

CITY COUNCIL AGENDA

MARCH 16, 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**
 - 9:31 a.m.** - Closed Session, Call to Order in Council Chambers
Absent Council Members: Constant, Pyle. (Excused)
 - 1:33 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: Constant, Pyle. (Excused)
 - 7:04 p.m.** - Public Hearings, Council Chambers, City Hall
Absent Council Members: Constant. (Excused)
- **Invocation (District 3)**
The Brenda Lopez Folklorico Dancers provided traditional Mexican dances for the Invocation.
- **Pledge of Allegiance**
Mayor Reed and the third graders from Anderson Elementary School led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation recognizing April Bowen, Heidi Golab, Pam Foley, and DeAnna Pursai as District 9 Stars. (Chirco)
(Orders of the Day)

Heard in the evening.

Mayor Reed and Vice Mayor Chirco recognized and commended April Bowen, Heidi Golab, Pam Foley, and DeAnna Pursai as “District 9 Stars”.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none presented.

- 2.2 **Final adoption of ordinances.**
There were none presented.

- 2.3 **Approval of Council Committee Reports.**

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of February 24, 2010. (Mayor)
- (b) Transportation and Environment Committee Report of March 1, 2010. (Liccardo)
- (c) Community and Economic Development Committee Report of February 22, 2010. (Pyle)

Approved.

- 2.4 **Mayor and Council Excused Absence Requests.**
There were none presented.

- 2.5 **City Council Travel Reports.**
There were none presented.

- 2.6 **Agreement with HDR, Inc. for Consultant Services for the Spreckles Sanitary Sewer Force Main Supplement and Pump Station Rehabilitation Project.**

Recommendation: Approve an agreement with HDR, Inc. for consultant services for the Spreckles Sanitary Sewer Force Main Supplement and Pump Station Rehabilitation Project from the date of execution to June 30, 2013, in a total amount not to exceed \$897,463. CEQA: Exempt, File No. PP09-104. Council District 4. (Public Works)

Approved.

2. CONSENT CALENDAR

2.7 Conditional Vacation of a Portion of McLellan Avenue, Grant Street, and Edwards Avenue.

Recommendation: Adopt a resolution of intention to conditionally vacate a portion of McLellan Avenue, Grant Street, and Edwards Avenue and setting a public hearing on April 6, 2010 at 1:30 p.m. CEQA: Resolution No. 75043. Council District 3. (Public Works/General Services)

Resolution No. 75305 adopted.

2.8 City Council Appointment Adjustments.

Recommendation: As recommended by the Rules and Open Government on March 10, 2010, approve the following short-term assignments:

- (a) Remove Council Member Chu from the Mobilehome Advisory Commission and add him to the Small Business Development Commission.
- (b) Remove Council Member Nguyen from the Small Business Development Commission and add her to the Mobilehome Advisory Commission.

(Mayor)

[Rules Committee referral 3/10/10 – Item G(1)]

Approved.

2.9 Project Diversity Screening Committee Appointment.

Recommendation: As recommended by the Rules and Open Government on March 10, 2010, appoint Nathaniel Montgomery to the Project Diversity Screening Committee. (Oliverio)

[Rules Committee referral 3/10/10 – Item G(2)]

Approved.

2.10 Great American Litter Pickup Event.

Recommendation: As recommended by the Rules and Open Government on March 10, 2010:

- (a) Approve the Great American Litter Pickup Event as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(City Clerk)

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

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that an information memorandum from the Director of Housing was distributed on Monday, March 15, 2010, highlighting the 2010-2011 Community Development Block Grant (CDBG) funding program recommendations and projected budget. City Manager Figone added that a report on the retirement contribution rates will be forthcoming.

3.2 Status Report on the Citywide Capital Improvement Program.

Recommendation: Accept the FY 2009-2010 Status Report on the Citywide Capital Improvement Program. CEQA: Not a Project. (Public Works)

Deferred to 3/23/10 per Administration.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Sign Code Ordinance Update.

