

REDEVELOPMENT AGENCY AMENDED AGENDA

JUNE 23, 2009

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED – CHAIR

PIERLUIGI OLIVERIO DISTRICT 6
MADISON P. NGUYEN DISTRICT 7
ROSE HERRERA DISTRICT 8
JUDY CHIRCO DISTRICT 9
NANCY PYLE DISTRICT 10

Welcome to the San Jose Redevelopment Agency's Board meeting. Our Board is composed of the ten City Council Members and the Mayor, who serve as our Boardmembers and Chairperson.

If you wish to address the Redevelopment Agency about an issue that is not on the agenda but that is within the subject matter jurisdiction of the Redevelopment Agency Board., you may speak during the “Open Forum” during the City Council's meeting. The Council/Agency is unable to take action on issues presented during “Open Forum.”

This Agenda contains a Consent Calendar section for routine business items requiring Redevelopment Agency approval, as well as general business items arranged corresponding to the Agency’s Critical Service Areas. The Critical Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the Agency provides to the community and to the City. The four Critical Service Areas are:

- ***Promote and Implement Neighborhood Improvement Strategies*** — Through collaboration, revitalize commercial and residential neighborhoods so they are livable, safe, diverse and economically sustainable.
- ***Enhance the Quality and Supply of the City's Housing Stock*** — Enhance the Quality and Supply of the City's Housing Stock
- ***Initiate and Facilitate Public Facilities and Spaces*** — To guide the creation of a fabric of public facilities and spaces that is useful, stable, inviting, delightful and instills pride in the community to foster the opportunity for other investments
- ***Initiate and Facilitate Private Development*** — Capitalize on market opportunities and facilitate private development in the fastest possible time with the highest quality customer service

Items listed in Section 8 require approval of both the Redevelopment Agency Board and the City Council. **You may provide input on any agenda item by filling out a BLUE Speaker’s Card and submitting it to the City Clerk or Agency’s Clerk during the meeting.** If you wish to speak to the Agency, some tips to help you are noted below:

- **Submit a speaker’s card before the meeting and before the item is heard.** This will ensure that your name is called for the items you wish to address, and ensure the meeting runs smoothly for all participants.
- When the Board reaches your item on the agenda, the Chairperson will open the public hearing and call your name. Please address the Agency from the speaker’s 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 Chairperson’s discretion however, depending on the number of speakers and length of agenda.

If you have any questions, please direct them to Agency 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. The Redevelopment Agency meets on Tuesdays, following the City Council’s meeting at 1:30 p.m.

Agendas and staff reports for Redevelopment Agency Board agenda items may be viewed on the Internet at <http://www.sjredevelopment.org/agendas.htm>. Board Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda that are not exempt from disclosure pursuant to the California Public Records Act and that are distributed to a majority of the legislative body will be available for public inspection at the Redevelopment Agency at San Jose City Hall, 200 E. Santa Clara St, 14th Floor, San Jose, CA 95113-1903 at the same time that the public records are distributed or made available to the Redevelopment Agency Board.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-8500 or (408) 294-9337 (TTY) at least three business days before the meeting.

On occasion the Redevelopment Agency may consider agenda items out of order.

- **Call to Order and Roll Call**
 - 8:00 a.m. - Closed Session, Call to Order in Council Chambers
 - Adjourn to Closed Session in Council Chambers Conference Room W133
 - See Separate Agenda
 - 10:00 a.m. - Regular Session, Council Chambers, City Hall
 - **Agenda Items to be heard in the following order: City Council Items 3.4, 3.5, 3.9, 3.10, 9.1 and 9.2 to be heard concurrently, followed by the Redevelopment Agency agenda.**
 - **City Council will recess at 12:00 noon and reconvene at 1:30 p.m.**
 - 1:30 p.m. - Ceremonial Items
 - Continue City Council and Redevelopment Agency Agenda Items as listed, unless otherwise noticed
 - 3:30 p.m. - Hear Open Forum (no earlier than 3:30 p.m.)
- **Open Forum**

To be heard jointly during the City Council's Open Forum. (no earlier than 3:30 p.m.) Members of the Public are invited to speak on any item that does not appear on today's agenda and that is within the subject matter jurisdiction of the Redevelopment Agency Board.
- **Closed Session Report**
- **Orders of the Day**
- * **Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.**

Item 8.3, Flames Restaurant lease is deferred to August 11, 2009.
See Item 9 on the City Council Agenda for description of any City Council agendized items relating to the Redevelopment Agency.

