CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

CITY COUNCIL AGENDA

NOVEMBER 17, 2009

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

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.

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On occasion the City Council may consider agenda items out of order.

- Call to Order and Roll Call

  9:01 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.

  7:02 p.m. - Public Hearings, Council Chambers, City Hall
  Absent Council Members: Campos, Constant. (Excused)

- Invocation (District 10)

  Pastor Jeff Wenke, Journey Church, provided the Invocation.

- Pledge of Allegiance

  Mayor Reed and students from Discovery Charter School (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(a) dropped and to be renoticed, Items 3.2 and 6.1 deferred to 12/1/09 and Item 4.10 heard concurrently with the Joint/San José Financing Authority Meeting Items 2 and 3.

- Closed Session Report

  No Report.

1. CEREMONIAL ITEMS

1.1 Presentation of a commendation to Sue McAllister in recognition of her exemplary work with West Coast Aquatics and for her service and dedication to the community. (Chu)
Mayor Reed and Council Member Chu recognized and commended Sue McAllister in recognition of her exemplary work with West Coast Aquatics and for her service and dedication to the community.

1.2 Presentation of a commendation to Anderson Elementary School for its academic achievement in gaining the highest API score improvement in Santa Clara County. (Constant)
Mayor Reed and Council Member Constant recognized and commended Anderson Elementary School for its academic achievement in gaining the highest API score improvement in Santa Clara County.

1.3 Presentation of a proclamation declaring the month of November 2009 as "National Caregivers Month" in the City of San José. (Constant)
Mayor Reed and Council Member Constant declared the month of November 2009 as "National Caregivers Month" in the City of San José.

1.4 Administer Oath of Office to Citywide Youth Commissioner Miriam Khan. (City Clerk) (Rules Committee referral 11/9/09)
Heard in the evening.
Assistant City Clerk Dennis Hawkins administered the Oath of Office to the new Citywide Youth Commissioner Miriam Khan.

1.5 Presentation of a commendation to Girl Scout Service Unit 622 for their enthusiastic participation in the 2009 Great American Litter Pick Up. (Campos/Parks, Recreation and Neighborhood Services)
(Orders of the Day)
Deferred per Orders of the Evening.

1.6 Presentation of a commendation to Roxanne Koopman for taking the leadership role in organizing the inaugural Sakamoto SLUG Run. (Kalra)
(Orders of the Evening)
Heard in the evening.
Mayor Reed and Council Member Kalra recognized and commended Roxanne Koopman for taking the leadership role in organizing the inaugural Sakamoto SLUG Run.

1.7 Presentation of a commendation recognizing the week of November 29, 2009 to December 6, 2009 as "Family Week" in the City of San José. (Kalra)
(Orders of the Evening)
Heard in the evening.
Mayor Reed and Council Member Kalra recognized the week of November 29, 2009 to December 6, 2009 as "Family Week" in the City of San José. Mayor Reed presented a plaque to Alliance for Children and Families.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

(a) ORD. NO. 28662 – Amending Ordinance No. 28154, which ordinance approved a Development Agreement with Novellus Systems, Inc. relative to the development of real property in North San José, to allow extension of certain deadlines contained in the original Development Agreement and to authorize the City Clerk to execute a First Amendment to the original Development Agreement.

Ordinance No. 28662 adopted.

2.3 Mayor and Council Excused Absence Requests.

Recommendation:

(a) Request for an excused absence for Council Member Campos from the Regular Meeting of the Transportation and Environment Committee on November 2, 2009 due to Authorized City Business: meeting with John Arriaga, Executive Director of the League of CA Cities Latino Caucus to discuss the Emerald City Program and Green Economy jobs in preparation for trip to Washington, D.C. on November 19-21, 2009. (Campos)

Dropped and to be renoticed per Orders of the Day.

