



CITY COUNCIL AGENDA

DECEMBER 2, 2008

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
JUDY CHIRCO
NANCY PYLE

DAVID D CORTESE, VICE MAYOR

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 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**
9:01 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:31 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

7:03 p.m. - General Plan Hearings, Council Chambers, City Hall
Absent Council Members: Cortese. (Excused)
- **Invocation (Mayor)**
Diane Fisher of the Jewish Community Relations Council presented the Invocation.
- **Pledge of Allegiance**
Students of the Success Academy of San José and Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 2.1 and 11.3 deferred to 12/9/08.

- Closed Session Report
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Kerri Hamilton for her dedication and service to the City of San José. (Mayor/Cortese/Campos/Liccardo/Chu)
Mayor Reed, Vice Mayor Cortese and Council Members Campos, Liccardo and Chu commended Kerri Hamilton for her dedication and service to the City of San José.
- 1.2 Presentation of a commendation to Cupertino Electric for recognizing and providing a high standard and leadership in Energy and Environmental Design. (Economic Development)
Mayor Reed and Council Member Liccardo commended Cupertino Electric for recognizing and providing a high standard and leadership in Energy and Environmental Design.
- 1.3 Presentation of a commendation to Anil Kar, Water Pollution Control Plant Electrical Maintenance Division Manager, Plant Mechanic Sal Campos, and Energy Saving Rebate Check by PG&E for achieving significant energy savings under “Savings by Design” Program. (Environmental Services)
Mayor Reed commended Anil Kar, Water Pollution Control Plant Electrical Maintenance Division Manager and the PG&E Team for achieving significant energy savings under “Savings by Design” Program. The City was presented with a check from the “Savings by Design” Program for \$164,864.
- 1.4 Presentation of a commendation to the Environmental Services Department - Water Resources Division for their leadership in becoming the first City of San José operation to develop and fully implement an Environmental Management System to the ISO 14001 (Environmental Services)
Mayor Reed commended the Environmental Services Department - Water Resources Division for their leadership in becoming the first City of San José operation to develop and fully implement an Environmental Management System to the ISO 14001.
- 1.5 Presentation of a commendation to the Leland Robotics Team for their outstanding achievements in the field of Robotics. (Pyle)
(Rules Committee referral 11/19/08)
Mayor Reed and Council Member Pyle commended the Leland Robotics Team for their outstanding achievements in the field of Robotics.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of September 9, 2008
- (b) Special Meeting Minutes of the Joint City Council/County/Redevelopment Agency Board Meeting of September 15, 2008
- (c) Regular Minutes of September 16, 2008

Deferred to 12/9/08 per Orders of the Day.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28446 – Rezoning certain real property situated on the west side of Elwood Road, approximately 750 feet northerly of Trinidad Avenue (17601 Elwood Road) to A(PD) Planned Development Zoning District. PDC08-004
Ordinance No. 28446 adopted.
- (b) ORD. NO. 28447 – Amending Chapter 20.70 of Title 20 of the San José Municipal Code to amend Section 20.70.100 to allow business support and certain office uses with a Special Use Permit in certain areas in the Downtown, to modify parking requirements for live/work units and to allow animal grooming as permitted use in downtown zoning districts; to amend Section 20.70.120 to modify residential occupancy requirements for live/work units, and to make other related clarifying or technical changes to said chapter.
Ordinance No. 28447 adopted.
- (c) ORD. NO. 28448 – Amending Sections 20.30.500 and 20.30.520 of Chapter 20.30 of Title 20 of the San José Municipal Code to modify the square footage and minimum separation requirements of accessory structures, amending Section 20.90.220 of Chapter 20.90 of Title 20 of the San José Municipal Code to allow certain reductions to one-car garages for certain single family residences, and amending Section 20.100.500 of Chapter 20.100 of Title 20 of the San José Municipal Code to allow minor additions to two-family dwellings where current parking regulations are being met.
Ordinance No. 28448 adopted.
- (d) ORD. NO. 28449 – Amending certain Sections of Chapter 20.40 (Commercial Zoning Districts), 20.80 (Specific Use Regulations), 20.90 (Parking and Loading) and 20.200 (Definitions), all of Title 20 of the San José Municipal Code and all to streamline requirements for certain commercial uses specified in the Ordinance and to make other related clarifying changes to the Commercial Use Regulations.
Ordinance No. 28449 adopted.

