



CITY COUNCIL AGENDA

JUNE 16, 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 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**
 - 9:00 a.m.** - Closed Session, Call to Order in Council Chambers
Absent Council Members: Chirco, Nguyen. (Excused)
 - 1:30 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: Nguyen. (Excused)
 - 7:15 p.m.** - General Plan Hearings, Council Chambers, City Hall
Public Hearings, Council Chambers, City Hall
Absent Council Members: Chirco, Nguyen. (Excused)
- **Invocation (District 6)**
Rabbi Joshua Berkenwald, Congregation Sinai, recited “Darfur for Life” for the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with items 5.3 and 5.5 deferred one week.

- Closed Session Report

City Attorney Doyle disclosed the following Closed Session actions of June 16, 2009:

A. Pending Litigation – Settlement Authorized:

Case Name:	<u>In re IAFF Local 230</u>
Substance of Settlement	Approval of settlement of interest arbitration matter allowing for civilianization of assistant fire marshal position.
Council Vote: Ayes:	Campos, Chu, Constant, Herrera, Kalra, Liccardo, Oliverio, Pyle; Reed.
Noes:	None.
Disqualified:	None.
Absent:	Chirco, Nguyen. (Excused)
Vacant:	None.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Junior League of San José in honor of their Volunteer Recognition Program’s 40th Anniversary. (Chu)
Heard in the evening.
Mayor Reed and Council Member Chu recognized and commended the Junior League of San José in honor of their Volunteer Recognition Program’s 40th Anniversary.
- 1.2 Presentation of a commendation to the Oak Grove High School Eaglebots for winning first place in the 2009 Northern California Regional Botball Competition. (Kalra)
Heard in the evening.
Mayor Reed and Council Member Kalra recognized and commended the Oak Grove High School Eaglebots for winning first place in the 2009 Northern California Regional Botball Competition.
- 1.3 Presentation of a commendation to San José Fire Department Battalion Chief Karen Allyn. (Oliverio)
Heard in the evening.
Mayor Reed and Council Member Oliverio recognized and commended Battalion Chief Karen Allyn, the first woman firefighter for the City of San José, who will be retiring this month.

1. CEREMONIAL ITEMS

- 1.4 Presentation of a commendation to Norma Rodriguez, Dorsa Elementary School Principal, for being named 2009 California Elementary Principal of the Year. (Campos) (Rules Committee referral 6/10/09)

Heard in the evening.

Mayor Reed and Council Members Campos and Herrera recognized and commended Norma Rodriguez, Dorsa Elementary School Principal, for being named 2009 California Elementary Principal of the Year.

- 1.5 Swearing in ceremony for District 3 Youth Commissioner Aaron Carrera and District 9 Youth Commissioner Daniel Stromfeld. (City Clerk) (Rules Committee referral 6/10/09)

Heard in the evening.

City Clerk Lee Price administered the Oath of Office to District 3 Youth Commissioner Aaron Carrera and District 9 Youth Commissioner Daniel Stromfeld.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**

None.

- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28581 – Establishing Rule 20A Underground Utility District along Coleman Avenue between West Hedding Street and Spring Street, North Market Street between West Julian Street and West St. James Street, and Devine Street between North San Pedro Street and North First Street.

Ordinance No. 28581 adopted.

- (b) ORD. NO. 28582 – Amending Section 23.04.156 of Chapter 23.04 of Title 23 of the San José Municipal Code to amend the requirements for Vertical Projecting Signs in the Urban Mixed Use Sign Zone, and make other related, nonsubstantive clarifying changes.

Ordinance No. 28582 adopted.

- (c) ORD. NO. 28585 – Rezoning certain real property on the west side of South Winchester Boulevard approximately 550 feet southerly of Stevens Creek Boulevard (369 South Winchester Boulevard) to A(PD) Planned Development Zoning District. PDC08-052

Ordinance No. 28585 adopted.

(Continued on the next page)

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (d) ORD. NO. 28586 – Rezoning certain real property situated on the southwest side of Camden Avenue, approximately 150 feet northwest of South Bascom Avenue (2270 Camden Avenue), to CN Commercial Neighborhood Zoning Dist. C09-012
Ordinance No. 28586 adopted.

2.3 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on May 27, 2009 due to the death of a close family member. (Mayor)
(Rules Committee referral 6/3/09)
- (b) Request for an excused absence for Council Member Nguyen from the Closed Session and Regular Meeting and Evening Session of the City Council on June 2, 2009 due to Authorized City Business: delegate of the American Council of Young Political Leaders in Australia. (Nguyen)
(Rules Committee referral 6/3/09)

Excused.

2.4 Amend the Airport Living Wage Ordinance.

Recommendation: Approve an ordinance amending Chapter 25.11 of Title 25 of the San José Municipal Code to add a new Part 12 to require an Airport Training Standards Program for employees of covered businesses at the Norman Y. Mineta San José International Airport and to amend Part 15 to provide for administration and enforcement of the Airport Training Standards Program. CEQA: Resolution Nos. 67380 and 71451, File No. PP09-107. (Airport)

Ordinance No. 28594 passed for publication.

2.5 Report on Bids and Award of Construction Contract for the Waste Heat Recovery Boiler A-1 Replacement.

Recommendation: Report on bids and award of construction contract for the project entitled “San José/Santa Clara Water Pollution Control Plant, FY 2008-2009 Capital Improvement Program, Waste Heat Recovery Boiler A-1 Replacement,” to the low bidder, Bay City Boiler & Engineering Co. Inc., in the amount of \$136,000, and approval of a 10% contingency in the amount of \$13,600. CEQA: Exempt, PP09-079. (Environmental Services)

Approved.

2. CONSENT CALENDAR

2.6 Report on Bids and Award of Construction Contract for the Nitrification Gate and Channel Aeration Improvements Project.

