

CITY COUNCIL AGENDA

NOVEMBER 3, 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. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

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

- **Call to Order and Roll Call**
9:00 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 10)**
The Almaden Seniors performed a scene from the play “Senior Moments.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance accompanied by 3rd graders from Lynhaven Elementary School.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
None.

1. CEREMONIAL ITEMS

- 1.1 Presentation of the Air Line Pilots Association ‘Airport of the Year’ Award to the City of San José. (Airport)
Mayor Reed accepted the Air Line Pilots Association ‘Airport of the Year’ Award on behalf of the City of San Jose.
- 1.2 Presentation of a proclamation declaring the week of November 8th – 14th as “Nurse Practitioner Week” in the City of San José. (Constant)
Mayor Reed and Council Member Constant proclaimed the week of November 8th – 14th as “Nurse Practitioner Week” in the City of San José.
- 1.3 Presentation of proclamation declaring the week of November 8th – 14th as “National Radiologic Technology Week” in the City of San José. (Constant)
Mayor Reed and Council Member Constant proclaimed the week of November 8th – 14th as “National Radiologic Technology Week” in the City of San José.
- 1.4 Presentation of a proclamation declaring the month of November 2009 as “Pancreatic Cancer Awareness Month” in the City of San José. (Mayor/Constant)
Mayor Reed and Council Member Constant proclaimed the month of November 2009 as “Pancreatic Cancer Awareness Month” in the City of San José.
- 1.5 Presentation of a commendation to the Westfield Oakridge Management Team for their efforts to increase economic development in the City of San José. (Pyle)
Mayor Reed and Council Member Pyle recognized and commended the Westfield Oakridge Management Team for their efforts to increase economic development in the City of San José.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 28656 – Rezoning certain real property situated on the north side of Kiely Boulevard, 550 feet westerly of Saratoga Avenue (370 South Kiely Boulevard), to the CN – Commercial Neighborhood Zoning District. C09-029
Ordinance No. 28656 adopted.
- (b) ORD. NO. 28657 – Rezoning certain real property generally situated on both sides of Berryessa Road, west of Union Pacific Railroad Tracks and east of Coyote Creek, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC09-006
Ordinance No. 28657 adopted.
- (c) ORD. NO. 28654 – Amending Sections 12.06.210, 12.06.310 and 12.06.540 of the San José Municipal Code to increase contribution limits and impose an annual increase on contribution limits based on the Consumer Price Index; amending Sections 12.06.230, 12.06.310 and 12.06.320 to clarify the contributions regulated; and repealing Sections 12.06.270 and 12.06.280 to eliminate redundancy.
Ordinance No. 28654 adopted.

2.3 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Vice Mayor Chirco from the Closed Session Meeting of the City Council on October 20, 2009 due to illness – medical appointment. (Chirco)
(Rules Committee referral 10/21/09)
- (b) Request for an excused absence for Council Member Liccardo from the Closed Session Meeting of the City Council on October 20, 2009 due to illness.
(Liccardo)
(Rules Committee referral 10/21/09)
- (c) Request for an excused absence for Council Member Liccardo from the Regular Meeting of the Community and Economic Development Committee on November 23, 2009 due to travel out of town. (Liccardo)
(Rules Committee referral 10/21/09)

Excused.

2. CONSENT CALENDAR

2.4 Settlement in State of California ex rel. Armenta v. James Jones Co., Mueller Co., Tyco Int'l (US) Inc., Watts Industries, Inc.

Recommendation: Approve a global settlement in *State of California ex rel. Armenta v. James Jones Co. et al.*, Los Angeles Superior Court case no. B173487, and authorize the City Attorney to execute a Settlement Agreement and Mutual Release relating to the City of San José's claim against James Jones Co., Mueller Co., Tyco International (US) Inc., and Watts Industries, Inc. for allegedly out-of-specification water distribution parts in exchange for a payment to the City in a net amount ranging between \$750,000 and \$800,000. CEQA: Not a Project. (City Attorney's Office)

Approved.

2.5 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 to 11/10/09 with a request to Staff to provide a list of companies solicited and that reviewed the RFP online, and to review "Google Spreadsheet" as an alternative.