2. CONSENT CALENDAR

- (e) ORD. NO. 28450 – Rezoning certain real property situated on the north side of Story Road, approximately 80 feet easterly of Dominick Way (14671 Story Road) to A(PD) Planned Development Zoning District. PDC05-068
Ordinance No. 28450 adopted.

2.3 Automated Teller Machine Concession Agreement.

Recommendation: Approve an Automated Teller Concession Agreement with U.S. Bank for a term from January 1, 2009 to December 31, 2015, with a monthly concession fee to the Norman Y. Mineta San José International Airport beginning the first year of the agreement of \$1,500 per automated teller machine, for a total estimated annual first year concession fee to the Airport in the amount of \$144,000. CEQA: Resolution Nos. 67380 and 71451, PP 08-219. (Airport)

Approved.

2.4 Adopt a Master Service Agreement with Construction Testing Services.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a Master Services Agreement with Construction Testing Services for Special Inspections and Material Testing Consultant Services for the Terminal Area Improvement Program (TAIP) at the Norman Y. Mineta San José International Airport in an amount not-to-exceed \$1,000,000 and authorizing the City Manager to negotiate and execute an agreement with lower ranked firms in order of their ranking should the City not be able to negotiate favorable terms with Construction Testing Services. CEQA: Resolution Nos. 67380 and 71451, PP08-235. (Airport/Public Works)

Resolution No. 74667 adopted.

2.5 Approval of actions related to Commercial Solid Waste Fees.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to allocate funds resulting from the Settlement Agreement with Browning-Ferris Industries of North America, Inc. and Allied Waste Services of North America, LLC to the following public school districts upon each district executing Waste Reduction and Recycling Cooperation Agreements with the City:
- (1) San José Unified School District, in the amount of \$575,795;
 - (2) Franklin-McKinley School District, in the amount of \$157,259;
 - (3) Alum Rock Union School District, in the amount of \$150,972;
 - (4) Cambrian School District, in the amount of \$63,210; and
 - (5) Orchard School District, \$11,598.

Resolution No. 74678 adopted.

2. CONSENT CALENDAR

2.5 Approval of actions related to Commercial Solid Waste Fees (Cont'd.)

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
- (1) Establish a City-Wide Appropriation: Commercial Solid Waste Fees from Solid Waste Service to Public Schools, in the amount of \$1,449,250;
 - (2) Increase the revenue estimate for Other Revenue by \$958,834 to recognize the revenue from the Settlement Agreement with Browning-Ferris Industries of North America, Inc. and Allied Waste Services of North America, LLC; and
 - (3) Establish a Transfer from the Integrated Waste Management Fund in the amount of \$490,416.

Ordinance No. 28451 adopted.

Resolution No. 74679 adopted.

- (c) Adopt the following Appropriation Ordinance Amendments in the Integrated Waste Management Fund (423):
- (1) Establish a Transfer to the General Fund of \$490,416 for Commercial Solid Waste Fees from Solid Waste Service to Public School; and
 - (2) Decrease the Ending Fund Balance by \$490,416.

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

Ordinance No. 28452 adopted.

2.6 Parking Citation Processing and Collection Services.

Recommendation: Report on Request for Proposals and adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with Turbo Data Systems, Inc. (Tustin, CA) for Parking Citation Processing and Collection Services with a Customer Service Center for a one-year term and a maximum compensation not-to-exceed \$600,000.
- (b) Exercise four one-year options to extend the agreement subject to appropriation of funds.

CEQA: Not a Project. (Finance)

Resolution No. 74680 adopted.

2. CONSENT CALENDAR

2.7 Consultant Agreement with DR Associates International.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute an agreement with DR Associates International to provide consultant services to perform pre-employment background investigation services as part of the hiring process for Fire Department personnel including Firefighter Recruits, Public Safety Dispatchers, and Student Interns for a one-year term beginning December 3, 2008 through December 2, 2009, in an amount not to exceed \$143,700.
- (b) Amend the maximum compensation for the first year to provide for a greater quantity of background services subject to appropriation of funds.
- (c) Exercise up to two one-year options to renew subject to appropriation of funds.

