) Authorizing the execution and delivery of a Second Amendment to Reimbursement Agreements in substantially final form with JP Morgan Chase Bank, NA, to extend the terms of letters of credit relating to the Agency's Merged Area Redevelopment Project Taxable Revenue Bonds, 2003 Series A and Merged Area Redevelopment Project Revenue Bonds, 2003 Series B and the Agency's Merged Area Redevelopment Project Revenue Bonds, 1996 Series A & B; requiring a liquidity reserve fund of $5,000,000 for the 1996 and/or 2003 Bonds, and imposing certain other restrictions on the issuance of new debt obligations;

(Item continued on the next page)

8. JOINT REDEVELOPMENT AGENCY ITEM

8.3 Authorization to execute Amended Reimbursement Agreements with JP Morgan Chase Bank, NA, and related actions (Cont'd.)

(a) (2) Authorizing the execution and delivery of a Letter Agreement regarding fees and charges for the various Letters of Credit in substantially final form provided by JP Morgan under the Reimbursement Agreements for the 1996 Bonds and the 2003 bonds in the amount of 1.95% to 2.55% of the aggregate outstanding amounts of the Letters of Credit, depending on the Agency's underlying ratings;

(3) Authorizing the Executive Director and his designee to negotiate and execute a new Custodian Agreement with US Bank that will facilitate the administration of future debt service; and,

(4) Authorizing the Executive Director or his designee to take any actions and execute any and all documents necessary to complete this transaction, including but not limited to the opening of a bank account with JPMorgan Chase Bank.

Redevelopment Agency Resolution No. 5957 adopted.

(b) Adoption of a resolution by the Redevelopment Agency Board approving an adjustment to the FY 2010-11 Adopted Capital Budget Financing/Non-Project Costs to add a $5,000,000 liquidity reserve to be held by the Bank in the event of a draw on the 1996 or 2003 Bonds Series A and B Letters of Credit and amending the FY 2010-11 Agency appropriations resolution, as detailed in the Mayor's Budget Message dated October 15, 2010.

CEQA: Not a Project. **[MERGED]**

Redevelopment Agency Resolution No. 5958 adopted.

The Council of the City of San José and Redevelopment Agency Board was adjourned at 5:45 p.m.