Recommendation: Accept report on bids and award of construction contract for the project entitled “San José/Santa Clara Water Pollution Control Plant, FY 2008-2009 Capital Improvement Program, Nitrification Gate and Channel Aeration Improvements Project,” to the low bidder, Pacific Infrastructure, in the amount of \$1,684,000, and approval of a 15% contingency in the amount of \$253,000. CEQA: Exempt, File No. PP09-067. (Environmental Services)

Accepted.

2.7 Temporary Rental of the For-Sale Affordable Units at Tierra Encantada Townhomes.

Recommendation: Adopt a resolution authorizing the Director of Housing to negotiate and execute an Interim Affordability Restriction with Tierra Encantada Development, LLC, to allow for the temporary rental of the for-sale affordable units at Tierra Encantada Townhomes, located near the corner of Alum Rock and McCreery Avenue. CEQA: Resolution No. 26679, File No. PDC02-029. Council District 5. SNI: Mayfair. (Housing)

Resolution No. 74959 adopted.

2.8 Parkland Agreement for Construction of Madden Park.

Recommendation:

(a) Approve the Third Amendment to Parkland Agreement for Tentative Map No. PT04-015 between City of San José and Jackson Square, LLC, to extend the completion date to construct and dedicate Madden Park to the City.

Approved.

(b) Adopt a resolution authorizing the City Manager, or designee, to negotiate and execute a Fourth Amendment to the Turnkey Parkland Agreement for Tentative Map No. PT04-015 between the City and Jackson Square, LLC to defer completion of the park improvements and dedication of Madden Park from December 31, 2009 to June 30, 2010 in the event that additional time is required to complete the park improvements.

CEQA: Mitigated Negative Declaration, Ordinance No. 27151. Council District 5. (Parks, Recreation and Neighborhood Services)

Resolution No. 74960 adopted.

2. CONSENT CALENDAR

2.9 Amend Ordinance for Building Permits and Plan Check Submittals.

Recommendation: Approve an ordinance amending Chapter 24.02 of Title 24 of the San José Municipal Code to extend the period before building plan check submittal or approval must be updated to meet the current building codes; and to increase the period of extension time the Chief Building Official is authorized to approve for building permits and plan check submittals. CEQA: Exempt. SNI: All. (Planning, Building and Code Enforcement)

Ordinance No. 28595 passed for publication.

2.10 Amend Underground Utility Fee Ordinance.

Recommendation: Approve an ordinance amending Sections 15.26.100, 15.26.120, 15.26.130, 15.26.140, 15.26.145 and 15.26.180 of Chapter 15.26 of Title 15 of the San José Municipal Code (Underground Utility Fee Ordinance), to allow annual automatic adjustment of the underground utility fee and reimbursement to developers for completion of underground utility projects and to make technical changes. CEQA: Not a Project. (Public Works)

Ordinance No. 28596 passed for publication.

2.11 Maintenance District Budget Reports for Fiscal Year 2009-2010.

Recommendation: Adopt resolutions approving, confirming and adopting the Annual Budget Reports for Fiscal Year 2009-2010 for City of San José Maintenance Districts 1, 2, 5, 8, 9, 11, 13, 15, 18, 19, 20, 21 and 22 and levying the assessments therein. CEQA: Exempt, File No. PP09-099. Council Districts 2, 3, 4 and 8. (Public Works)

Resolution No.'s 74961 through 74973 adopted.

2.12 Downtown San José Property-Based Business Improvement District Annual Report for Fiscal Year 2009-2010.

Recommendation: Adopt a resolution:

- (a) Approving the Downtown San José Property-Based Business Improvement District Annual Report for Fiscal Year 2009-2010 as filed or modified by Council;
- (b) Confirming the individual assessments as proposed or modified by Council, including the assessment on City owned property of approximately \$313,000 and the assessment on Redevelopment Agency property of approximately \$68,000;
- (c) Directing the City baseline services contribution in the amount of \$356,726, and assessment payment be made;
- (d) Directing the Director of Finance to deliver the assessment roll to the County for collection with the property taxes.

CEQA: Exempt: File No. PP09-120. Council District 3. (Public Works/Transportation)

Resolution No. 74974 adopted.

2. CONSENT CALENDAR

2.13 Council Member Nguyen's Travel to Las Vegas, Nevada.

Recommendation: Approve Council Member Nguyen's travel to Las Vegas, Nevada on July 9-11, 2009 to serve as a panelist at the 10th Biennial Asian Pacific American Labor Alliance (APALA) Convention. Source of Funds: Asian Pacific American Labor Alliance (APALA). (Nguyen)
(Rules Committee referral 6/10/09)

Approved.

2.14 Ordinance Relating to Water Conservation and Water Shortages.

Recommendation: Approve an ordinance amending Parts 2 and 3 of Chapter 15.10 of Title 15 of the San José Municipal Code to strengthen requirements related to water conservation and water shortages. CEQA: Exempt, File No. PP09-134. (City Attorney's Office)
(Rules Committee referral 6/10/09)

Ordinance No. 28597 passed for publication.

2.15 Ordinance Clarifying Persons Authorized to Direct Traffic within the Public Right-of-Way.

Recommendation: Approve an ordinance repealing Section 11.12.040 of Chapter 11.12 of Title 12 of the San José Municipal Code and amending Section 11.12.050 of Chapter 11.12 of Title 12 to clarify the persons who are authorized to direct traffic within the public right of way. CEQA: Not a Project. (City Attorney's Office)
(Rules Committee referral 6/10/09)

Ordinance No. 28598 passed for publication.

2.16 Business Tax Ordinance Revision.

Recommendation: Approve an ordinance amending Section 4.76.200 of Chapter 4.76 of Title 4 of the San José Municipal Code to allow the disclosure of business tax records in certain specified circumstances. CEQA: Not a Project. (Finance)

Ordinance No. 28599 passed for publication.

2.17 Waiver of Outdoor Event Cancellation Fees Ordinance.

Recommendation: Approve an ordinance:

- (a) Authorizing the Director of Parks, Recreation and Neighborhood Services (PRNS) to waive outdoor event cancellation fees, under the conditions outlined in the ordinance, for events scheduled prior to October 31, 2009.
- (b) Authorizing the City Manager to extend the Director of PRNS authority for waiving outdoor event cancellation fees, through October 31, 2010, if economic conditions continue to warrant the waiver of the cancellation fees.