CEQA: Not a Project. (Fire)

Resolution No. 74681 adopted.

2.8 Actions related to Fire Stations 12 and 17.

Recommendation:

- (a) Approve the Third Contract Amendment for Don Dommer Associates, Inc. for the Fire Station No. 12 Project, increasing the agreement compensation by \$35,152 from \$347,929 to \$383,081 and extending the contract term by three months from March 1, 2009 to June 1, 2009.
- (b) Approve the Fourth Contract Amendment with Banducci Associates Architects, for the Fire Station No.17 Project, increasing the agreement compensation by \$30,275 from \$369,555 to \$399,830 and extending the contract term by three months from March 1, 2009 to June 1, 2009.

CEQA: Fire Station No. 12: Mitigated Negative Declaration, PP05-071. Fire Station No. 17: Exempt, PP05-275. Council Districts 9 and 10. (Fire/Public Works)

Approved.

2.9 Reallocation of Funding for the Energy Management System for the 911 Center.

Recommendation: Adopt the following 2008-2009 Appropriation Ordinance amendments in the General Fund (001):

- (a) Decrease the Building Facilities Maintenance Backlog: 9-1-1 UPS System, PAB Chiller, Police Special Operations Unit Motors appropriation by \$200,000; and
- (b) Establish a Building Facilities Maintenance Backlog: Energy Management System for the 9-1-1 Communications Center appropriation in the amount of \$200,000.

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

Ordinance No. 28453 adopted.

2. CONSENT CALENDAR

2.10 Almaden Expressway Pedestrian Bridge.

Recommendation: Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 10 (Fund 389):

- (a) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$596,000 for the TRAIL: 7 Expressway Pedestrian Bridge; and
- (b) Decrease the Ending Fund Balance by \$596,000.

CEQA: Mitigated Negative Declaration, PP03-04-110. Council District 10. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 28454 adopted.

2.11 Fiscal Actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) (1) 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:
 - (a) Increase the estimate for Earned Revenue by \$133,500.
 - (b) Establish the appropriation to the Department of Public Works for the Transit Mall Paving Restoration Project (PSM 550) in the amount of \$54,000.
 - (c) Establish the appropriation to the Parks, Recreation and Neighborhood Services Department for the Downtown for the Holidays Project (PSM 553) in the amount of \$79,500.

Ordinance No. 28455 adopted.

Resolution No. 74682 adopted.

- (2) Adopt a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Transit Mall Paving Restoration Project as more specifically described in the memorandum from the Redevelopment Agency, dated September 3, 2008.

CEQA: Transit Mall Paving Restoration Project: Resolution No. 65459 and addenda thereto PP08-244; Downtown for the Holidays: Resolution No. 72767. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

Resolution No. 74683 adopted.

2. CONSENT CALENDAR

2.11 Fiscal Actions for Redevelopment Agency Capital Projects. (Cont'd.)

Recommendation:

- (b) (1) 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:
- (a) Increase the estimate for Earned Revenue by \$65,693.
 - (b) Establish an appropriation to the General Services Department for the Children's Discovery Museum Boiler Replacement Project (PSM 560) in the amount of \$65,693.

Ordinance No. 28456 adopted.

Resolution No. 74684 adopted.

- (2) Adopt a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Children's Discovery Museum Boiler Replacement Project as more specifically described in the memorandum from the Redevelopment Agency, dated October 31, 2008.

CEQA: Children's Discovery Museum Boiler Replacement Project: Not a Project. Council District 3. (General Services/City Manager's Office)

Resolution No. 74685 adopted.

2.12 Grant Agreement with Santa Clara VTA.

Recommendation: Adopt a resolution authorizing the City Manager to execute a Transportation Fund for Clean Air (TFCA) grant agreement with the Santa Clara Valley Transportation Authority (VTA) that will provide for the City's receipt of grant funds in an amount not to exceed \$595,450 for the following two transportation projects:

- (a) Light Rail Transit (LRT) Controller Upgrade Phase II in an amount not-to-exceed \$545,450.
- (b) San José Bicycle Racks in an amount not-to-exceed \$50,000.

CEQA: Exempt, File No. PP08-225. Council Districts 3, 4, 5 and 6. SNI: 13th Street, Burbank/Del Monte, Delmas Park. (Transportation)

Resolution No. 74686 adopted.

