

# CITY COUNCIL AGENDA

**MAY 5, 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](http://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, 2<sup>nd</sup> 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](mailto:CityClerk@sanjoseca.gov) for the final document.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two 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 Members: Chirco. (Excused)  
  
1:31 p.m. - Regular Session, Council Chambers, City Hall  
Absent Council Members: Chirco. (Excused)  
  
7:00 p.m. - Canceled.
- **Invocation (District 5)**  
The Adelante Dual Language Academy Folkloric Group performed a traditional dance in celebration of Cinco de Mayo.
- **Pledge of Allegiance**  
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day and the Amended Agenda were approved, with Item 3.2 deferred to 5/12/09, and items 4.6, 4.7, 4.8 and 4.9 were dropped from the Agenda.
- **Closed Session Report**  
City Attorney Doyle disclosed initiation of litigation in one matter to be disclosed once action is formally commenced.

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a proclamation declaring the Month of May 2009 as “Older Americans Month” in the City of San José. (Constant)  
**Mayor Reed and Council Member Constant recognized the Month of May 2009 as “Older Americans Month” in the City of San José.**
- 1.2 Presentation of a proclamation declaring the Month of May 2009 as “Motorcycle Awareness Month” in the City of San José. (Constant)  
**Deferred to 5/19/09 in the Evening per Rules Committee**
- 1.3 Presentation of the Government Finance Officers Association’s “Certificate of Achievement for Excellence in Financial Report” and the “Award of Financial Reporting Achievement” to the San José Redevelopment Agency. (Mayor/Redevelopment Agency)  
**Mayor Reed recognized and commended the Government Finance Officers Association’s “Certificate of Achievement for Excellence in Financial Report” and the “Award of Financial Reporting Achievement” to the San José Redevelopment Agency.**
- 1.4 Presentation of a proclamation declaring the Month of May 2009 as “Asian Pacific American Heritage Month” in the City of San José. (Nguyen/Kalra/Chu)  
**Mayor Reed and Council Members Nguyen, Kalra and Chu recognized the Month of May 2009 as “Asian Pacific American Heritage Month” in the City of San José.**
- 1.5 Presentation of a proclamation recognizing the week of May 3 through May 9, 2009 as “Municipal Clerks Week” in the City of San José. (Mayor/City Clerk)  
(Rules Committee referral 04/29/09)  
**Mayor Reed proclaimed the week of May 3-9, 2009 as “Municipal Clerks Week” in the City of San José.**

# 2. CONSENT CALENDAR

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## 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes.

- (a) Regular Minutes of March 3, 2009.
- (b) Special Minutes of the Green Vision Study Session of March 9, 2009.
- (c) Regular Minutes of March 10, 2009.
- (d) Regular Minutes of March 17, 2009.
- (e) Regular Minutes of March 24, 2009.
- (f) Regular Minutes of San José Housing Authority of March 24, 2009.

**Approved.**

## 2. CONSENT CALENDAR

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### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28530 – Amending Title 15 of the San José Municipal Code by adding a new Chapter 15.34 to provide for regulations of state video franchise holders.

**Ordinance No. 28530 adopted.**

- (b) ORD. NO. 28532 – Rezoning certain real property situated at the northwest corner of Stockton Avenue and West Julian Street (715 West Julian Street) to CP Commercial Pedestrian Zoning District. C09-005

**Ordinance No. 28532 adopted.**

- (c) ORD. NO. 28533 – Rezoning certain real property situated on the east side of South 10<sup>th</sup> Street approximately 90 feet north of Margaret Street (684 South 10<sup>th</sup> Street), to A(PD) Planned Development Zoning District. PDC07-094

**Ordinance No. 28533 adopted.**

### 2.3 Ordinances relating to discharges of certain substances into the sanitary sewer system.

**Recommendation:**

- (a) Approve an ordinance amending Chapter 15.14 of Title 15 of the San José Municipal Code to limit the discharge of dental amalgam into the sanitary sewer system and to require the installation of dental amalgam separators in certain dental offices. CEQA: Exempt, File No. PP09-084.