1 CEREMONIAL ITEMS

2 CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the Agency and will be adopted by one motion. If a member of the Redevelopment Agency Board, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2.1 **Approval of Board Meeting Minutes.**

Recommendation: Approval of Redevelopment Agency Minutes for:

- (a) Regular meeting of June 2, 2009

2.2 **Report of the Rules and Open Government Committee – June 3, 2009.**

Chair Reed, Chairperson

- “4. 1 Review June 9, 2009, Final Agenda.
- 4.2 Review June 16, 2009, Draft Agenda.

2.3 **Approval of an amendment to the agreement with Bill Gould Design Art & Architecture for the Starbird Teen Center Project.**

Recommendation: Approval of the **fifth amendment to the agreement** with Bill Gould Design Art & Architecture, amending the contract term and schedule of performance for the Starbird Teen Center Project, extending the term of the agreement one year, through June 30, 2010, amending the scope of services; and amending the compensation schedule, with no change to the existing contract amount of \$363,690. CEQA: Exempt, File No. PP05-049. **[BLACKFORD SNI]**

3 GENERAL

3.1 **Approval of an agreement with the San Jose Downtown Association for promotional and marketing consulting services.**

6-19 SUPPLEMENTAL

Recommendation: Approval of an **agreement with the San Jose Downtown Association**, in an amount not to exceed \$525,000, for promotional and marketing and public space programming for the period July 1, 2009, through June 30, 2010. CEQA: Resolution No. 72767 Use of Downtown Strategy 2000, FEIR, File No. PP08-105. **[MERGED]**

4 NEIGHBORHOOD IMPROVEMENT STRATEGIES

5 HOUSING

6 PUBLIC FACILITIES AND SPACES

6.1 Approval of amendments to agreements for Tree Establishment Services.

* **Recommendation:** Approval of the **third amendment to the agreement with Anderson Tree Care**, in the amount of \$200,000 for a total contract amount not to exceed \$470,000, for tree establishment services and extending the term of the agreement by 18 months, through December 31, 2010. CEQA: Exempt. File No. PP08-035. [MERGED] (Deferred June 16, item 6.1)

6.2 Agreement with David J. Powers & Associates for preparation of an analysis for the Autumn Street Improvement Project.

* **Recommendation:** Adoption of a resolution authorizing the Executive Director to negotiate and execute an agreement with David J. Powers & Associates, in an amount not to exceed \$400,000, for the preparation of an analysis in conformance with the National Environmental Policy Act for the Autumn Street Improvement Project. CEQA: Resolution No. 74870. [MERGED]

7 PRIVATE DEVELOPMENT

7.1 Approval of the first amendment to the Reimbursement Agreement with Stion Corporation, Inc.

Recommendations: Approval of the **first amendment to the Reimbursement Agreement** with Stion Corporation, to accelerate the early release of \$300,000, for the acquisition of capital equipment for Stion Corporation's production facility at 6321 San Ignacio Avenue. CEQA: Not a project. [EDENVALE]

7 PRIVATE DEVELOPMENT

7.2 Approval of an amendment to the Sublease and Co-Sponsorship Operating Agreement with the San Jose State University Research Foundation.

Recommendation: Approval of the **fourth amendment to the Sublease and Co-Sponsorship Operating Agreement** with the San Jose State University Research Foundation for the operation of the San Jose BioCenter, extending the Agency's obligation to pay the base rent for the BioCenter through June 30, 2010, for an amount not to exceed \$476,526. CEQA: Not a project. [EDENVALE]

7.3 Ratification of the incorporation of the San Jose BioCenter as a nonprofit corporation.

Recommendation: Ratification of the incorporation of the San Jose BioCenter as a non-profit corporation and direction to the Executive Director to complete the corporate formation process. CEQA: Not a project. [EDENVALE]

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

See items 9.1 – 9.2 on the City Council's Agenda pertaining to “FY 2009-2010 Cooperation Agreements” and “FY 2008-2009 and FY 2009-2010 Revenue and Appropriations Actions” which will be heard and action taken only during the Council meeting that begins at 1:30 p.m. today.

CONVENE CITY COUNCIL TO CONSIDER ITEMS 8.1 – 8.5 IN A JOINT SESSION

8.1 Authorization to submit an application to design build the expansion of the Convention Center.

Recommendations:

- (a) **Adoption of a resolution by the City Council** making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency funding of the proposed improvements for the expansion and renovation of the San Jose McEnergy Convention Center.