2.13 Councilmember Campos' Travel to San Francisco, CA.

Recommendation: Approval of Councilmember Campos' travel to San Francisco, CA on January 9-11, 2009 to attend the League of California Cities Latino Caucus Annual Board Meeting. Councilmember Campos is a Board Member for the League of California Cities and a Past Latino Caucus President. Source of Funds: Mayor/Council Travel Fund. (Campos)

(Rules Committee referral 11/19/08)

Approved.

2. CONSENT CALENDAR

2.14 Excused absence for Councilmember Nguyen.

Recommendation: Request for an excused absence for Councilmember Nguyen from the Closed Session, Regular Session and Evening Session of the City Council on November 18, 2008 due to illness. (Nguyen)
(Rules Committee referral 11/19/08)

Excused.

2.15 Appointments to Boards, Commissions and Committees.

Recommendation: As recommended by the Rules and Open Government Committee of November 19, 2008:

- (a) Appoint Kaushik Joglekar to fill the vacant position on the Early Care and Education Commission. (Chirco)
 - (b) Re-appoint Kulwant Singh and David Parker and approve appointments of Andrae Macapinlac, Matthew Salcido and Donald Young to the Human Rights Commission. (Chu)
 - (c) Re-appoint Bobby Yount to the remainder of a vacant, unexpired term on the Arts Commission. (Williams)
 - (d) Appoint Robert Bailey, Hassan Kahn and Dan Wagner to the Advisory Commission on Rents. (Campos)
 - (e) Appoint Patrick Hall and Bob Gill to the Senior Citizens Commission. (Constant)
- [Rules Committee referral 11/19/08 – Items F(1) – (5)]

Accepted.

2.16 Naming a new park.

Recommendation: As recommended by the Parks and Recreation Commission of November 5, 2008, name a new turnkey park located on the McKay Drive and Lundy Avenue residential project site as “Gran Paradiso”. (City Clerk)
(Rules in-Lieu referral 11/25/08)

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report) City Manager Debra Figone reported on the closure of the American Musical Theater of San José and impacts.

3.2 Report of the Rules and Open Government Committee – October 22, 2008 Mayor Reed, Chair Report Accepted.

3. STRATEGIC SUPPORT SERVICES

3.3 Report of the Rules and Open Government Committee – October 29, 2008

Mayor Reed, Chair

Report Accepted.

3.4 Report of the Rules and Open Government Committee – November 5, 2008

Mayor Reed, Chair

Report Accepted.

3.5 Report of the Public Safety, Finance and Strategic Support Committee

Councilmember Nguyen, Chair

No Report.

3.6 City Hall Retail RFP.

Recommendation: Approve the issuance of a Request for Proposals to select a developer for the vacant space on the ground floor of City Hall on 4th Street. CEQA: Not a Project. Council District 3. (Economic Development/General Services)

Approved with an amendment that the Office of Economic Development provide an analysis on the cost benefit of in-house use.

Noes: Constant, Oliverio.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee

Councilmember Pyle, Chair

No Report.

4.2 Historic Landmark Nomination and Mills Act Historical Property Contract for the Ames House.

Recommendation:

- (a) Public hearing and adopt a resolution designating the Ames House on a 0.16-acre site located at the east side of N. Fifteenth Street, approximately 90 feet south of E. Saint James Street (186 N. Fifteenth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-172)

Resolution No. 74687 adopted.

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Historic Landmark Nomination and Mills Act Historical Property Contract for the Ames House (Cont'd.)

- (b) Public hearing and adopt a resolution approving the Historical Property Contract (California Mills Act Contract No. MA08-004) between the City of San José and the owners of the Ames House (Hullene and Marcus Salomon). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. SNI: 13th Street. Council District 3. (Planning, Building and Code Enforcement)

Resolution No. 74688 adopted.

4.3 Historic Landmark Nomination and Mills Act Historical Property Contract for the Hobson House.

Recommendation:

- (a) HL08-173 – Public hearing and adoption of a resolution designating the Hobson House on a 0.146 acre site, located at the westerly side of N. Fifteenth Street, approximately 250 feet north of E. Julian Street (333 N. Fifteenth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.