**Ordinance No. 28536 passed for publication.**

- (b) Approve an ordinance amending Chapter 15.14 of Title 15 of the San José Municipal Code to revise provisions related to the discharge of grease into the sanitary sewer system, to establish requirements for food service establishments related to installation or upgrade of grease control devices, and to establish maintenance and recordkeeping requirements for grease control devices. CEQA: Exempt, File No. PP09-091.

**Ordinance No. 28537 passed for publication.**

### 2.4 Urban Area Security Initiative Grant.

**Recommendation:** Adopt a resolution to:

- (a) Accept the 2008 Urban Area Security Initiative (UASI) grant from the Federal Government in the amount of \$1,000,000; and
- (b) Authorize the City Manager to negotiate and execute an agreement with the City and County of San Francisco (San Francisco) to accept program funds from San Francisco for the 2008 UASI grant in the amount identified above, and to negotiate and execute any amendments to the agreement.

CEQA: Exempt, File Nos. PP09-028, PP09-029, PP09-030. (Emergency Services)

**Resolution No. 74888 adopted.**

## 2. CONSENT CALENDAR

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### 2.5 Regional Signal Timing Program Grant.

#### **Recommendation:**

- (a) Approve a Grant Agreement with the Metropolitan Transportation Commission (MTC) in the amount of \$47,700 for a 2009 Cycle Regional Signal Timing Program grant for administrative costs associated with the retiming of 318 traffic signals located in the City; and
- (b) Approve a Waiver of Claims and Indemnification Agreement with MTC that will allow the City to receive in-kind consultant services to retime 318 traffic signals located in the City valued at approximately \$800,000.

CEQA: Resolution Nos. 60197 and 63179, File No. PP08-154. (Transportation)

**Approved.**

### 2.6 Fiscal Actions for Redevelopment Agency Capital Projects.

#### **Recommendation:**

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2008-2009:
  - (1) Increase the estimate for Earned Revenue by \$437,140.
  - (2) Establish an appropriation to the Department of Public Works for the 460 Park Avenue Building Demolition Project (PSM 576) in the amount of \$50,000.
  - (3) Establish an appropriation to the Department of Transportation for the Agency Traffic Signal Painting Project (PSM 572) in the amount of \$200,000.
  - (4) Increase the appropriation to the Office of Economic Development for the Edenvale Community Center Public Art Project (PSM 508 Amendment #1) in the amount of \$187,140.

**Ordinance No. 28538 adopted.**

**Resolution No. 74889 adopted.**

- (b) Adopt resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:
  - (1) The Agency Traffic Signal Painting Project as more specifically described in the memorandum from the Redevelopment Agency, dated 5/2/09, and
  - (2) The Edenvale Community Center Public Art Project as more specifically described in the memorandum from the Redevelopment Agency, dated November 6, 2008.

CEQA: 460 Park Avenue Building Demolition Project: Exempt, File No. PP08-256; Agency Traffic Signal Painting Project: Exempt, File No. PP09-071; Edenvale Community Center Public Art: Exempt, File No. PP05-184. Council Districts 2, 3 and 4. SNI: Various. (Public Works/Transportation/Economic Development/City Manager's Office)

**Resolution No. 74890 adopted.**

**Resolution No. 74891 adopted.**

## 2. CONSENT CALENDAR

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### 2.7 Excused absences for Vice Mayor Chirco.

**Recommendation:** Request for excused absences for Vice Mayor Chirco from the following meetings:

- (a) Closed Session, Regular City Council Meeting, and Evening City Council Meeting on April 21, 2009 due to illness.
- (b) Regular Meeting of the Rules and Open Government Committee on April 22, 2009 due to illness.

(Chirco)

(Rules Committee referral 4/22/09)

**Approved.**

### 2.8 Excused absence for Council Member Constant.

**Recommendation:** Request for an excused absence for Council Member Constant from the Regular City Council Meeting on April 28, 2009 due to a medical appointment.

(Constant)

(Rules Committee referral 4/22/09)

**Approved.**

### 2.9 Excused absences for Vice Mayor Chirco.

**Recommendation:** Request for excused absences for Vice Mayor Chirco from the following meetings: Closed Session and Regular City Council Meeting on April 28, 2009 due to illness.