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

Ordinance No. 28600 passed for publication.

2. CONSENT CALENDAR

2.18 Appointments to Boards, Commissions and Committees.

Recommendation: As recommended by the Rules and Open Government Committee on May 20, 2009, June 3, 2009 and June 10, 2009:

- (a) Appoint Veronica Ajawara to the Early Care and Education Commission to a term ending June 30, 2012. (Chirco)
- (b) Appoint Tania Nunez and Robert Abatecola to the Historic Landmarks Commission each to a term ending June 30, 2012. (Chirco)
- (c) Re-appoint Bobby Yount, Patricia McDonald and Richard Holden to the Arts Commission each to a term ending June 30, 2012. (Liccardo)
- (d) Appoint Keith Graham and Andres Quintero to the Airport Commission each for a term ending June 30, 2012. (Chu)
- (e) Appoint to the Library Commission David Hood to an unexpired term ending June 30, 2010 and Tina Morrill to a term ending June 30, 2012. (Oliverio)
- (f) Appoint to Mobilehome Advisory Commission Jacquie Heffner to an unexpired term ending December 31, 2010, Margaret Gregg to an unexpired term ending December 31, 2011 and Monica Shirer Lang to a term ending December 31, 2012. (Chu)
- (g) Re-appoint Pat Hall and Mike Davis and appoint Rene Lovato to the Senior Citizens Commission. (Constant)
- (h) Appoint Bob Carlson as a representative of Downtown Residents, Nick Nichols as a representative of Downtown Arts & Special Events, and re-appoint Jim Renelle as a representative of San José State University to the Downtown Parking Board. (Mayor/Liccardo) (Rules Committee referral 5/20/09, 6/3/09, and 6/10/09)

Appointments approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)
None.

3.2 Report of the Rules and Open Government Committee – May 20, 2009
Mayor Reed, Chair
Accepted.

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

3. STRATEGIC SUPPORT SERVICES

3.4 Deferred Maintenance and Infrastructure Backlog.

Recommendation: As recommended by the Rules and Open Government Committee on June 3, 2009, accept the status report on the deferred maintenance and infrastructure backlog. (City Manager’s Office)
(Rules Committee referral 6/3/09 – Item 10.1)
Accepted.

3.5 Library Parcel Tax Rates for FY 2009-2010.

Recommendation: Adopt a resolution increasing the Library Parcel Tax rates for FY 2009-2010 by 1.17% over the Fiscal Year 2008-2009 rates and approve the placement of the Library Parcel Tax on the Fiscal Year 2009-2010 Santa Clara County Property Tax Roll. CEQA: Not a Project. (Finance)
Resolution No. 74975 adopted.

3.6 Sewer Service and Use Charge Rates and Storm Sewer Service Charge Rates for FY 2009-10.

Recommendation: Adopt a resolution setting the following:

(a)	Sewer Service and Use Charge rates for FY 2009-10:	
	(1) Single-Family Residential	\$31.00/month
	(2) Multi-Family Residential	\$17.73 per unit/month
	(3) Mobile Home	\$17.77 per unit/month
	(4) Non-monitored commercial and industrial	See Attachment A
	(5) Monitored industrial	See Attachment A
(b)	Storm Sewer Service Charge rates for FY 2009-10:	
	(1) Single Family Residential and Duplex	\$7.64/month
	(2) Mobile Home	\$3.83 per unit/month
	(3) Residential Condominium	\$4.18 per unit/month
	(4) Large Multi-Family Residential (5 or more units)	\$4.18/month
	(5) Small Multi-Family Residential (3-4 units)	\$14.51/month
	(6) Commercial, institutional, and industrial	See Attachment B

CEQA: Not a Project. (Environmental Services)
Resolution No. 74976 adopted.

3.7 Municipal Water System Water Rate Increases for FY 2009-10.

Recommendation: Adopt a resolution increasing the San José Municipal Water System (SJMWS) potable water rates and charges by 10% effective July 1, 2009. CEQA: Not a Project. Council Districts 2, 4, 7 and 8. (Environmental Services)
The Office of the City Clerk received 479 written protests, less than the majority of protests required.
Resolution No. 74977 adopted.

3. STRATEGIC SUPPORT SERVICES

3.8 Approve the FY 2009-2010 Operating and Capital Budgets for the City of San José and Schedule of Fees and Charges.

Recommendation:

- (a) (1) Adopt resolutions approving the Operating Budget for Fiscal Year 2009-2010 for the City of San José, the Capital Budget for Fiscal Year 2009-2010 for the City of San José, and the Five Year Capital Improvement Program for Fiscal Year 2010-2014 for the City of San José as revised by the Mayor’s Budget Message and directing the City Manager to prepare final documents for adoption.
Resolution No. 74978 adopted.
Resolution No. 74979 adopted.
Resolution No. 74980 adopted.
- (2) Adopt a resolution establishing the Schedule of Fees and Charges for Fiscal Year 2009-2010.
Resolution No. 74981 adopted.
- (3) Adopt a resolution establishing fees and charges for use of City Hall.
Resolution No. 74982 adopted.
- (4) Adopt a resolution establishing a Council policy entitled, “Pricing and Revenue Policy,” effective July 1, 2009, and authorize the City Manager or the City Manager’s designees to initially adopt current existing fees and charges for the department of Parks, Recreation and Neighborhood Services and to gradually enact fees and charges more consistent with the new Council Policy and the approved cost recovery goals.
Resolution No. 74983 adopted.
- (5) Adopt a resolution amending the City of San José Pay Plan to rollback the salaries of the City Manager, City Clerk, City Attorney and City Auditor to the Fiscal Year 2007-08 rates, effective June 28, 2009.
Resolution No. 74984 adopted.
- (6) City Council certification that: (1) funding strategies will be pursued so that the projected funding for operations and maintenance of the Capital projects identified on page 9 of the 2009-2010 Proposed Capital Budget and 2010-2014 Proposed Capital Improvement Program will be made available in the first year of operation; and (2) appropriate efforts will be undertaken so that those funding strategies cover the entire cost of the capital project, including operations and maintenance costs, as to not require a decrease in existing basic neighborhood services.