(b) Request for an excused absence for Vice Mayor Chirco from the Regular Meeting of the Rules and Open Government Committee on October 28, 2009 due to illness – medical appointment. (Chirco)

(c) Request for an excused absence for Council Member Nguyen from the Joint Redevelopment Agency/City Council Proposed FY2009-2010 Operating and Capital Budget and FY 2010-2015 Five-Year Capital Improvement Program Study Session on November 9, 2009 and the Regular City Council Meeting on November 10, 2009 due to Authorized City Business: City of San José Representative and participant at Changing the Odds: Learning from the Harlem Children's Zone Model Conference in New York City, NY on November 9-10, 2009. (Nguyen)

(Rules Committee referral 11/04/09)

Excused.

2.4 Proposed Revisions to Resolution 72547, Regulations and Procedures for the San José Elections Commission Investigations and Hearings.

Recommendation: As recommended by the Elections Commission, adopt a resolution making various revisions to City Council Resolution No. 72547 which sets forth the regulations and procedures for the Commission's investigations and hearings. (City Attorney's Office/City Clerk)

(Deferred from 11/10/09 – Item 2.5)

Item 2.4 was renumbered to Item 3.8.

2. CONSENT CALENDAR

2.5 Proposed Air Service Incentive Program Revisions.

Recommendation:

(a) Adopt a resolution revising the airline fee-waiver incentive program to support the development of new air service at the Norman Y. Mineta San José International Airport by revising the calculation of qualifying incentive periods, limiting incentives for new flights to underserved cities only to new flights, and requiring reimbursement of waived fees for service cancelled prior to the end of a qualifying incentive period and repealing Resolution No. 74877.

(b) Adopt a resolution establishing a Focus City Promotional Fee Waiver Incentive Program to support the development of new air service at the Airport and authorizing the City Manager to negotiate and execute Focus City Agreements with passenger airlines at the Airport to implement the terms and conditions of the Focus City Program.

CEQA: Resolution Nos. 67380 and 71451, File No. PP 09-192. (Airport)

Deferred to 12/1/09 per Administration.

2.6 Actions Related to an Innovation Hub Designation.

Recommendation: Adopt a resolution:

(a) Authorizing the City Manager to complete and submit the application for an Innovation Hub (iHub) designation for 5 years and take any other actions necessary to submit the iHub application to the California Business, Transportation and Housing Agency.

(b) Authorizing the City Manager to negotiate, execute and modify from time to time a Memorandum of Understanding between the City and iHub)partners defining the roles, responsibilities, and contributions that each party will make to the iHub.

(c) Authorizing the City Manager to negotiate, execute and modify from time to time a Memorandum of Understanding between the City, any participating jurisdictions and the State of California defining the goals and commitments made in the application and their measurement and evaluation.

CEQA: Not a Project. (Economic Development)

Resolution No. 75157 adopted.

2.7 Sponsored Travel to Third World Forum on Regional Economic Development.

Recommendation:

(a) Accept the invitation of the European Association of Development Agencies and the Agencia de Desenvolvimento da Regiao Autonoma da Medeira (ADERAM) to make a presentation at the Third World Forum on Regional Economic Development in Funchal, Madiera, Portugal, November 23 and 24, 2009. ADERAM will pay for travel and accommodation costs.

(b) Approve Paul Krutko's travel to Portugal as the City's official representative to make the presentation.

CEQA: Not a Project. (Economic Development)

Accepted.

2. CONSENT CALENDAR

2.8 Award the purchase of Office Furniture to Western Contract Interiors.

Recommendation: Award the purchase of office furniture to Western Contract Interiors for a total amount not to exceed $298,477, including delivery, assembly, installation and all applicable sales taxes, based upon a previously awarded bid that contained additional quantity pricing, and authorize the Director of Finance to:

(a) Execute purchase orders as required to meet the Environmental Services Department Water Pollution Control Plant's timeline for staff relocation to the Environmental Services Building located at 4245 Zanker Road.

(b) Approve a contingency in the amount of $29,848 for any unforeseen changes or requirements.

CEQA: Not a Project. (Finance)

Approved.

2.9 Agreement for Live Online Homework Help Services.

Recommendation: Adopt a resolution authorizing the Director of Finance to:

(a) Execute the first amendment to the existing Live Online Homework Help Services Agreement with Tutor.com to extend the term for an additional year from December 1, 2009 to November 30, 2010, and increase the total compensation by $131,250 to a revised not to exceed amount of $256,250.