Resolution No. 74689 adopted.

Disqualified: Liccardo

- (b) MA08-005 – Public hearing on the Historical Property Contract (California Mills Act contract) between the City of San José and the owners of Hobson House (City Landmark No. HL08-173) on a 0.146 acre site, located at the westerly side of N. Fifteenth Street, approximately 250 feet north of E. Julian Street (333 N. Fifteenth Street), (Rene T. and Claudia Correa, Property Owner) and adoption of a resolution approving the contract. The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. Council District 3. (Planning, Building and Code Enforcement)

Resolution No. 74690 adopted.

Disqualified: Liccardo

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Historic Landmark Nomination and Mills Act Historical Property Contract for the Renzel House.

Recommendation:

- (a) HL08-174 – Public hearing and adoption of a resolution designating the Renzel House on a 0.70 acre site, located at the northeast side of Arroyo Way, approximately 250 feet east of S. Seventeenth Street (120 Arroyo Way) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.

Resolution No. 74691 adopted.

- (b) MA08-006 – Public hearing on the Historical Property Contract (California Mills Act contract) between the City of San José and the owners of Renzel House (City Landmark No. HL08-174) on a 0.70 acre site, located at the northeast side of Arroyo Way, approximately 250 feet east of S. Seventeenth Street (120 Arroyo Way), (Donald Lieberman and Patricia A. Long Trustee & Et. Al., Property Owner) and adoption of a resolution approving the contract. The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a 10-year period. CEQA: Exempt. (PBCE)

Resolution No. 74692 adopted.

4.5 Historic Landmark Nomination and Mills Act Historical Property Contract for the Somers House.

Recommendation:

- (a) HL08-175 – Public hearing and adoption of a resolution designating the Somers House on a 0.143 acre site in the Reed City Landmark Historic District located at the west side of S. Sixth Street, approximately 420 feet southerly of E. Reed Street (675 S. Sixth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.

Resolution No. 74693 adopted.

- (b) MA08-007 – Public hearing on the Historical Property Contract (California Mills Act contract) between the City of San José and the owners of Somers House (City Landmark No. HL08-175) 0.143 acre site in the Reed City Landmark Historic District located at the west side of S. Sixth Street, approximately 420 feet southerly of E. Reed Street (675 S. Sixth Street), (Jason K. Rowand and Batsirai M. Mutasa, Property Owner) and adoption of a resolution approving the contract. The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. SNI: University. Council District 3. (PBCE)

Resolution No. 74694 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.6 Convention Center and Cultural Facilities Management Agreement.

Recommendation:

- (a) Accept the status report on the negotiations with Team San José for an additional five-year term for the period July 1, 2009 through June 30, 2014 for the management of the Convention Center and Cultural Facilities; and
- (b) Direct the City Manager to negotiate an agreement based on the key business terms identified within this report.

CEQA: Not a Project. (Economic Development)

Report accepted, and direction provided to the City Manager to negotiate the contract and return on January 27, 2009 with the contract, as outlined in the Joint Memorandum dated November 25, 2008.

Noes: Liccardo.

4.7 Smoke-Free Multi-Unit Housing Resolution.

Recommendation: As referred by the Rules and Open Government Committee of October 29, 2008, consider adopting a resolution to encourage smoke-free multi-unit housing in the City of San José. (Williams/Chu)

(Rules Committee referral 11/19/08)

Resolution No. 74695 adopted.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – November 13, 2008 Councilmember Chirco, Chair

Report accepted.

5.2 Memorandum of Understanding for the shared planning, development and operation of recreational facilities.

Recommendation: Approve the Memorandum of Understanding (MOU) between the City of San José and the East Side Union High School District for the shared planning, development and operation of recreational facilities. CEQA: Not a Project. Council Districts 2, 3, 4, 5, 7 and 8. SNI: Mayfair, KONA, West Evergreen. (Parks, Recreation and Neighborhood Services)

(Deferred from 10/28/08 – Item 5.3)

Deferred to 12/16/08 per Administration.