CEQA: Not a Project. (City Manager’s Office)

Approved.

3.8 Approve the FY 2009-2010 Operating and Capital Budgets for the City of San José and Schedule of Fees and Charges. (Cont'd.)

Recommendation:

- (b) Approve an Ordinance amending Section 4.46.050 of Chapter 4.46 and Section 4.47.040 of Chapter 4.47 of Title 4 of the San José Municipal Code revising the reference to the valuation tables used to calculate the Building and Structure Construction Tax and Commercial-Residential-Mobilehome Park Building Tax from the current International Conference of Building Officials to its current successor organization, the International Code Council, and to future successor organizations' building valuation tables. CEQA: Not a Project. (Economic Development/Transportation/Planning, Building and Code Enforcement)
Ordinance No. 28601 passed for publication.

- (c) Adopt a resolution to repeal Resolution No. 74789 and set forth the Schedule of Parking Penalties and Late Payment Penalty for Parking Violations to include a courthouse construction parking penalty fee of \$4.50, to increase certain other parking penalties and the late payment penalty, and make additions, deletions and corrections to the schedule, effective July 1, 2009. CEQA: Not a Project. (Transportation)
Resolution No. 74985 adopted.

- (d) (1) Approve an ordinance amending Part 1 of the San José Municipal Code Chapter 10.42 to repeal the sixty-day reporting period, provide for a warning on the first offense within a 12 month period, and make the responsible parties subject to an administrative citation if a second or subsequent false alarm occurs on the same premises within the twelve-
Ordinance No. 28602 passed for publication.

- (2) Adopt a resolution amending the Administrative Citation Schedule of Fines to modify to the false alarms fines structure for 2009-2010 to be implemented effective July 1, 2009, and repealing Resolution No. 74398 as follows:
 - (a) The 2nd false alarm within twelve months of the initial false alarm triggers a \$125 fine.
 - (b) The 3rd false alarm within twelve months of the initial false alarm triggers a \$200 fine.
 - (c) The 4th and subsequent false alarms within twelve months of the initial false alarm triggers a \$300 fine.CEQA: Not a Project. (Police)
Resolution No. 74986 adopted.

3. STRATEGIC SUPPORT SERVICES

3.9 Revisions to the City Council Expenditure and Reimbursement Policy 0-38.

Recommendation: As recommended by the Rules and Open Government Committee on June 3, 2009, adopt a resolution approving revisions to the Council Expenditure and Reimbursement Policy. (City Clerk)
(Rules Committee referral 6/3/09 – Item 10.2)
Deferred to 6/23/09 per Administration.

3.10 Report of the Rules and Open Government Committee – May 27, 2009 Mayor Reed, Chair Accepted.

3.11 Agreement with the City Association of Management Personnel.

Recommendation: Adopt a resolution amending the terms of the current agreement with the City Association of Management Personnel (CAMP), regarding foregoing the scheduled 1.5% general wage increase for 2009-2010, and authorizing the City Manager to execute the amended agreement. CEQA: Not a Project. (City Manager's Office)
(Rules Committee referral 6/10/09)
Resolution No. 74987 adopted.

3.12 Agreement Between City and Operating Engineers, Local No. 3, or, in the Alternative, Implementation of the City's Final Offer to Operating Engineers, Local No. 3.

Recommendation:

(a) Adopt a resolution approving an agreement between the City and Operating Engineers, Local No. 3, and authorizing the City Manager to execute the agreement, effective June 28, 2009.

No action taken.

(b) In the alternative, in the absence of an agreement, adopt a resolution approving the implementation of the terms, as described in the memorandums dated May 21, 2009 and June 1, 2009, for employees represented by Operating Engineers, Local No. 3, effective June 28, 2009.

CEQA: Not a Project. (City Manager's Office)
(Deferred from 6/9/09 – Item 3.6)

Resolution No. 74988 adopted.
Noes: Campos, Herrera, Kalra.

3. STRATEGIC SUPPORT SERVICES

3.13 Ordinance Relating to Contributions to Retirement Fund and Calculation of Retirement Benefits.

Recommendation: Approve an ordinance amending Chapter 3.28 of Title 3 of the San José Municipal Code to amend Sections 3.28.030.11 and 3.28.680 and to add new Sections 3.28.030.30 and 3.28.690 related to the effect of absence due to mandatory reduction in paid working time on contributions to the retirement fund and calculation of retirement benefit. CEQA: Not a Project. (City Attorney's Office)
(Rules Committee referral 6/10/09)

Ordinance No. 28603 passed for publication.

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

4.2 Public Hearings on Business Improvement District Reports for FY 2009-2010.

Recommendation:

- (a) Conduct public hearing and adopt a resolution approving the Hotel Business Improvement District budget report for Fiscal Year 2009-10, as filed or as modified by the Council, and to levy the Hotel BID assessments for 2009-2010. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)

Public Hearing Held.

No written protests received.

Resolution No. 74989 adopted.

- (b) Conduct public hearing and adopt a resolution approving the Downtown Business Improvement District budget report for Fiscal Year 2009-10, as filed or as modified by the Council, and to levy the Downtown BID assessments for 2009-2010. CEQA: Exempt, File No. PP08-048. Council District 3. SNI: St. James Square; University; Josefa/Auzerais; Burbank/Del Monte. (Economic Development)

Public Hearing Held.

No written protests received.

Resolution No. 74990 adopted.

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Public Hearings on Business Improvement District Reports for FY 2009-2010 (Cont'd.)

- (c) Conduct public hearing and adopt a resolution approving the Japantown Business Improvement District budget report for Fiscal Year 2009-10, as filed or as modified by the Council, and to levy the Japantown BID assessments for 2009-2010. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)

Public Hearing Held.