(b) Execute five additional one-year options to renew the Agreement subject to the appropriation of funds.

CEQA: Not a Project. (Finance)

Resolution No. 75158 adopted.

Noes: Oliverio.

2.10 Learning Together School Readiness Initiative Grant.

Recommendation: Adopt a resolution to:

(a) Submit an application to the FIRST 5 Santa Clara County's Learning Together School Readiness Initiative for a total of $1,725,000 covering a period of 3.5 years, starting January 1, 2010 and ending on June 30, 2013, to support the efforts of early childhood recreation;

(b) Negotiate and execute a grant agreement accepting the grant and any collateral documents; and

(c) Negotiate and execute amendments to the grant agreement to extend or modify the grant term or to accept additional grant funds under the same grant terms in an aggregate amount up to twice the original grant amount originally awarded to the City, as further described in the Council memorandum.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Resolution No. 75159 adopted.

2. CONSENT CALENDAR

2.11 Coyote Creek Trail Project Grant Application.

Recommendation: Adopt a resolution authorizing the City Manager, or designee, to do each of the following:

(a) Submit a grant application in the amount not to exceed $1,825,000 to the State of California Resources Agency, Department of Parks and Recreation, under the Recreational Trails Program for the Coyote Creek (Hwy 280 to Story Rd) Trail project ("Project") and to make certain other assurances required by the State; and

(b) Negotiate and execute all necessary documents related to any grant funding from the State to the City for the Project.

CEQA: Mitigated Negative Declaration, File No. PP08-014. Council District 7. (Parks, Recreation and Neighborhood Services)

Resolution No. 75160 adopted.

2.12 Vacation of a Portion of an Existing Public Utility Easement.

Recommendation: Adopt a resolution of intention to vacate a portion of an existing 10-foot wide Public Utility Easement while reserving a Wire Clearance Easement over the area to be vacated, located at the rear of Lot 22 of Tract 1593 (1542 Larkspur Drive), and setting a public hearing on December 15, 2009 at 1:30 p.m. CEQA: Not a Project. Council District 9. (Public Works)

Resolution No. 75161 adopted.

2.13 Master Agreement for Consultant Services for the San José Environmental Innovation Center Phase II Project.

Recommendation:

(a) Approve the first amendment to the Master Agreement for consultant services with Group 4 Architecture Research + Planning, Inc., for the San José Environmental Innovation Center Phase II Project, increasing compensation by $500,000 for a total agreement amount not to exceed $2,000,000, clarifying limits on the scope of services, and extending the term of the agreement from March 30, 2010 to November 30, 2010.

Approved.

(b) Adopt the following Appropriation Ordinance amendments in the Integrated Waste Management Fund (Fund 423) necessary to fund the Group 4 Contract:

(1) Increase the Household Hazardous Waste Las Plumas Facility appropriation by $800,000; and

(2) Decrease the Ending Fund Balance by $800,000.

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

Ordinance No. 28663 adopted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)
No Report.

3.2 Report of the Rules and Open Government Committee – October 28, 2009
Mayor Reed, Chair
Deferred to 12/1/09 per City Clerk and Orders of the Day.

3.3 Report of the Public Safety, Finance and Strategic Support Committee
Council Member Nguyen, Chair
No Report.

3.4 Team San José Performance Measures for 2009-2010.

Recommendation: Accept Team San José performance measures for 2009-2010. CEQA: Not a Project. (Economic Development)
(Deferred from 10/20/09 – Item 3.5 and 11/3/09 – Item 3.4)
Accepted, with the following direction:

(1) Staff to return to Council on December 8, 2009 to further refine the new 80% client satisfaction goal (facility issues versus services issues identified), including a report on the status of what has happened in the industry (i.e. Trade Press).

(2) Team San José to provide rationale for failure to disclose records requested October 8, 2009, including the marking plan, agendas and minutes of Team San José Board Meetings and the agreement with Local 287.

3.5 Independent Police Auditor Recruitment.

Recommendation:

(a) Accept the draft profile of the Independent Police Auditor position, approve the timeline for the recruitment and provide feedback and direction on the draft conflict of interest form.