5. NEIGHBORHOOD SERVICES

5.3 Community Sports Field Study.

Recommendation: Approve the final draft of the Community Sports Field Study.
CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)
[Neighborhood Services and Education Committee referral 11/13/08 – Item (d)]

**Heard in the evening.
Approved.**

5.4 Approve SNI's Spartan Keyes Neighborhood Improvement Plan Amendment.

Recommendation:

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

CEQA: Strong Neighborhoods Initiative Program EIR Resolution No. 71045. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1). Council Districts 3 and 7. SNI: Spartan Keyes. (Parks, Recreation and Neighborhood Services/City Manager's Office/Planning, Building and Code Enforcement/Redevelopment Agency)

**Heard in the evening.
Accepted.**

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee Councilmember Williams, Chair No Report.

6.2 Agreement with Air-Transport IT Services.

Recommendation: Adopt a resolution:

- (a) Authorizing the Director of Finance to execute the second amendment to the Integrated Systems Agreement with Air-Transport IT Services, Inc., to expand the system into Terminals A and B; extend the term of the agreement by an additional two years from December 31, 2008 to December 31, 2010; and increase the total compensation by \$2,431,846 from \$6,492,877 to \$8,492,723 to include all hardware, installation, and all applicable sales tax.
- (b) Increasing the contingency amount by \$468,154 from \$850,000 to \$1,318,154 and authorizing the Director of Finance to execute change orders as required to cover unanticipated changes in the system design and/or installation.

(Item Continued on the next page)

6. TRANSPORTATION & AVIATION SERVICES

6.2 Agreement with Air-Transport IT Services (Cont'd.)

- (c) Amending Council Resolution No. 73082 to amend the Director of Finance’s authority to execute the remaining three option years for ongoing maintenance and support without further Council action other than the appropriation of funds, with total compensation not to exceed the following amounts for the periods listed below:
 - (1) Year 3 (01/09 - 12/09) – \$1,252,139.
 - (2) Year 4 (01/10 - 12/10) – \$1,352,266.
 - (3) Year 5 (01/11 - 12/11) – \$1,506,141.

CEQA: Resolution Nos. 67380 and 71451, PP 08-224. (Finance)
Resolution No. 74696 adopted.

6.3 Airport Parkway Under-Crossing Trail Project.

Recommendation:

- (a) Approve a Second Amendment to the Agreement with the Santa Clara Valley Water District (SCVWD) for the construction of the Airport Parkway Under-Crossing Trail project to increase funding for the project in the amount of \$125,000 for a total contract amount not-to-exceed \$2,450,980.

Approved.

- (b) Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
 - (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$49,000 for the TRAIL: Airport Parkway Under-Crossing; and
 - (2) Decrease the Reserve: Future PDO/PIFO Projects by \$49,000.

CEQA: Mitigated Negative Declaration, File No. PP04-323. Council District 4. (Parks, Recreation and Neighborhood Services/City Manager’s Office)
Ordinance No. 28457 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Report on the Citywide CIP and SNI Projects.

Recommendation: Accept the Status Report on the Citywide Capital Improvement Program, including Parks, Library, Public Safety Bond projects and Strong Neighborhoods Initiative projects funded by the City and Redevelopment Agency.

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

Accepted.

- **Open Forum**

- (1) **Residents of District 8, Vaidhi Nathan, Nitin Dandia, Anod Nathan, Agata Dobrota and Michael Pham, spoke in opposition to a T-Mobile cell tower being constructed in their neighborhood and submitted a petition with 80 signatures in opposition to the project.**

- (2) **Joshua DeVincenzi Melander spoke in opposition to the elimination of funding for San Pedro Square.**

- (3) **David Wall spoke in opposition to the contract renewal for Team San José.**

- **Adjournment**

The Council of the City of San José adjourned the afternoon session at 5:36 p.m.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10.1 Tentative approval of General Plan Consent Calendar items.