No written protests received.

Resolution No. 74991 adopted.

- (d) Conduct public hearing and adoption of a resolution to approve the Willow Glen Business Improvement District budget report for Fiscal Year 2009-10, as filed or as modified by Council, and to levy the Willow Glen BID assessment for 2009-2010. CEQA: Exempt, File No. PP08-048. Council District 6. (Economic Development)

Public Hearing Held.

No written protests received.

Resolution No. 74992 adopted.

4.3 Vision San José 2040 Final Selection of Growth Study Scenarios.

Recommendation: Provide direction to proceed with environmental, fiscal and economic analyses of the four proposed Land Use Study scenarios for the Vision 2040 General Plan Update, including a geographic distribution for new job and housing growth capacity within each scenario, as recommended by the administration. CEQA: Not a Project. (Planning, Building and Code Enforcement).

Approved.

4.4 North San José Area Development Policy.

Recommendation:

- (a) Adopt a resolution amending the North San José Area Development Policy to:
- (1) Facilitate the delivery of affordable residential units within North San José consistent with City goals for affordable housing;
 - (2) Allow the Director of Planning the discretion to grant permit time extensions; and
 - (3) Make changes to facilitate implementation of the Traffic Impact Fee for hotel and regional commercial uses.

Resolution No. 74993 adopted.

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 North San José Area Development Policy (Cont'd.)

- (b) Accept Revised North San José Area Traffic Impact Fee Study dated May 2009 and approve an ordinance amending the North San José Area Traffic Impact Fee.
Ordinance No. 28604 passed for publication.

- (c) Defer discussion of the proposal to add capacity within the Policy to allow for up to one million square feet of large scale regional commercial uses and up to 2,000 hotel rooms outside the Core Area, and to decrease the capacity for new industrial uses by two million square feet; and acceptance the North San José Neighborhoods Plan to allow for additional community outreach to occur.

CEQA: Resolution No. 72768, Addendum to the North San José Policy Update EIR.

Council Districts 3 and 4. (Planning, Building and Code Enforcement)

[Referred from 5/19/09 – Item 11.1(a)]

(Deferred from 6/9/09 – Item 4.2)

Accepted.

Item 4.4 was accepted with modifications as outlined in the joint memorandum from Mayor Reed and Council Members Chu, Kalra and Liccardo, dated June 12, 2009.

5. NEIGHBORHOOD SERVICES

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

5. NEIGHBORHOOD SERVICES

5.2 Surplus Properties.

Recommendation:

(a) Adopt a resolution declaring the 20 properties listed below and detailed in Attachment A of the memorandum as surplus to the needs of the City, and authorizing the City Manager to sell or lease such properties in accordance with the Municipal Code, and any other City policies, as they may be amended from time to time, and in accordance with applicable state law:

- (1) Keyes Street APN# 47703054
- (2) Hamline Street APN# None (adjacent to APN# 23023035)
- (3) Autumn/Julian APN# 25929099
- (4) Santa Teresa Street APN# 25935026
- (5) 460 Park Avenue APN# 25946097
- (6) 510 Park Avenue APN# 25947081
- (7) 551 Keyes APN# 47212086
- (8) Zion Lane APN# 58712059
- (9) 1360 State Street APN# 01512091
- (10) Dorel Drive APN# 59515072
- (11) 126 S. King Road APN# 48117020
- (12) Bird Avenue APN# 26443078
- (13) 1015 S. Bascom Avenue APN# 28211014 / 28211015
- (14) Story Road APN# 47211003 / 47211009 / 47211062
- (15) Bet. McLaughlin/Sherlock APN# 49926003
- (16) 1795 Courtney Avenue APN# 47730011
- (17) 1807 Sarasota APN# 49118035
- (18) 2123 Quimby APN# 49104022
- (19) Rebel Way APN# 56946001
- (20) Sunny Oaks/Blossom Hill APN# 46423056

Resolution No. 74994 was adopted, with an amendment that properties (g) 551 Keys and (j) Dorel Drive be removed from this list and included instead with the 7 recently identified under-utilized City-owned properties included in Attachment B that are subject to community outreach.

(b) Direct staff to conduct community outreach to solicit public input on alternative uses, leasing potential, and/or sale of the 7 recently identified under-utilized City-owned properties included in Attachment B, with particular emphasis on identifying revenue generating and cost reducing options.

CEQA: Not a Project. Appropriate CEQA review will be completed prior to City action to dispose of any surplus parcels. (Public Works/General Services)

Approved.

5. NEIGHBORHOOD SERVICES

5.3 Award the Construction Contract for the Educational Park Branch Library.

Recommendation:

- (a) Award the construction contract for the Educational Park Branch Library to the low bidder, Barry Swenson Builder, to include the base bid and Add Alternate Nos. 1 through 5 in the amount of \$7,136,300, and approve a contingency in the amount of \$1,070,445.
- (b) Approve the first amendment to the agreement for consultant services with Anderson Brule Architects, for the Project, extending the term of the agreement from October 31, 2010 to April 30, 2011, modifying the scope of services, and increasing the amount of compensation by \$90,000, for a total agreement amount not to exceed \$1,280,000.

CEQA: Mitigated Negative Declaration, File No. PP08-024. Resolution approved by Council on November 6, 2007. Council District 4. (Public Works/Library)

Deferred to 6/23/09 per Orders of the Day.