(b) Direct staff and Consultant on next steps for posting the position as noted in the staff report, and beginning to accept applicants.

CEQA: Not a Project. (Human Resources)
Heard first in the evening.
Accepted, as amended:

(1) Change language in the profile of The Ideal Candidate as follows: "A solid record of community engagement, *working with a diverse community* and cooperative interaction with a wide array of community representatives will be key". At the end of the paragraph: "A Master's Degree and/or JD and *experience in civilian oversight* are desirable".

(2) Language for the draft Conflict of Interest Form shall include disclosure of past or present relationships.

(3) Extend outreach period to January 22, 2010 (closing date) with additional community outreach and community meetings in different languages, i.e. Vietnamese and Spanish; Amend recruitment timeline and post on the web.

3. STRATEGIC SUPPORT SERVICES

3.6 Various Actions Related to the Automated Field Reporting and Records Management System Project.

Recommendation:

(a) Accept the project update related to the Automated Field Reporting and Records Management System (AFR/RMS) project.

Accepted.

(b) Adopt a resolution authorizing the City Manager and the Chief of Police to accept award of the 2009 COPS Technology Program Grant in the amount of $695,000 and authorize the City Manager and the Chief of Police to negotiate and execute additional amendments to the grant agreement and all related documents for the 2009 COPS Technology Program Grant without further Council action.

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

Resolution No. 75172 adopted.

3.7 Mayor's 2009 Biennial Review of Ethics Ordinances.

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

Deferred to 12/8/09 per Mayor.

3.8 Proposed Revisions to Resolution 72547, Regulations and Procedures for the San José Elections Commission Investigations and Hearings.

Recommendation: As recommended by the Elections Commission, adopt a resolution making various revisions to City Council Resolution No. 72547 which sets forth the regulations and procedures for the Commission's investigations and hearings. (City Attorney's Office/City Clerk)
(Deferred from 11/10/09 – Item 2.5)
Item 3.8 was renumbered from Item 2.4.
Resolution No. 75173 adopted, as amended, Modifications to the Procedures for Anonymous Complaints deferred to December 8, 2009 to be heard with the Mayor's 2009 Biennial Review of Ethics Ordinances.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee
Council Member Pyle, Chair
No Report.

4.2 Inclusionary Housing Ordinance.

Recommendation: Approve an ordinance amending Title 5 of the San José Municipal Code to add a new Chapter 5.08 adopting a Citywide Inclusionary Housing Program. CEQA: Resolution No. 65459, File No. PP08-258. (Housing)
Deferred to 12/1/09 per Administration.

4.3 Development Fee Program Budgets.

Recommendation:
(a) Adopt the following 2009-2010 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
(1) Decrease the Licenses and Permits (Building Fee Program) estimate by $1,811,262;
(2) Decrease the Licenses and Permits (Fire Fee Program) estimate by $363,000;
(3) Decrease the Departmental Charges (Planning Fee Program) estimate by $722,323;
(4) Decrease the Departmental Charges (Public Works Fee Program) estimate by $1,001,335;
(5) Decrease the Planning, Building and Code Enforcement Personal Services appropriation by $1,872,242;
(6) Decrease the Planning, Building and Code Enforcement Non-Personal/Equipment appropriation by $171,000;
(7) Decrease the Information Technology Personal Services appropriation by $307,824;
(8) Decrease the Information Technology Non-Personal/Equipment appropriation by $153,800;
(9) Decrease the Public Works Personal Services appropriation by $937,611;
(10) Decrease the Fire Personal Services appropriation by $217,983;
(11) Decrease the Fire Development Fee Program Earmarked Reserve by $80,273;
(12) Decrease the Public Works Development Fee Program Earmarked Reserve by $31,528;
(13) Decrease the Planning Development Fee Program Earmarked Reserve by $81,692;
(14) Decrease the Building Development Fee Program Earmarked Reserve by $37,091; and
(15) Decrease the Salary and Benefit Earmarked Reserve by $6,876.
Ordinance No. 28664 adopted.
Resolution No. 75174 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Development Fee Program Budgets (Cont'd.)