- (a) **Accept Status Report on the Framework for Preservation of Employment Lands.** Director of Planning, Building and Code Enforcement recommends the following actions: Adopt a resolution to consolidate into one document: (1) The text of the Framework originally adopted by City Council on October 23, 2007, and (2) The further implementation direction for the Framework set forth by City Council on that same date, as memorialized in that certain memorandum dated October 19, 2007 from Mayor Reed and Councilmembers Nguyen, Pyle, and Williams, and also to change the term “Extraordinary Economic Benefit” to “Extraordinary Benefit” in order to make the Framework consistent with that certain memorandum dated October 19, 2007, which recognizes that extraordinary benefits should not only be limited to those that are economic in nature, none of which actions are intended to create any substantive changes to the Framework as approved by City Council on October 23, 2007.
(Continued from 5/6/08 – Item 10.2)
Dropped per Administration.
- (b) **Amendment on approximately 0.96 acres on the southeast corner of Landess Avenue and Morrill Avenue (3102 Morrill Avenue).** Tentative approval of a General Plan amendment request to change the San José 2020 General Plan Land Use/ Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) on 0.6 acres and Medium Low Density Residential (8 DU/AC) on 0.36 acres to Neighborhood/Community Commercial on a 0.96-acre site located on the southeast corner of Landess Avenue and Morrill Avenue (3102 Morrill Avenue) (Klifo Family Invs LLC, Owner/CFC Commercial Finance Corp, Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1, Platten absent). CEQA: Negative Declaration.
GP07-04-03 – District 4
Tentatively Approved.
- (c) **Text amendment on approximately 5.4 acres on the northeast corner of Samaritan Drive and South Bascom Avenue (2581 Samaritan Drive).** Tentative approval of a General Plan text amendment request to revise the text of the General Plan to increase the maximum allowable building height from 50 feet to 70 feet above ground level on an approximately 5.4-acre site located at the northeast corner of Samaritan Drive and South Bascom Avenue (2581 Samaritan Drive) (Samaritan Medical Center, Owner/Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1, Platten absent). CEQA: Negative Declaration.
GP08-T-01 – District 9
Tentatively Approved.

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10. GENERAL PLAN PUBLIC HEARINGS

10.2 Greenline/Urban Growth Boundary Minor Modification and General Plan Amendment on 3.2 Acres at the Northeasterly Quadrant of the Intersection of Piercy Road and Silicon Valley Road (formerly Tenant Avenue) (0 Piercy Road).

Recommendation:

(a) Tentative approval of a minor modification to the City of San José's Greenline/Urban Growth Boundary (UGB) to include approximately 3.2 acres of unincorporated territory located at the northeasterly quadrant of the intersection of Piercy Road and Silicon Valley Road. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-1-2, Kinman opposed, Campos and Zito absent).
UGB06-001 – District 2

(b) Tentative denial of a General Plan amendment and Urban Service Area (USA) expansion request to change the General Plan land use designation from Rural Residential (0.2 dwelling units per acre) to High Density Residential (25-50 dwelling units per acre) on an approximately 3.2-acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (5-0-2, Campos and Zito absent).
GP06-02-02 – District 2

(Barbaccia Investments, Owner/Jack Previte, Applicant). CEQA: Negative Declaration. (Continued from 5/20/08 – Item 10.2)

Staff's recommendations tentatively approved.
Noes: Williams.

10. GENERAL PLAN PUBLIC HEARINGS

10.3 Continuance of all General Plan amendment actions from December 2, 2008 to December 16, 2008.

Recommendation: Continuance of all General Plan amendment actions from December 2, 2008 to December 16, 2008. (Planning, Building and Code Enforcement)
Continued to 12/16/08.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located on the southeast corner of Southwest Expressway and Leigh Avenue (1030 Leigh Avenue) from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 64 multi family residential units for senior affordable housing, over 7,500 square foot dental office and surface parking on a 0.97 gross acre site (Barry Mirkin, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).

PDC07-083 – District 6

Ordinance No. 28458 passed for publication.

Noes: Oliverio.

- (b) Consideration of an ordinance rezoning the real property located on the northeast corner of Samaritan Drive and South Bascom Avenue (2581 Samaritan Drive) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow for construction of 74,800 square feet for medical office uses and an expansion of the an existing parking structure on a 6.32 gross acre site (Samaritan Medical Center, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).