(Chirco)

(Rules Committee referral 04/29/09)

**Approved.**

### 2.10 Excused absence for Council Member Constant.

**Recommendation:** Request for an excused absence for Council Member Constant from the Joint City Council/Santa Clara Valley Water District Meeting on April 23, 2009 due to illness. (Constant)

(Rules Committee referral 04/29/09)

**Approved.**

### 2.11 Excused absence for Council Member Chu.

**Recommendation:** Request for an excused absence for Council Member Chu from the Joint City Council/Santa Clara Valley Water District Meeting on April 23, 2009 due to an emergency dental procedure. (Chu)

(Rules Committee referral 04/29/09)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.12 Excused absences for Council Member Constant.

**Recommendation:** Request for excused absences for Council Member Constant from the following meetings:

- (a) Budget Study Session of May 14, 2009 due to Authorized City Business: Federated Retirement Board Meeting at the Retirement Services Office.
- (b) Closed Session of the City Council on May 19, 2009 due to Authorized City Business: Federated Retirement Board Quarterly Invest Committee of the Whole and Investment Committee Meetings at the Retirement Services Office.

(Constant)

(Rules Committee referral 4/22/09)

**Approved.**

## 3. STRATEGIC SUPPORT SERVICES

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

The City Manager provided an update on the steps taken to monitor and respond to swine flu concerns in San José.

### 3.2 Report of the Rules and Open Government Committee – April 15, 2009

Mayor Reed, Chair

Deferred to 5/12/09 per Orders of the Day.

### 3.3 Report of the Public Safety, Finance and Strategic Support Committee

Council Member Nguyen, Chair.

No Report.

### 3.4 RFP Banking and Financial Services.

**Recommendation:**

- (a) Adopt a resolution to authorize the City Manager and the City Manager's authorized designees ("City Manager") to:
  - (1) Negotiate and execute agreements with Wells Fargo Bank, N.A. (the "Bank") for banking and financial services including General Banking Services, Merchant Card Processing Services and Lockbox Services and related agreements for an initial term commencing with the execution of the agreements by the parties through June 30, 2012; and Securities Custody Services for an initial term of July 1, 2009 to June 30, 2012, with a total maximum annual compensation for the four agreements for the period through June 30, 2010 not to exceed \$864,000 and, thereafter, subject to annual appropriation of funds for the second and third year of the initial term.

*(Item continued on the next page)*

### 3.4 RFP Banking and Financial Services. (Cont'd.)

- (a) (2) Negotiate and execute up to three additional two-year options for one or more of each of these agreements subject to annual appropriation of funds.
- (3) Negotiate and execute amendments to any of these agreements, subject to annual appropriation of funds by the City Council and the parameters specified in the resolution to: (a) add new banking and financial services; (b) revise the descriptions of the banking and financial services; and (c) increase the compensation paid to the Bank if the volume of services exceeds the estimated volume of services.

**Resolution No. 74892 adopted.**

- (b) Adopt a resolution authorizing the City Manager to negotiate and execute the ninth amendment to the agreement with Union Bank of California to provide final banking services related to the City's Commercial Account, Lockbox and Merchant Card services for the period of July 1, 2009 to June 30, 2010 in an amount not to exceed \$30,000.

CEQA: Not a Project. (Finance)

**Resolution No. 74893 adopted.**

### 3.5 Airport Revenue Bonds Trust Agreement.

**Recommendation:** Adopt a resolution of the Council authorizing the negotiation and execution of the Sixth Supplemental Trust Agreement to the Master Trust Agreement by and between the City and The Bank of New York Mellon related to City of San José Airport Revenue Bonds to permit the continuance of two collateralized investment agreements by and between The Bank of New York Mellon and Citigroup Global Markets Inc. related to the City of San José Airport Revenue Bonds, Series 2004A, Series 2004B, Series 2004C, Series 2004D, Series 2007A, and Series 2007B. CEQA: Resolution Nos. 67380 and 71451, PP 09-057. (Finance)

**Resolution No. 74894 adopted.**

### 3.6 AB 68 (Brownley) – Solid Waste: Single-Use Bags and AB 87 (Davies) – Single-Use Carryout Bags: Environmental Effect: Mitigation.