(b) Adopt the following 2009-2010 Appropriation Ordinance amendments in the Integrated Waste Management Fund:

(1) Increase the Information Technology Personal Services appropriation by $12,654; and

(2) Decrease the Ending Fund Balance by $12,654.

Ordinance No. 28665 adopted.

(c) Adopt the following 2009-2010 Appropriation Ordinance amendments in the Storm Sewer Operating Fund:

(1) Increase the Information Technology Personal Services appropriation by $12,654; and

(2) Decrease the Ending Fund Balance by $12,654.

Ordinance No. 28666 adopted.

(d) Adopt the following 2009-2010 Appropriation Ordinance amendments in the Water Utility Fund:

(1) Increase the Information Technology Personal Services appropriation by $8,436;

(2) Decrease the Ending Fund Balance by $8,436;

Ordinance No. 28667 adopted.

(e) Adopt the following 2009-2010 Appropriation Ordinance amendments in the Sewer Service and Use Charge Fund:

(1) Increase the Information Technology Personal Services appropriation by $8,436; and

(2) Decrease the Ending Fund Balance by $8,436;

Ordinance No. 28668 adopted.

(f) Eliminate 43.5 positions in Planning, Building and Code Enforcement (29.00), Public Works (11.50), and Information Technology (3.00) Departments included in Attachment A of the Council memorandum.

CEQA: Not a Project. (Planning, Building and Code Enforcement/Public Works/Fire/ City Manager's Office)

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Public Hearing on the Reorganization/Annexation of Franklin No. 54.

Recommendation: Conduct a public hearing and adopt a resolution ordering the reorganization/annexation of the territory designated as Franklin No. 54, which involves the annexation to the City of San José of approximately 39 gross acres of land generally bounded by Lewis Road to the north, Monterey Road to the west, Singleton Road to the south and Sunburst Drive to the east, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation District No. 2-3, , and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 7. (Planning, Building and Code Enforcement)
Heard in the evening.

Resolution No. 75181 adopted.

4.5 Public Hearing on the Reorganization/Annexation of Franklin No. 55.

Recommendation: Conduct a public hearing and adopt a resolution ordering the reorganization/annexation of the territory designated as Franklin No. 55, which involves the annexation to the City of San José of approximately 73 gross acres of land generally located west of East Capitol Expressway, east of Monterey Road, south of Southside Drive and north of Rancho Drive, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation District No. 2-3, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 7. (Planning, Building and Code Enforcement)
Heard in the evening.

Resolution No. 75182 adopted.

4.6 Public Hearing on the Reorganization/Annexation of Parker No. 27.

Recommendation: Conduct a public hearing and adopt a resolution ordering the reorganization/annexation of the territory designated as Parker No. 27, which involves the annexation to the City of San José of approximately 78 gross acres of land generally bounded by Samaritan Drive to the north, Union Avenue to the east, Wilma Way to the west and Rosswood Drive to the south, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 9. (Planning, Building and Code Enforcement)
Heard in the evening.

Resolution No. 75183 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.7 Public Hearing on the Reorganization/Annexation of Sunol No. 82.

Recommendation: Conduct a public hearing and adopt a resolution ordering the reorganization/annexation of the territory designated as Sunol No. 82, which involves the annexation to the City of San José of approximately 42 gross acres consisting of 282 parcels located in an area generally bounded by the south side of Park Avenue, west side of McEvoy Street, north and south sides of West San Carlos Street, and the east side of Meridian Avenue, and the detachment of the same from Central Fire Protection, County Lighting, Santa Clara Valley Zone C-1 County Water, Sunol Sanitary, and Area No. 01 (Library Services) County Service Districts. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)
Heard in the evening.
Resolution No. 75184 adopted.

4.8 Sign 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)
Deferred to 12/1/09 per Administration.

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

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

CEQA: Not a Project. (Finance/City Manager's Office)
(Deferred from 11/3/09 – Item 2.5 and 11/10/09 – Item 4.4)
Deferred to 12/1/09 per Administration.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.10 Actions related to the Multi-Family Housing at Belovida at Newbury Park.