5.4 Happy Hollow Park & Zoo Parks Bond Project.

Recommendation:

- (a) Approve the third amendment to the master agreement for consultant services with Portico, Inc., for the Happy Hollow Park & Zoo Parks Bond Project increasing the compensation by \$150,000 from \$7,750,000 for a total agreement amount not to exceed \$7,900,000 and extending the agreement duration from April 30, 2010 to December 31, 2010.
- (b) Approve Contract Change Order No. 31 with West Bay Builders, Inc. for the Happy Hollow Park & Zoo – Zoo and Attractions Phase IIA Parks Bond Project in the amount of \$1,219,864 for a total contract amount of \$41,607,829 and extending the construction contract duration from August 11, 2009 to October 2, 2009.
- (c) Approve an increase in the construction contingency by one percent (1%) in the amount of \$392,550 for a total construction contract contingency of \$3,140,400 to provide funding for Contract Change Order No. 31 and any unanticipated work necessary for the completion of the balance of the construction.
- (d) Approve project delivery cost increase in the amount of \$50,000 to provide engineering and inspection services to the project for the extended contract duration from August 11, 2009 to October 2, 2009.

CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April, 2007 and Amended Mitigated Negative Declaration, File No. PP09-023, dated February 6, 2009. (Public Works/Parks, Recreation and Neighborhood Services)

Approved.

5. NEIGHBORHOOD SERVICES

5.5 Happy Hollow Park & Zoo – Zoo and Attractions Substitution of Subcontractor.

Recommendation: Conduct an ADMINISTRATIVE HEARING to consider the request of West Bay Builders, Inc., the general contractor on the Happy Hollow Park & Zoo – Zoo and Attractions project, to substitute Jensen Corporation for Green Growth Industries, Inc., the listed subcontractor for the landscape, irrigation and green roof work. CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April 2007. (Public Works) [Rules Committee referral 6/3/09 – Item 3.1(a)]
(Deferred from 6/9/09 – Item 3.10)
Deferred to 6/23/09 per Orders of the Day.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – June 1, 2009 Council Member Liccardo, Chair Approved.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Memorandum of Understanding for a Biogas Facility.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding between the City of San José and Zero Waste Energy Development Company, Inc., regarding their intent to develop lease terms for use of approximately 40 acres of a closed landfill site located on San José/Santa Clara Water Pollution Control Plant buffer-lands, for a biogas facility and the process for bringing the lease forward for Council and other required approvals and any amendments to the master agreement with the tributary agencies, if needed. CEQA: Not a Project. Council District 4. (Environmental Services/City Manager's Office)
Resolution No.74995 adopted.

7.2 San José's Strategic Energy Plan.

Recommendation: As referred by the Transportation and Environment Committee on June 1, 2009, approve the Strategic Energy Plan establishing strategies and tactics for achieving Green Vision Goals related to energy use reductions and increased use of renewable energy sources. (Environmental Services)
(Transportation and Environment Committee referral 6/1/09 – Item 3.5)
Deferred to August 2009.

7. ENVIRONMENTAL & UTILITY SERVICES

7.3 Water Supply Agreement and Water Sales Contract with the City and County of San Francisco.

Recommendation: As referred by the Transportation and Environment Committee on June 1, 2009:

- (a) Adopt a resolution approving the Water Supply Agreement between the City and County of San Francisco and Wholesale Customers in Alameda County, San Mateo County and Santa Clara County, and authorizing the City Manager to negotiate and execute the Agreement on behalf of the City of San José.

Resolution No. 74996 adopted.

- (b) Adopt a resolution authorizing the City Manager to negotiate and execute San José's Individual Water Sales Contract with the City of San Francisco.

Resolution No. 74997 adopted.

- (c) Adopt a resolution making findings for purposes of the California Environmental Quality Act in connection with approval of Water Supply Agreements with the City and County of San Francisco.

(Environmental Services)

(Transportation and Environment Committee referral 6/1/09 – Item 3.8)

Resolution No. 74998 adopted.

8. PUBLIC SAFETY SERVICES

None.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Mayor's 2009 June Budget Message.

Recommendation:

(a) Review, discussion and approval of the Mayor's 2009 June Budget Message. Mayor Reed's Budget Message approved, as amended:

- 1. Adjust the Economic Uncertainty Reserve Rebudget Adjustment for 2009-/2010 by directing staff to amend the carry-over rebudget for Economic Uncertainty Reserve by \$5,792,000 from \$10,311,000 to \$4,519,000 to offset the sales tax decline;**
 - 2. Adopt recommendations 1a and 1b from MBA 44;**
 - 3. Direct the City Manager to work with Team San José and the Community and Economic Development Committee (CED) to review future overhead charges for Fund 536;**
 - 4. Add to the list of possible additions to be funded through employee concessions in Attachment #1 (General Fund Adjustments – Use of Funds) four (4) Crime Prevention Specialists and one (1) Risk Management Program Manager;**
 - 5. As recommended by Council Members Pyle and Kalra, direct the City Manager to return to the Council with a benchmarking plan and detailed budget for real estate services;**
 - 6. Complete the meet and confer process relative to a determination regarding whether or not City employees can submit a proposal to provide concession services at Happy Hollow Park & Zoo, and then bring it to City Council through the Community and Economic Development Committee.**
 - 7. Direction to the City Manager to develop a process for American Recovery and Reinvestment Act (ARRA) grant applications where the proposals are developed with transparency and that allows the stakeholders to participate.**
- (b) Adopt a resolution by the City Council authorizing the City Manager to negotiate and execute grant agreements addressed in the Mayor's Budget Message which are for amounts that exceed the City Manager's contract authority. (Mayor)
Heard Concurrently with Items 3.5 through 3.8.
Resolution No. 74999 adopted.**

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 Actions Related to the Formation of a Convention Center Facilities District.

Recommendation:

- (a) Adopt a resolution by the City Council declaring results of the special mailed-ballot election for the Convention Center Facilities District No. 2008-1 and, if approved, directing the recording of a special tax lien on properties located within the District.

Resolution No. 75000 adopted. Staff directed to communicate with the hotel community any changes or delays in the Convention Center construction project scope and schedule.

- (b) Approve an ordinance levying the special tax within the District.

Ordinance No. 28605 passed for publication.

- (c) Adopt a resolution by the City Council initiating validation proceedings to have a court confirm the City's legal authority to levy a special tax and issue bonds secured by the special tax.

Resolution No. 75001 adopted.