**Recommendation:** As referred by the Rules and Open Government Committee on April 15, 2009, consider a position of support for AB 68 (Brownley) – Solid Waste: Single-Use Bags and AB 87 (Davies) – Single-Use Carryout Bags: Environmental Effect: Mitigation. (Environmental Services)

[Rules Committee referral 4/15/09 – Item 6.1(a)]

**Position of support, with amendments, adopted with Staff directed to bring back an update on the bills on June 2, 2009 (to include clarification on how funds generated by the bills can be spent).**

**Noes: Reed, Constant, Oliverio.**

### **3. STRATEGIC SUPPORT SERVICES**

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**3.7 Urgency Ordinance to Delay Effective Date of Ordinance No. 28517 Regarding Gaming Control.**

**Recommendation:** Adopt an urgency ordinance amending Ordinance No. 28517, which amended Title 16 of the San José Municipal Code, Gaming Control Regulatory Program, in order to delay the effective date from May 7, 2009 until the proposed amendments to Title 20 allowing for relocated cardrooms are adopted and take effect. CEQA: Not a Project. (City Attorney's Office)

(Rules Committee referral 04/29/09)

**Urgency Ordinance No. 28539 adopted.**

**3.8 Report of the Rules and Open Government Committee – April 8, 2009  
Mayor Reed, Chair  
Accepted.**

**3.9 AB 821 (Brownley) the Clean and Healthy Schools Act.**

**Recommendation:** As referred by the Rules and Open Government Committee on April 29, 2009, consider a position of support for AB 821, the Clean and Health Schools Act. (Environmental Services)

[Rules Committee referral 04/29/09 – Item 6.1(a)]

**Position of support adopted.**

**3.10 SB 346 (Kehoe) Hazardous Materials: Motor Vehicle Brake Friction Materials.**

**Recommendation:** As referred by the Rules and Open Government Committee on April 29, 2009, consider a position of support for SB 346, Hazardous Materials: Motor Vehicle Brake Friction Materials. (Environmental Services)

[Rules Committee referral 04/29/09 – Item 6.1(c)]

**Deferred to 5/12/09 per Administration.**

### **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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**4.1 Report of the Community & Economic Development Committee – April 27, 2009  
Council Member Pyle, Chair  
Accepted.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.2 Airport West Property.

**Recommendation:**

- (a) Adopt a resolution:
  - (1) Approving the revised business terms for the Amended and Restated Option Agreements and the Purchase and Sale Agreements with Coleman Airport Partners LLC and FWSH Partners LLC for the property located at 1125 Coleman Avenue.
  - (2) Authorizing the City Manager or her designee to negotiate and execute Amended and Restated Option agreements and Purchase and Sale Agreements for the property located at 1125 Coleman Avenue for the development of (a) 1.5 million square feet of office R&D development, 300 hotel rooms, 95,000 square feet of retail space and the required parking for all uses including a proposed stadium; and (b) a soccer stadium on 14 acres.

**Resolution No. 74895 adopted.**

- (b) Accept the updated Cost Benefit Analysis for the project.

CEQA: Resolution No. 71716, File No. PP08-093. Council District 3. (OED)

**Accepted.**

### 4.3 New Construction Second Mortgage Loan Program.

**Recommendation:** Adopt a resolution:

- (a) Authorizing the Director of Housing to reallocate up to \$4,483,700 in uncommitted Low- and Moderate-Income Housing Funds for homebuyers in eleven new construction for-sale projects to homebuyers in any new construction for-sale development in San José for a period of twelve months; and
- (b) Making findings that the use of Low- and Moderate-Income Housing Funds to provide loans to homebuyers in those housing projects that are outside a redevelopment project area benefits the Agency's redevelopment project areas; and
- (c) Authorizing the Director of Housing to extend availability of the funds to homeowners in new developments for a period of up to twelve additional months.

CEQA: Not a Project. (Housing)

**Resolution No. 74896 adopted.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.4 Public Hearing on the Annual Action Plan.

**Recommendation:**

- (a) Conduct a final public hearing regarding the approval of the City's Annual Action Plan 2009-2010 and take public comment.

**Public Hearing Held.**

- (b) Adopt the 2009-2010 Annual Action Plan, including the FY 2009-2010 funding recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program.