Recommendation: Adopt a resolution:

(a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Belovida at Newbury Park Senior Apartments), Series 2009A" in an aggregate principal amount not to exceed $26,200,000 (the "Bonds");

(b) Approving a loan of Bond proceeds to Belovida at Newbury Park, L.P., a California limited partnership created by CORE Affordable Housing, LLC and EAH, Inc., to finance the construction of the Belovida at Newbury Park Senior Apartments located at 1777 Newbury Park Drive in San José;

(c) Approving in substantially final form the Bonds, Trust Indenture, Loan Agreement, and Regulatory Agreement and Declaration of Restrictive Covenants;

(d) Authorizing the City Manager, Director of Finance, Assistant Director of Finance, Treasury Division Manager, Debt Administrator, and Director of Housing, or their designees, to execute and, as appropriate, to negotiate, execute and deliver these Bond documents and other related Bond documents as necessary; and

(e) Approving a change in the project's income restrictions, related to units restricted to extremely low-income and very low-income households, to 48 units restricted to households at or below 30% of Area Median Income ("AMI"), 136 units restricted to households at or below 50% of AMI, and one unrestricted manager's unit.

CEQA: Mitigated Negative Declaration, File No. PDC07-015. Council District 3. (Housing/Finance)
(Deferred from 10/27/09 – Item 4.2, 11/3/09 – Item 4.3 and 11/10/09 – Item 4.3)
Resolution No. 75180 adopted.
Noes: Oliverio.

4.11 Ordinance amending Title 20 of the San José Municipal Code relating to the Recordation of Land Use Permits.

Recommendation: Consideration of an ordinance amending Sections 20.100.290 and 20.100.300 of Chapter 100 of Title 20 of the San José Municipal Code relating to recordation of Land Use Permits, and Section 20.120.150 of Chapter 120 of Title 20 of the San José Municipal Code relating to alternative means of compliance with General Development Plans. CEQA: Not a Project. Citywide.
Item 4.11 was renumbered from Item 11.4.
Continued to 12/1/09 in the afternoon per Administration.

5. NEIGHBORHOOD SERVICES

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

5.2 Report on RFP for Retail Concessions for Happy Hollow Park and Zoo.

Recommendation: Accept report on Request for Proposal for the outsourcing of Happy Hollow Park and Zoo Retail Concessions and adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute a Retail Concession Agreement with Urban Park Concessionaires to provide retail services at Happy Hollow Park and Zoo inside the newly constructed "Explore & More Store," effective from the date of execution by the City Manager through five (5) years, with fifteen percent (15%) of gross sales from the Retail Store to be paid to the City, with a Minimum Annual Guarantee of $6,300 per month.

(b) Execute two additional one-year options to extend the agreement after the initial term of the Retail Concession Agreement.

CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April, 2007. (Parks, Recreation and Neighborhood Services)
(Deferred from 11/3/09 – Item 5.2 and 11/10/09 – Item 5.2)
Resolution No. 75175 adopted, as amended, with clarification that the term of the agreement should be five years from the date of commencement of services.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – November 2, 2009
Council Member Liccardo, Chair
Deferred to 12/1/09 per Orders of the Day.

6.2 City Bicycle Master Plan.

Recommendation: As referred by the Transportation and Environment Committee on November 2, 2009, adopt the "San José Bike Plan 2020" and schedule a follow up report for the Transportation and Environment Committee in Spring 2009 to review bike plan implementation priorities. CEQA: Resolution No. 65459, File No. PP09-189.
[Transportation and Environment Committee referral 11/2/09 – Item 6.1(d)(2)]
Approved.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Agreement with City of Santa Clara for the South Bay Water Recycling Program.

Recommendation:

(a) Adopt a resolution authorizing the City Manager to negotiate and execute the Sixth Amendment to the construction service agreement with City of Santa Clara for the South Bay Water Recycling Program, revising the approved project list, increasing the maximum amount payable by $3,000,000 to a total maximum amount not to exceed $30,600,000 and extending the term of the agreement by eighteen months to December 31, 2011.

Resolution No. 75176 adopted.

(b) Adopt the following Appropriation Ordinance amendments in the San José-Santa Clara Treatment Plant Capital Fund:

(1) Increase the appropriation to the Environmental Services Department for the Revised South Bay Action Plan – SBWR Extension by $3,410,000; and

(2) Decrease the Ending Fund Balance by $3,410,000.