2. CONSENT CALENDAR

2.6 Agreements for Consulting Services for Benefit Plans and Related Services.

Recommendation:

- (a) Approve an agreement with Buck Consultants, LLC for consulting services for City-Paid Benefit Plans, consulting services for the Council Appointee money purchase retirement plan, and Actuarial Services for the City's self-funded dental PPO plan at a cost to the City of not to exceed \$95,000, for the period of January 1, 2010 through June 30, 2010, with options to extend the terms of the agreement through December 31, 2013 at annual costs of not to exceed \$190,000, subject to the appropriation of funds by Council.
- (b) Approve an agreement with Keenan & Associates for consulting services for Participant-Paid Voluntary Benefit Plans at a cost to the City of not to exceed \$25,000, for the period of January 1, 2010 through June 30, 2010, with options to extend the terms of the agreement through December 31, 2013, at an annual cost to the City of not to exceed \$50,000, subject to the appropriation of funds by Council.
- (c) Approve establishment of administrative fees to be paid by participants in the Participant-Paid Voluntary Benefit Plans, beginning as soon as administratively practicable, to recover the consulting costs associated with these programs and to replace current broker commissions, and authorize the Director of Human Resources to re-evaluate and adjust the fees annually as necessary to ensure that all such costs are covered by the fees.

Approved.

- (d) Adopt a resolution authorizing the Director of Human Resources to execute the options to the agreements with Buck Consultants, LLC and Keenan & Associates, to extend the terms and increase the compensation payable, subject to the appropriation of funds by Council.

Resolution No. 75154 adopted.

- (e) Adopt Appropriation Ordinance and Funding Sources Resolution amendments in the Benefit Fund (Fund 160) for 2009-2010 to:
 - (1) Increase Transfers to the Benefit Fund by \$27,750.
 - (2) Decrease the appropriation to the Human Resources Department for Health Plans by \$92,250.
 - (3) Establish an appropriation to the Human Resources Department for Benefits Consultant Fee in the amount of \$120,000.

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

Ordinance No. 28659 adopted.

Resolution No. 75155 adopted.

2. CONSENT CALENDAR

2.7 Summary Vacation of a Portion of Rock Avenue.

Recommendation: Adopt a resolution summarily vacating a portion of Rock Avenue along the north side, immediately west of Oakland Road, in front of Tract 9795. CEQA: Mitigated Negative Declaration, File No. PDC05-022. Council District 4. (Public Works)

Resolution No. 75156 adopted.

2.8 Senate Bill No. 88 (DeSaulnier) Local Government Bankruptcy.

Recommendation: As recommended by the Rules and Open Government Committee on October 28, 2009, oppose Senate Bill No. 88 (DeSaulnier) Local Government Bankruptcy which would prevent local governments from filing for bankruptcy under Chapter 9 of the federal bankruptcy code without first receiving the approval of the California Debt and Investment Advisory Commission. (Finance)
[Rules Committee referral 10/28/09 – Item D(1)(a)]

Position of opposition 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 14, 2009 Mayor Reed, Chair Deferred to 11/10/09 per City Clerk.

3.3 Report of the Public Safety, Finance and Strategic Support Committee Council Member Nguyen, Chair Accepted.

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)
Deferred to 11/17/09 per District 1.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee

Council Member Pyle, Chair.

No Report.

4.2 First Amendment to the Development Agreement with Novellus Systems, Inc.

Recommendation: Consider an ordinance to approve a First Amendment to the Development Agreement with Novellus Systems, Inc. and Vista Montana as approved by Ordinance No. 28154 and entered into on December 20, 2007 to extend the reservation of the residential unit capacity under the North San José Area Development Policy an additional two years relative to the development of certain real properties located in North San José. CEQA: Addendum to the North San José Area Development Policy Update Final Environmental Impact Report.

DA - Novellus – District 4

(Continued from 10/20/09 – Item 11.3)

Continued to 11/10/09 per Administration.

4.3 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)

Deferred to 11/10/09 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 to 11/10/09 per Administration.

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Transportation and Environment Committee**
Council Member Liccardo, Chair.
No Report.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Notice of City Engineer's Pending Decision on Final Maps
None.
- Notice of City Engineer's Award of Construction Projects
None.
- Open Forum
None presented.
- Adjournment

The Council of the City of San José was adjourned at 2:25 p.m.