Recommendation: Accept the report and direct staff to prepare an ordinance to revise Title 23 of the San José Municipal Code (the Sign Ordinance) consistent with the proposed draft signage strategy and conduct additional related community outreach.

CEQA: Not a Project. (Planning, Building and Code Enforcement)

(Continued from 1/12/10 – Item 4.3, et al and 3/2/10 – Item 4.1)

Deferred to 3/23/10 per District 1.

4.2 Various Actions Related to the 2010 San José Cycling Classic.

Recommendation:

- (a) Adopt a resolution authorizing the Office of Economic Development to develop, produce, and conduct the Amgen Tour of California and 2010 San José Cycling Classic on City streets and at various City venues throughout the week of May 15-22, 2010, as a City Event with registration fees of \$25-\$200 per rider and a vendor booth fee up to \$500 per booth.

Resolution No. 75306 adopted.

Noes: Campos.

- (b) Adopt the following Appropriation Ordinance and Funding Source Resolution Amendments in the General Fund for San José Cycling Events:

- (1) Establish a City-wide Appropriation to the Office of Economic Development for San José Cycling Events in the amount of \$137,000; and
(2) Increase the estimate for Other Revenue by \$137,000.

CEQA: Exempt, File No. PP10-043. (Economic Development/City Manager's Office)

Ordinance No. 28726 adopted.

Resolution No. 75307 adopted.

Noes: Campos.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Google Fiber for Communities Request for Information.

Recommendation: Adopt a resolution authorizing the City Manager, or designee, to submit a response to the Google Fiber for Communities Request for Information (RFI) in accordance with guidelines discussed in the memorandum to Council. CEQA: Statutorily Exempt, CEQA Guidelines Section 15262. (Economic Development)
(Rules Committee referral 3/10/10)

Resolution No. 75308 adopted.

Staff requested to copy the Council Offices on the electronic version of the RFI.

5. NEIGHBORHOOD SERVICES

5.1 Schedule of Parkland Fees.

Recommendation: Conduct a public hearing and adopt a resolution setting forth the new Schedule of Parkland Fees to reflect the 2008 Residential Land Value Study, with the exception of fees for North San José and Downtown to remain the same, to be effective on May 15, 2010. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Continued to 4/13/10 per Administration.

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 FY 2010-2011 Mayor's March Budget Message.

Recommendation: Review and discuss the FY 2010-2011 Mayor's March Budget Message. (Mayor)

Heard in the evening.

Continued to 03/23/10.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 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 and 3/9/10 – Item 9.1)

Accepted, as amended by the memorandum from Mayor Reed and Council Members Liccardo, Herrera and Pyle, dated March 12, 2010 as modified, with Staff directed to:

- (1) **Adopt a suspension of business license taxes for the first 1,000 businesses that provide documentary evidence of a new lease or lease renewal (i.e. signed since January 1, 2010) by June 30, 2010, with the requirement that:**
 - (a) **Businesses can only qualify when they have brought current all past due fees and obligations to the City.**
 - (b) **Qualifying businesses must have 35 employees or fewer.**
- (2) **Adopt a new Parking Incentive Program that offers free parking to any tenant who signs a new or renewed lease:**
 - (a) **With no more than 50 employees.**
 - (b) **A duration equal to one half the term of the lease.**
 - (c) **Up to the maximum of facility space availability**
 - (d) **A 50% discount for the term of duration up to two years or half the term of the lease when renewing an existing lease, with a cap of 500 total spaces;**
- (3) ***Staff to return to Council within 120 days either to discuss the progress of the program; or if the Staff is concerned about the rate of usage, Staff to return to Council with any proposed modifications.***
- (4) **Regarding impact fee deferrals:**
 - (1) **Adopt Staff recommendation to return to the May 2010 City Budget Study Sessions with further discussion.**
 - (2) **Direct the City Manager to identify, at any time prior to May, any immediate opportunities for incentivizing business investment utilizing the “net new” concept and to bring those to the full Council for consideration with all necessary haste.**

(Action continued on the next page)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 Staff Response to Council Referral of February 8, 2010 regarding Economic Development Incentives (Cont'd.)

(Action Cont'd.)