**The Annual Action Plan for FY 2009-10 was approved with the changes read into the record and one additional change—to provide three months' of assistance to Legal Aid of Santa Clara County to operate its Fair Housing Program. This timeframe will enable Legal Aid to work with the Housing Department to determine whether concerns about agency financials can be resolved. The Housing Department was also directed to look at the possibility of providing federal stimulus dollars to Legal Aid should it be determined that the use is an eligible activity.**

- (c) Adopt a resolution authorizing the Director of Housing to negotiate and execute all non-capital agreements and contracts not requiring CEQA/NEPA review and to negotiate all capital project agreements and contracts, including any amendments or modifications, and after CEQA/NEPA review and City Council project approval, to execute all documents for the expenditure of CDBG, ESG, HOME and HOPWA funds on behalf of the City;

**Resolution No. 74897 adopted.**

- (d) Authorize the Housing Department to submit the FY 2009-2010 Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD), which makes the City eligible to receive and distribute approximately \$15 million.

CEQA: Not a Project. (Housing)

**Authorized.**

### 4.5 Memorandum of Understanding between the City of San José and Step up Silicon Valley: The Campaign to Cut Poverty.

**Recommendation:** Approve a Memorandum of Understanding between the City of San José and Step up Silicon Valley: The Campaign to Cut Poverty. (Housing)

[Rules Committee referral 4/22/09 – Item 3.1(a)]

**Approved.**

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.6 1stACT Small Wonders Update Improving Downtown.**

**Recommendation:** Accept Staff's progress on the implementation of the Small Wonders Work Plan projects that improve the sidewalk level environment and public realm downtown. (Office of Economic Development)

[Community & Economic Committee referral 04/27/09 – Item 3.1(a)]

**Dropped per Orders of the Day.**

### **4.7 Information Update on the City Hall Exhibits Program.**

**Recommendation:** Accept the exhibits completed and planned in FY 2008-2009 and plans for continuing City Hall Exhibits Program in FY 2009-2010. (OED)

[Community & Economic Committee referral 04/27/09 – Item 3.1(c)]

**Dropped per Orders of the Day.**

### **4.8 Update on Actions Taken to Prevent and End Homelessness in San José.**

**Recommendation:** Accept the actions taken towards the City's goals of ending chronic homelessness, including work of Destination: Home. (Housing)

(Community & Economic Committee referral 04/27/09 – Item 3.3)

**Dropped per Orders of the Day.**

### **4.9 Status of SB375 Implementation.**

**Recommendation:** Accept the status report on updated legislation which requires cities to make plans to reduce greenhouse gas emissions and makes changes to housing element law. (PBCE/DOT/Housing)

(Community & Economic Committee referral 04/27/09 – Item 3.4)

**Dropped per Orders of the Day.**

## **5. NEIGHBORHOOD SERVICES**

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### **5.1 Report of the Neighborhood Services and Education Committee Council Member Campos, Chair.**

**No Report.**

**5.2 Strong Neighborhoods Initiative Hoffman/Via Monte Improvement Plan Amendment.**

**Recommendation:**

- (a) Accept the Strong Neighborhoods Initiative (SNI) Hoffman/Via Monte Neighborhood Improvement Plan Amendment as the renewed community vision for the future of the Hoffman/Via Monte SNI Planning Area; and
- (b) Encourage Hoffman/Via Monte area residents, property owners and community members to continue to dedicate their time, energy and resources towards the Plan and this Amendment while continuing with their community-building activities.

CEQA: Resolution No. 71045. Director of Planning, Building and Code Enforcement recommends approval. Council District 10. SNI: Hoffman/Via Monte. (Planning, Building and Code Enforcement)

**Deferred to 5/19/09 in the evening per Rules and Open Government Committee.**

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**6. TRANSPORTATION & AVIATION SERVICES**