CEQA: Resolution No. 64667 (PP#91-04-090) and Addenda thereto scheduled for action by City of Santa Clara prior to action by San José City Council under the following reference numbers: Santa Clara Central Park: PLN 2009-07751, CEQ 2009-01085; Santa Clara Industrial 1: PLN 2009-07749, CEQ 2009-01083; Santa Clara Industrial 2: PLN 2009-07616, CEQ 2009-01080. (Environmental Services)

Ordinance No. 28669 adopted.

7.2 Environmentally Preferable Procurement Policy Revision.

Recommendation: As referred by the Transportation and Environment Committee on November 2, 2009, consider adoption of a resolution to:

(a) Rescind Council Policy 4-4 on Source Reduction and Recycling Procurement; and

(b) Amend Council Policy 4-6 on Environmentally Preferable Procurement to incorporate Council Policy 4-4, and to encourage extended producer responsibility.

(Finance)

[Transportation and Environment Committee referral 11/2/09 – Item 6.1(d)(5)]

Resolution No. 75177 adopted.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Open Forum

Ross Signorino expressed support for the City's efforts to provide affordable housing.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

- Orders of the Evening

Ceremonial Item 1.7 was added to the agenda, Item 1.6 was heard in the evening and Item 1.5 was deferred.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

Recommendation:

(a) Consideration of a Director-Initiated Planned Development rezoning to establish development standards to facilitate site and architectural upgrades for 58 existing residential apartment buildings (236 individual apartment units) on a 11.75 gross acre site located in the area generally bounded by both side of Underwood Drive, Temple Drive, Barker Drive, and Keltner Avenue north of Williams Road. SNI: Blackford. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).
PDC09-017 – District 1

Ordinance No. 28670 passed for publication.

(b) Consideration of an ordinance rezoning the real property located at the northeast corner between Willow Street and Delmas Avenue (661 Willow Street) from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District on a 0.22 gross acre site (Bernardo De La O, Owner). SNI: Greater Gardner. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C08-044 – District 6

Ordinance No. 28671 passed for publication.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Rezoning real property located at/on the west side of North 10th Street.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the west side of North 10th Street, between Vestal Street and East Mission Street (825 N 10th Street) from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 166 single-family attached residences on a 3.28 gross acre site (825 N. Tenth Street, LLC Don Kvingedal, Owner; Hudson Industrial Equities, Inc, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).
PDC06-069 – District 3

Ordinance No. 28672 passed for publication.

11.3 Rezoning real property located on the north side of Ford Road.

Recommendation: Consideration of an ordinance rezoning the real property located on the north side of Ford Road, approximately 550 feet easterly of Monterey Road from R-1-1 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 95 affordable multi-family attached residences on a 3.06 gross acre site (Owner, State of California; Developer, Eden Housing). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).
PDC09-022 – District 2
Ordinance No. 28673 passed for publication, with Planning Staff directed to issue a memorandum which (a) accounts for any employment land acreage and/or job credits that may offset future employment land conversions, (b) explains how those credits are distributed to pending housing projects involving an employment land conversion, and (c) clarifies how Ford Road project conforms to the Employment Lands Framework.
Noes: Oliverio.

11.4 Ordinance amending Title 20 of the San José Municipal Code relating to the Recordation of Land Use Permits.

Recommendation: Consideration of an ordinance amending Sections 20.100.290 and 20.100.300 of Chapter 100 of Title 20 of the San José Municipal Code relating to recordation of Land Use Permits, and Section 20.120.150 of Chapter 120 of Title 20 of the San José Municipal Code relating to alternative means of compliance with General Development Plans. CEQA: Not a Project.
Citywide
Item 11.4 was renumbered to Item 4.11.
Continued to 12/1/09 in the afternoon per Administration.

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

- Notice of City Engineer's Award of Construction Projects
  None.

- Open Forum
  There were none presented.

- Adjournment
  The Council of the City of San José was adjourned at 8:46 p.m.