- (5) Partner with the San José/Silicon Valley Chamber of Commerce to offer a reduced rate membership at the Chamber for any business qualifying for a City incentive.**
- (6) Business Tax Amnesty Program as a revenue generating idea based upon past history referred to the City Manager.**

Noes: Campos, Chu, Kalra.

- **Open Forum**
There were none were presented.

- **Adjournment**
The Council of the City of San José adjourned the afternoon session at 3:36 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. There were none presented.

11.2 Rezoning real property located on the north side of Auzerais Avenue between Bird Avenue and Royal Avenue.

Recommendation: Consider an ordinance rezoning the real property located on the north side of Auzerais Avenue between Bird Avenue and Royal Avenue from LI Light Industrial to A(PD) Planned Development Zoning District to demolish an existing gas station building and construct a new gas station mini-mart/car wash on a 0.6 gross acre site (395 Bird Avenue) (Vintners Distributors, Inc. (Sunny Goyal), Owner/Developer). SNI: Burbank/Del Monte. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC09-023 – District 6

(Continued from 2/23/10 – Item 11.5)

**Deferred, Staff directed to continue discussions with the Applicant.
Noes: Oliverio.**

11.3 Rezoning real property located on the west side of Coleman Avenue.

Recommendation: Consider an ordinance rezoning the real property located on the west side of Coleman Avenue, north of Newhall Drive (former FMC site) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow an 18,000-seat professional sports stadium as a permitted use on an approximately 94.8 gross-acre site in addition to previously approved uses on the site (City of San José, Owner). CEQA: EIR Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC09-004 – District 3

A Statement of Overriding Considerations was read into the record.

The memorandum from Mayor Reed and Council Member Liccardo, dated March, 12, 2010, was approved as amended, with Staff directed to:

- (1) **Make all necessary findings to approve adoption of the Environmental Impact Report (EIR) entitled: “Airport West Stadium and Great Oaks Place Project”.**
- (2) **Approve Staff recommendation of Planned Development Rezoning to A(PD) Planned Development Zoning District to allow a professional sports stadium with up to 18,000 seats, in addition to the already allowed uses, on an approximately 94.8 acre site, with the additional conditions:**

(Action continued on the next page)

11. PUBLIC HEARINGS

11.3 Rezoning real property located on the west side of Coleman Avenue (Cont'd.)

(Action Cont'd.)

- (2) (a) Prior to the start of construction, Applicant shall prepare a proposed “Good Neighbor Process” which will confirm the Applicant’s commitment to comply with all mitigation conditioned on the project by the Planning Director as required by the EIR, to provide contact information to local residents for the expression of any concerns and to provide a means for ongoing communication between the Applicant and the surrounding community.
- (b) Prior to the date of the hearing on the Planned Development Permit, Applicant shall hold one community meeting with City Staff to obtain community input concerning required mitigation plans by the City of San José. Applicant will be available to respond to any additional community concerns prior to the issuance of the Planned Development Permit. Applicant, along with the project’s contractor, shall hold an additional community meeting prior to the start of construction, to address construction related issues. *Community meetings will be held at a time and place convenient for working residents in that community.*
- (c) Outreach for those community meetings shall include residents and businesses located between Newhall Street and Interstate 880 and the residents of the Newhall neighborhood to the west of the Union Pacific railroad tracks.

Ordinance No. 28727 passed for publication.

CEQA Resolution No. 75309 adopted.

Staff agreed to provide to the Community & Economic Development Committee progress updates on the overall mitigation plan and timeline for the Hitachi, IStar, Great Oaks and FMC properties; information memorandum about discussions with labor bargaining units for the stadium and hotel sites; and an information memorandum outlining the construction timeline for the stadium project, when it becomes available.

- **Open Forum**

There were none presented.

- **Adjournment**

The Council of the City of San José was adjourned at 10:21 p.m. in memory of J. Lindsey Wolf, a former City employee who was San Jose’s first citywide public information officer under Mayor Tom McEnery and who over 22 years guided critical communications efforts both citywide and on behalf of the City’s numerous environmental programs.