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

**No Report.**

**6.2 Airport Food and Beverage Concession Agreement.**

**Recommendation:**

- (a) Approve a Fifth Amendment to the Airport Food and Beverage Concession Agreement entered into on January 29, 1999 with Host International, Inc. (“Host”) to:
  - (1) Extend the term from June 30, 2009 to June 30, 2011, unless terminated earlier by the City with thirty (30) day notice; and
  - (2) Remove the Minimum Annual Guarantee requirement.
- (b) Approve a First Amendment to the Airport Food and Beverage Concession Agreement entered into on April 22, 2004 with Host to:
  - (1) Extend the term from June 30, 2009 to June 30, 2011, unless terminated earlier by the City with thirty (30) day notice; and
  - (2) Remove the Minimum Annual Guarantee requirement.
- (c) Approve a Second Amendment to the Lease of Airport Premises entered into on June 29, 1999, with Host to extend the term from June 30, 2009 to June 30, 2011, unless terminated earlier with thirty (30) day notice by either party.

CEQA: Resolution Nos. 67380 and 71451, PP09-033. (Airport)  
(Deferred from 4/14/09 – Item 6.3)

**Approved.**

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**7. ENVIRONMENTAL & UTILITY SERVICES**

## 8. PUBLIC SAFETY SERVICES

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### 8.1 Selection of Independent Police Auditor.

#### **Recommendation:**

- (1) Discussion and action regarding procedures for the selection of an Independent Police Auditor.  
**The Council approved the process for the selection of an Independent Police Auditor as outlined in the Mayor's memorandum, dated April 28, 2009.**
  
- (2) Discussion and action regarding disclosure of Closed Session discussion, materials and votes dealing specifically with the appointment of the Independent Police Auditor.  
[Rules Committee referral 04/29/09 – Item 3.1(a)]  
**Approval of full disclosure of voting record for the Independent Police Auditor was given. Noes: Pyle**

**Mayor Reed disclosed the following: On April 7th there were two votes taken regarding the selection of the Independent Police Auditor (IPA). The first motion was a motion to appoint Chris Constantin as the new Independent Police Auditor. That vote carried on a 7:3 vote, with Reed, Chu and Campos voting no. Vice Mayor Chirco was absent. During a following discussion, the matter was reconsidered, and the vote was unanimous in favor of appointing Chris Constantin as the new IPA, with Vice Mayor Chirco absent.**

**On April 28th Council considered a motion made by Council Member Liccardo to allow the Mayor to disclose that the Mayor stated in Closed Session that Chris Constantin's brother was a San José Police Officer. That motion failed on a 4:6 vote with Reed, Constant, Oliverio and Liccardo voting in favor, and Vice Mayor Chirco absent.**

**The decision to allow disclosure of comments made in closed session was deferred to the Closed Session of Council for 5/12/09. Noes: Reed, Constant, Liccardo; Oliverio.**

## **8. PUBLIC SAFETY SERVICES**

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### **8.2 Consortium for Police Leadership in Equity (CPLE).**

**Recommendation:** As recommended by the Rules and Open Government Committee on April 8, 2009:

- (a) Accept the introductory scope and preliminary timeline for Consortium for Police Leadership and Equity (CPLE) to present to the City Council its organization and methodology for doing research related to racial and gender equity in policing.
- (b) Accept the preliminary quarterly status report schedule to the Public Safety, Finance & Strategic Support Committee.

(City Manager's Office)

(Rules Committee referral 4/8/09 – Item 10.2)

(Continued from 4/21/09 – Item 8.1)

**The Staff recommendation was accepted. Additional direction as outlined in Mayor Reed and Council Member Liccardo's joint memorandum of 4/30/09 was approved.**

## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

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## **10. GENERAL PLAN PUBLIC HEARINGS**

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No General Plan Public Hearing at this time.

## **11. PUBLIC HEARINGS ON CONSENT CALENDAR**

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### **11.1 Public Hearings on Consent Calendar.**

**Recommendation:**

- (a) Consideration of an ordinance rezoning the real property located on the northwest corner of Carla Drive and Almaden Expressway from the R-1-5 Residential Zoning District to the A(PD) Planned Development Zoning District to allow three single-family detached residences on a 0.79 gross acre site (Robert Bagheri, Owner). CEQA: Exempt. The Director of Planning, Building and Code Enforcement and the Planning Commission recommend approval (7-0-0).

PDC08-055 – District 10

**Continued to 5/12/09 in the Afternoon per Rules Committee.**

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

# 11. PUBLIC HEARINGS

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## 11.2 Rezoning real property located on the east side of S. White Road.