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

- 8.1 (b) **Adoption of a resolution by the City Council** authorizing the Redevelopment Agency to submit an application, together with accompanying certification letter and other relevant documents, to the State Public Works Board to permit the use of design build for the expansion and renovation of the San Jose McEnery Convention Center under Public Contract Code Section 20688.6.
- (c) **Adoption of a resolution by the Redevelopment Agency Board** authorizing the Executive Director to complete, execute, and submit an application, together with accompanying certification letter and other relevant documents, to the State Public Works Board to permit the use of design build for the expansion and renovation of the San Jose McEnery Convention Center under Public Contract Code Section 20688.6.
CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002.
[MERGED]
- 8.2 **Award of a construction contract for the San Jose Convention Center Roof Replacement Project and related PSM appropriation.**

SUPPLEMENTAL MEMO

Recommendations:

- (a) **Adoption of a resolution by the Redevelopment Agency Board** approving the award of a **construction contract to Pioneer Contractors, Inc.**, the low bidder, for a base bid plus alternates 2, 4 and 5, in the amount of \$3,554,000, for construction of the San Jose McEnery Convention Center Existing Roof and Terrace Capital Repair and Replacement Project, and authorizing a construction contingency in the amount of \$355,400, for a total funding authorization of \$3,909,400. CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002.

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

8.2 (b) City Council adoption of 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 \$90,000; and,
- (2) Establish an appropriation to the Department of Public Works for the San Jose Convention Center Roof Replacement project (PSM 580) in the amount of \$90,000.

CEQA: Not a project. [Deferred from City Council agenda on June 9, 2009, item 2.12(a)(7)]

[MERGED]

8.3 Approval of the Fourth Amendment to the Restaurant Lease with Cupertino Flames, LLC.

Recommendations:

- (a) Adoption of a resolution by the City Council accepting the summary of costs and findings of the Amended Summary 33433 Report, pursuant to California Health and Safety Code Section 33433 for the lease with Cupertino Flames, LLC, for ground floor retail space at 88 South Fourth Street.
- (b) Redevelopment Agency Board approval of the Fourth Amendment to the Restaurant Lease with Cupertino Flames, LLC, for the property located at 88 South Fourth Street, increasing the total square footage of the premises, revising the schedule and scope of the project, extending the lease term, and financing the Shell Improvements through a Shell Improvement Allowance of \$260,000.
- (c) City Council approval of a First Amended Certificate of Nondisturbance and Attornment with Cupertino Flames, LLC under the terms of the Master Lease between the City and the Redevelopment Agency.

CEQA: Resolution No. 64273, Use of San Jose Downtown Strategy Plan FEIR. File No. CP98-054. **[MERGED]**

(Deferred to August 11, 2009)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

8.4 Award of a contract to Pantano Excavating Inc., for demolition of two buildings related to the Hoffman/Via Monte Neighborhood Center Project.

Recommendations:

- (a) **Adoption of a resolution by the City Council** making certain determinations required under California Health and Safety Code Section 33445 for Redevelopment Agency funding of the acquisition and demolition of existing vacant structures located at 1171 Mesa Drive and 5647 Gallup Drive, and construction of the proposed Hoffman/Via Monte Neighborhood Center Project.
- (b) **Adoption of a resolution by the Redevelopment Agency Board** approving the award of a **contract to Pantano Excavating, Inc.**, the low bidder in the amount of \$95,663, and authorizing a contingency in the amount of \$9,566 for a total funding authorization of \$105,229, for the removal of asbestos containing materials and the demolition of two vacant structures located at 1171 Mesa Drive and 5647 Gallup Drive.
CEQA: Exempt, File No. PP09-131. [HOFFMAN/VIA MONTE SNI]

8.5 Second amendment to the agreement with ELS Architecture and Urban Design for the Civic Auditorium and Montgomery Theatre.

Recommendation:

- (a) **Adoption of a resolution by the Redevelopment Agency Board** authorizing the Executive Director to negotiate and execute a second amendment to the agreement with ELS Architecture and Urban Design (ELS), in the amount of \$1,012,000, for a total contract amount not to exceed \$1,912,000, for continued architectural design services for the Civic Auditorium and Montgomery Theatre Rehabilitation Projects. CEQA: Not a project.

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

SUPPLEMENTAL MEMO, 8.5.(b)

- 8.5 (b)** **Adoption of a resolution by the City Council** making certain findings required under California Health and Safety Code Section 33445 for Agency funding for demolition of two City owned buildings known as meeting rooms 1A and 1B, adjacent to Parkside Hall, located at 180 Park Avenue. CEQA: Resolution No. 72767, File No. PP09-137”
[PARK CENTER]

ADJOURN CITY COUNCIL PORTION OF THE MEETING

- Adjournment

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)

- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.