- (d) Adopt a resolution by the Agency Board authorizing the General Counsel to negotiate and execute a Second Amendment to the Agreement with Orrick, Herrington & Sutcliff, LLP to add \$35,000 for legal services related to the validation action for a total contract amount not to exceed \$135,000.

CEQA: Resolution No. 72767 and Addenda thereto, File No. PP08-002. (City Manager's Office/Redevelopment Agency)

Resolution No. 75002 adopted.

Redevelopment Agency Resolution No. 5913 adopted.

Heard in conjunction with Redevelopment Agency Agenda Item 8.1 "Approval of Actions Related to the San José McEnery Convention Center Expansion"

- Open Forum
None.

- Adjournment
The Council of the City of San José adjourned the afternoon session at 6:38 p.m.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10.1 Tentative approval of General Plan Consent Calendar items.

Recommendation:

- (a) **Amendment on approximately 0.72 acres on the southwest corner of Tully Road and McLaughlin Avenue (1100 Tully Road).** Tentative approval of a General Plan amendment request to change the San José 2020 General Plan Land Use/ Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to General Commercial on a 0.72-acre site located on the southwest corner of Tully Road and McLaughlin Avenue (1100 Tully Road). (Borello, John L. and Anita C. Trustee & Et Al, Owner/Applicant). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
GP08-07-01 – District 7
Staff/Planning recommendation was tentatively approved.
- (b) **Text Amendment to incorporate the Evergreen-East Hills Development Policy into the *San José 2020 General Plan*.** Tentative approval of a General Plan text amendment request to incorporate the Evergreen-East Hills Development Policy into the San José 2020 General Plan. (City of San José, Applicant). CEQA: Evergreen-East Hills Development Policy Final Supplemental Environmental Impact Report certified by the City Council on December 16, 2008, Resolution No. 74742. SNI: West Evergreen, K.O.N.A., & East Valley/680. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
GP08-T-09 – Districts 5, 7, & 8
Staff/Planning recommendation was tentatively approved.
- (c) **Amendment on 9.1 acres on the northeast side of San Felipe Road, 800 feet north of Silver Creek Road and at the terminus of Grand Oak Way.** Tentative approval of a General Plan request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) on a 9.1-acre site located on the northeast side of San Felipe Road, approximately 800 feet north of Silver Creek Road and at the terminus of Grand Oak Way (DAL Properties, LLC, Applicant/Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0).
GP08-08-02 – District 8
Staff/Planning recommendation was tentatively approved.

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10. GENERAL PLAN PUBLIC HEARINGS

- 10.2 Text amendment to revise the San José 2020 General Plan Text, including Appendix C: Housing, to update demographic and housing data, goals, policies, selected land use designations' minimum densities, and implementation actions for the 2007-2014 planning period, and other minor technical, clarifying and clerical revisions, as necessary, to comply with State Housing Element Law (Government Code Section 65580-65589.8).**

Recommendation: Tentative approval of a General Plan text amendment request to revise the San José 2020 General Plan Text, including Appendix C: Housing, to update demographic and housing data, goals, policies, selected land use designations' minimum densities, and implementation actions for the 2007-2014 planning period, and other minor technical, clarifying and clerical revisions, as necessary, to comply with State Housing Element Law (Government Code Section 65580-65589.8) (City of San José, Applicant). CEQA: San José 2020 General Plan EIR, Resolution No. 65459 and additional documents referenced in staff report. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

GP08-T-06 – Citywide

Staff/Planning recommendation was tentatively approved.

- 10.3 Amendment on 2.37 acres on the north side of Parkmoor Avenue, approximately 1,070 feet west of Meridian Avenue, in the rear lot (1555 Parkmoor Avenue).**

Recommendation: Tentative approval of a General Plan amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Medium High Density Residential (12-25 DU/AC) to General Commercial on a 2.37-acre site located on the north side of Parkmoor Avenue, approximately 1,070 feet west of Meridian Avenue, in the rear lot (1555 Parkmoor Avenue) (Chiechi Park West III/Hope Services, Owner/City of San José Housing Department, Applicant). CEQA: Negative Declaration. SNI: Burbank/Del Monte. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0) (6-1-0, Kamkar opposed).

GP08-06-01 – District 6

(Continued from 12/1/6/08 – Item 10.3)

The General Plan Amendment was tentatively denied with Staff directed to find another piece of property with a willing property owner to provide for the “offset” requirement under the City’s Employment Land Preservation Policy as set forth in the Joint Memorandum from Mayor Reed and Council Member Oliverio, dated June 12, 2009.

10. GENERAL PLAN PUBLIC HEARINGS

10.4 Amendment on an approximately 0.85-acre site on the east side of Almaden Road, approximately 300 feet north of Redmond Avenue (16430 Almaden Road).

Recommendation: Tentative denial of a General Plan amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Medium Density Residential (8 - 16 DU/AC) on an approximately 0.85-acre site located on the east side of Almaden Road, approximately 300 feet north of Redmond Avenue (16430 Almaden Road) (Woodrum, Ronnie L. and Phyllis R. Trustee, Owner/Applicant). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (4-3-0).

GP08-10-01 – District 10

The Staff recommendation to deny the proposed General Plan Amendment was approved with an amendment as outlined in Council Member Pyle’s memorandum of 6/15/09.

10.5 Amendment on an approximately 3.5-acre site on the southeast corner of Ridder Park Drive and Fox Lane.

Recommendation: Tentative denial of a General Plan amendment request to add the Mixed Industrial Overlay to a 3.5-acre site designated Industrial Park on the San José 2020 General Plan Land Use/Transportation Diagram (D & J Construction Inc., Et Al, Owner/New Harvest Christian Fellowship, Applicant). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (6-1-0).

GP09-04-01 – District 4

**The item was deferred to the Fall 2009 General Plan Hearings to fully review the application as outlined in Council Member Chu’s memorandum of 6/16/09.
Noes: Liccardo, Oliverio.**

10. GENERAL PLAN PUBLIC HEARINGS

10.6 Land Use and Text Amendments on an approximately 0.85-mile segment of the Alum Rock Neighborhood Business District between King Road and Interstate 680.