**Recommendation:** Consideration of an ordinance rezoning the real property located on the east side of S. White Road approximately 250 feet south of Cunningham Lake Court from the R-1-8 Residential Zoning District to the A(PD) Planned Development Zoning District to allow up to 19 single-family detached residences or up to 14 single-family detached residences adjacent to a possible future new fire station on a 3.21 gross acres site (Bishop of Church of Jesus Christ, Owner). CEQA: Mitigated Negative Declaration. The Director of Planning, Building and Code Enforcement recommends approval and Planning Commission recommends approval with minor modifications to development standards as recommended by staff and to consider the creation of through vehicular and pedestrian access connection from the new street of the proposed project to Flintcrest Drive (7-0-0).

PDC09-008 – District 8

**Continued to 5/12/09 in the Afternoon per Rules Committee.**

- Notice of City Engineer’s Pending Decision on Final Maps
- Notice of City Engineer’s Award of Construction Projects
- Open Forum

**Marilyn Kirby spoke in opposition to excessive rental reserve fees being levied on mobile homes and provided a data sheet for Council’s review.**

**Ross Signorino objected to the filing of anonymous complaints with the San José Elections Commission and suggested the regulations be amended to prohibit them.**

**Elisa Marino Alvarado urged community involvement and transparency in the IPA hiring process. Expressing concerns regarding the San José Police Department and urging greater citizen’s oversight of police activities to ensure fair treatment to minorities were: Brian Helmle (Cop Watch), Maria Dolores Castillo, Ernest Chavez (Students for Justice), Donna Wallach (Justice for Palestinians), Noreen Salinas, Luis Carrillo (Youth Against Violence for Education), Juozas Gaigalas, Ali Rahnoma, Saul Loya, Patricia (no last name provided), Javier Perez, Art Calderon, Aaron Resendez, Steve Arevilo, Timoteo Vasquez, Sharat Lin (San José Peace and Justice Center), Jaime Alvarado, Adrian Sanchez and Victor Guendulain,**

- **Adjournment**

**The Council of the City of San José was adjourned at 7:30 p.m. in memory of Frank Jirik, former Chief Operating Officer of San José Arena Management/San José Sharks.**

## **8. JOINT REDEVELOPMENT AGENCY/COUNCIL**

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**The Joint Redevelopment Agency Board convened to consider Items 8.1 and 8.2 in a Joint Session.**

### **8.1 Approval of an Owner Participation Agreement with Yu Ai Kai Japanese American Community Senior Service.**

#### **Recommendations:**

- (a) Redevelopment Agency Board approval of an Owner Participation Agreement, in the amount of \$105,250, with Yu Ai Kai Japanese American Community Senior Service for improvements to the City-owned building located at 110 East Jackson Street in the Japantown Redevelopment Project Area.

**Approved.**

- (b) Adoption of a resolution by the City Council making certain determinations required by law for Redevelopment Agency funding of a public project

CEQA: Exempt, File No. PP09-093 [JAPANTOWN]

**Resolution No. 74898 adopted.**

### **8.2 Authorization for the collection of tax increment from the Diridon Area of the SNI Project Area.**

Public Hearing concerning a proposed Plan Amendment to authorize the collection of tax increment from the “Diridon Area” of the Strong Neighborhoods Initiative (SNI) Project Area, followed by Redevelopment Agency Board and City Council consideration and actions:

- (a) Adoption of resolutions by the Redevelopment Agency Board and City Council approving the Report to Council on the proposed Amendment to the SNI Project Area to authorize the collection of tax increment from the Diridon Area, a portion of the SNI Project Area generally bounded by Santa Clara Street on the north, the UP railroad on the west, San Carlos Street on the south, and the Guadalupe River/Los Gatos Creek and Highway 87 on the east.

**Redevelopment Agency Resolution No. 5906 adopted.**

**Resolution No. 74898 adopted.**

- (b) Approval of an ordinance by the City Council adopting the proposed Amendment to the SNI Redevelopment Plan to authorize the collection of tax increment from the Diridon Area and making certain findings.

CEQA: Not a project [MERGED]

**Ordinance No. 28540 passed for publication.**