PDC08-014 – District 9

Ordinance No. 28459 passed for publication.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

- 11.2 **Ordinance amending Chapter 20.50, 20.90, 20.100 and 20.200 to create a new commercial/ industrial zoning district, clarify industrial zoning standards, modify uses allowed in mixed industrial areas, to realign uses in the Light Industrial, Heavy Industrial and Industrial Park zoning districts to fit the adopted General Plan, streamline tank permitting processes, define specified uses and establish parking requirements for specified uses and other related clarifying changes and amendments.**

Recommendation: Consideration of an ordinance of the City of San José amending Title 20 of the San José Municipal Code, the Zoning Code, to amend Section 20.50.010 of Chapter 20.50 to establish the CIC combined Industrial/Commercial Zoning District and to clarify the IP Industrial Park, LI Light Industrial and HI Heavy Industrial Zoning Districts; amend Section 20.50.100 to change the “CM” Denotation to “CGP” and to allow uses with the “CGP” Denotation with a Conditional Use Permit on properties designated Mixed Industrial Overlay or Combined Industrial/Commercial by the General Plan, to establish use regulation for the CIC Combined Industrial/Commercial Zoning District, to allow Laboratory, Medium Manufacturing and Assembly, and Warehouse Uses as a permitted use in the IP Industrial Park Zoning District; to add Research and Development Office, Mortuary without Funeral Services, and Warehouse Retail as enumerated uses, to allow Crematory Uses with a Conditional Use Permit in LI Light Industrial Zoning Districts, to eliminate Day Care Center as a conditional use in the HI Heavy Industrial Zoning District with a Mixed Industrial Overlay, and to add Autobroker, wholesale, No On-Site Storage as a permitted use in the IP Industrial Park Zoning District; add Section 20.50.113 to clarify use regulations for Public Eating Establishments in the LI Light Industrial or HI Heavy Industrial Zoning Districts; add Section 20.50.130 to establish regulations for Warehouse Retail; amend Section 20.50.200 to establish development regulations for the CIC Combined Industrial/Commercial Zoning District; amend Section 20.90.060 of Chapter 20.90 to establish parking requirements for Research and Development Office, Mortuary without Funeral Services, and Warehouse Retail; amend Section 20.100.500 of Chapter 20.100 to allow above-ground storage tanks 2,000 gallons or less with a permit adjustment; amend Section 20.200 to define Mortuary and Funeral Services, Mortuary without Funeral Services, Research and Development Office, and Warehouse Retail; and make other related clarifying changes and amendments. CEQA: Negative Declaration, PP08-124. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).

Citywide

(Continued from 11/18/08 – Item 11.4)

Ordinance No. 28460 passed for publication, with a request to add a 1,000-foot setback requirement between crematory uses and any residence, school or childcare facility.

11. PUBLIC HEARINGS

11.3 Rezoning real property located on the westerly corner between Charcot Avenue and Junction Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the westerly corner between Charcot Avenue and Junction Avenue from LI(PD) Planned Development Zoning District to LI(PD) Planned Development Zoning District to allow 118,5000 square feet of light industrial uses on a 6.67 gross acre site (521 Charcot Avenue) (Club Auto Sport-Silicon Valley, LLC, Owner). CEQA: North San José EIR Resolution No. 72768 and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

PDC08-030 – District 4

(Continued from 11/18/08 – Item 11.6)

Continued to 12/9/08 per Administration.

11.4 Rezoning real property located on the south side of Hamilton Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the south side of Hamilton Avenue approximately 320 feet easterly of Meridian Avenue (Tomato Thyme Restaurant) (1560 Hamilton Avenue) from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District to allow an outdoor dining patio for an existing restaurant on a 0.375 gross acre site (Smith, John D Trustee & Et Al, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval (4-1-1-1 [Jensen opposed; Do disqualified, and Platten absent]).

PDC07-046 – District 6

(Continued from 11/18/08 – Item 11.8)

Ordinance No. 28461 passed for publication.

- **Notice of City Engineer’s Pending Decision on Final Maps**
In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10003	Northwest corner of State Highway 237 and Gold Street	4	Legacy III SJ America Center I, LLC	6 Lots	Commercial	Approve
10014	Southwest corner of Cinnabar Street and Stockton Avenue	6	Morrison Park Apartments, LLC	1 Lot / 250 Units	Multi-Family Attached	Approve

- **Notice of City Engineer’s Award of Construction Projects**
None.

- **Open Forum**
None

- **Adjournment**

The evening session of the Council of the City of San José was adjourned at 8:47 p.m. in memory of Officer Delia Julia Bravo-Carney, a beloved public servant. Delia was a San José Police Department Officer who worked in District 5 and suddenly passed away on Friday, November 21, 2008. (Campos)