Recommendation: Tentative approval of General Plan amendment requests to change various residential and commercial land use designations to Transit Corridor Commercial and modify the Alum Rock Neighborhood Business District boundary to include various portions of parcels fronting on, or within 1000 feet, of Alum Rock Avenue between King Road and Interstate 680. The associated text amendment request is to revise the definition of the Alum Rock Neighborhood Business District to reflect the proposed land use changes. (Various Owners / City of San José, Applicant). CEQA: Negative Declaration. SNI: Mayfair and Gateway East. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
GP08-05-01a, b, c, d, & e and GPT08-05-01 – District 5
Staff/Planning recommendation was tentatively approved.

10.7 Approve all General Plan amendment actions on June 16, 2009.

Recommendation: Adopt a resolution approving all General Plan amendment actions taken on June 16, 2009. (Planning, Building and Code Enforcement)
Resolution No. 75003 adopted.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located on the southwest corner of Tully Road and McLaughlin Avenue (1100 Tully Road) from the A Agricultural District to the CN Neighborhood Commercial District to allow neighborhood serving commercial uses on a 0.72 gross acre site (Borello John L. and Anita C. Trustee & Et Al, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C08-047 – District 7

Ordinance No 28606 passed for publication.
Noes: Herrera, Liccardo.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Rezoning real property located at the southwest corner of Edward Avenue and South 1st Street.

Recommendation: Consideration of an ordinance rezoning the real property located at the southwest corner of Edwards Avenue and South 1st Street from LI Light Industrial and R-M Multiple Family Residence Zoning Districts to A(PD) Planned Development Zoning District to allow relocation of one National Register eligible house, demolition of five structures and construction of up to 50 residential units and approximately 5,350 square feet of commercial/retail space on a 1.08 gross acre site (Barriga Emilio Et Al, Jose Montero, Owner). SNI: Washington. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0).

PDC08-035 – District 3

(Continued from 6/2/09 – Item 11.2)

Ordinance No. 28607 passed for publication with direction to Staff to collaborate with applicant regarding potential improvements of design to create a smart-growth, transit-oriented development, which may include additional retail frontage , finding a safer location for the tot lot, and pedestrian and bike improvements (i.e., wider sidewalks, expansion of bike parking).

11.3 ADMINISTRATIVE HEARING and consideration of an appeal of the Planning Commission’s decision to approve a Conditional Use Permit.

Recommendation: Conduct an ADMINISTRATIVE HEARING and consider an appeal of the Planning Commission’s decision to approve a Conditional Use Permit to allow an entertainment establishment (karaoke only) with after mid-night operation until 2:00am Fridays and Saturdays in portion of a commercial building and an alternate parking arrangement on a 2.4 gross acre site in the CP Pedestrian Commercial Zoning District, located on the southeast corner of South De Anza Boulevard and Via Vico (1132 S. DeAnza Boulevard) (Ping S. Chow, Owner/June A. Oberdorfer, Appellant). Council District 1. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends the City Council uphold the Planning Commission’s decision and approve the subject Conditional Use Permit.

CP08-085 - District 1

Hearing Held.

Resolution No. 75004 adopted.

11.4 Rezoning real property located approximately 1,200 feet northwesterly of the intersection of Los Esteros Road and Zanker Road.

Recommendation: Consideration of an ordinance rezoning the real property located approximately 1,200 feet northwesterly of the intersection of Los Esteros Road and Zanker Road (705 Los Esteros Road) from an A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow continued use of resource materials recovery after the closure of the existing landfill on a 70.3 gross acre site (Zanker Road Resource Management, Ltd., Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC08-042 – District 4

Ordinance No. 28608 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>
10023	Southeast Corner of Piercy Road and Tennant Avenue	2	KB Home South Bay, Inc.	44 Lots / 40 Units	Single Family Detached	Approve

- **Notice of City Engineer’s Award of Construction Projects**

- **Open Forum**

None.

- **Adjournment**

The Council of the City of San José was adjourned at 9:26 p.m. in memory of Lahori Ram, former Economic Development Commissioner for the State of California and a senior leader in the Indian American community worldwide. (Kalra)

8. JOINT REDEVELOPMENT AGENCY/COUNCIL

See items 9.1 - 9.2 on the City Council's Agenda pertaining to the "Mayor's Budget Message" and "Convention Center Facilities District" which will be heard and action taken only during the Council meeting that begins at 1:30 p.m. today.

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

8.1 Approval of actions related to the San Jose McEnery Convention Center Expansion.

Recommendations:

- (a) City Council and Redevelopment Agency Board direction to the City Manager and the Executive Director to proceed with developing plans to:
 - (1) Demolish the former Martin Luther King, Jr. Library building on West San Carlos Street to clear the path for the expansion of the San Jose Convention Center;
 - (2) Relocate the City staff currently housed in the former Martin Luther King, Jr. Library building to the City Hall and other City-owned facilities.

Approved.

- (b) Adoption of a resolution by the City Council making certain findings, as required by Health and Safety Code Section 33445, and authorizing the City Manager to:
 - (1) Negotiate and execute short-term office space lease in the Downtown to accommodate City staff being relocated from the former Martin Luther King, Jr., Library building;
 - (2) Negotiate and execute a Project Services Memorandum (PSM) not to exceed \$415,000 with the Redevelopment Agency describing in more detail the scope of work, schedule and other specifics of the matters set forth herein.

Resolution No. 75005 adopted.

- (c) Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to negotiate and execute a PSM not to exceed \$415,000 with the City describing in more detail the scope of work, schedule and other specifics of the matters set forth herein.

CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002. Central Service Yard: Mitigated Negative Declaration, File No. PP05-136, and addendum File No. PP09-113. [MERGED] (Deferred 5/19 and 6/2/09, Item 8.1)

Redevelopment Agency Resolution No. 5914 adopted.

The Redevelopment Agency Board was adjourned at 5:36 p.m.