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

JOINT CITY OF SAN JOSÉ
CITY COUNCIL/FINANCING AUTHORITY
AGENDA

1:30 P.M. TUESDAY, NOVEMBER 17, 2009 CHAMBERS

1. Call to Order
6:04 pm
Absent Council Members: None.

2. Actions Related to the Brookwood Family Apartments.

Recommendation:

(a) Adopt a resolution of the City Council:

(1) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Brookwood Terrace Family Apartments), Series 2009B" in the principal amount not to exceed $13,600,000 (the "Bonds");

(2) Approving a loan of Bond proceeds to Brookwood Terrace Family Apartments, L.P., a California limited partnership, for financing a portion of the costs of constructing the Brookwood Terrace Family Apartments (the "Project") located at 1338-1350 E. San Antonio Street in San José;

(3) Approving in substantially final form the Bonds, Trust Indenture, Financing Agreement, Regulatory Agreement, Declaration of Restrictive Covenants, the Intercreditor Agreement, Bond Purchase Agreement and Official Statement;

(4) Authorizing the City Manager, Assistant Finance Director, Director of Housing or their designees to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary.

(5) Authorizing the Director of Housing, to negotiate and execute an agreement with The City of San José Financing Authority related to the Ground Lease revenues of the Project and ultimate disposition of the Project Improvements and the Site.

Resolution No. 75178 adopted.
Noes: Oliverio.

2. Actions Related to the Brookwood Family Apartments. (Cont'd.)

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

(1) Authorizing the Executive Director of The City of San José Financing Authority, or designee, to acquire the Project site (the "Site") from the Borrower and negotiate and execute a Ground Lease of the Site back to the Borrower for a term of up to 75 years with an annual rent of $1.00 for the first 55 years, to be increased at the time of repayment of the City's construction/permanent loan.

(2) Authorizing the Executive Director of The City of San José Financing Authority to negotiate and execute an agreement with the City of San José related to the Ground Lease revenues from the Project and the ultimate disposition of the Project Improvements and the Site.

CEQA: Mitigated Negative Declaration, File No. PDC08-038. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Finance/Housing)
(Deferred from 11/10/09 – SJFA Item #2)

SJFA Resolution No. 92 adopted.
Noes: Oliverio.

3. Actions Related to the Orvieto Family Apartments.

Recommendation:

(a) Adopt a resolution of the City Council:

(1) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Orvieto Family Apartments), Series 2009C" in the principal amount not to exceed $14,200,000 (the "Bonds");

(2) Approving a loan of Bond proceeds to Orvieto Family Apartments, L.P., a California limited partnership, for financing a portion of the costs of constructing the Orvieto Family Apartments (the "Project") located at 80 Montecito Vista Drive in San José;

(3) Approving in substantially final form the Bonds, Trust Indenture, Financing Agreement, Regulatory Agreement, Declaration of Restrictive Covenants, the Intercreditor Agreement, Bond Purchase Agreement, and Official Statement; and

(4) Authorizing the City Manager, Assistant Finance Director, Director of Housing or their designees to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary.

(5) Authorizing the Director of Housing, to negotiate and execute an agreement with The City of San José Financing Authority related to the Ground Lease revenues of the Project and ultimate disposition of the Project Improvements and the Site.

Resolution No. 71579 adopted.
Noes: Oliverio.

3. Actions Related to the Orvieto Family Apartments. (Cont'd.)

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

(1) Authorizing the Executive Director of The City of San José Financing Authority, or designee, to acquire the Project site (the "Site") from the Borrower and negotiate and execute a Ground Lease of the Site back to the Borrower for a term of up to 75 years with an annual rent of $1.00 for the first 55 years, to be increased at the time of repayment of the City's construction/permanent loan.

(2) Authorizing the Executive Director of The City of San José Financing Authority to negotiate and execute an agreement with the City of San José related to the Ground Lease revenues from the Project and the ultimate disposition of the Project Improvements and the Site.

CEQA: Exempt. Council District 7. (Finance/Housing)

(Deferred from 11/10/09 – SJFA Item #3)

SJFA Resolution No. 93 adopted.

Noes: Oliverio.

4. Adjourn the San José Financing Authority

The meeting was adjourned at 6:10 p.m.