

# CITY COUNCIL AGENDA

**JANUARY 9, 2007**

## SYNOPSIS

PETE CONSTANT  
FORREST WILLIAMS  
SAM LICCARDO  
VACANT  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3    CHUCK REED, MAYOR  
DISTRICT 4  
DISTRICT 5

VACANT  
MADISON P. NGUYEN  
DAVID D CORTESE  
JUDY CHIRCO  
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 on items that are not on the agenda during Open Forum. 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 and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp). Council Meetings are televised live and rebroadcast on Channel 26.

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**  
11:00 a.m.- Closed Session, City Hall Tower, 18<sup>th</sup> Floor, City Hall  
**Absent Council Members: None; Vacant District 4 and 6.**
- 1:34 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: None; Vacant District 4 and 6.**
- 7:06 p.m. - Public Hearings, Council Chambers, City Hall  
**Absent Council Members: None; Vacant District 4 and 6.**
  
- **Invocation (District 1)**  
**Father John Asimacopoulos, St. Nicholas Greek Orthodox Church.**
  
- **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.**

## **1. CEREMONIAL ITEMS**

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- 1.1** Presentation of a commendation to the Oak Grove Youth Football and Cheer for winning the national title from the Pop Warner Super Bowl. (Williams)  
(Rules In-Lieu referral 1/3/07)  
**HEARD IN THE EVENING**  
**Mayor Reed and Council Member Williams recognized and commended the Oak Grove Youth Football, Cheer and Dance Troop from the Pop Warner Super Bowl.**

## 2. CONSENT CALENDAR

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### 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes:

- (a) Regular minutes of March 7, 2006
- (b) Regular minutes of March 14, 2006
- (c) Regular minutes of March 21, 2006
- (d) Regular minutes of March 28, 2006
- (e) Regular minutes of April 4, 2006
- (f) Regular minutes of April 11, 2006
- (g) Regular minutes of April 18, 2006
- (h) Regular minutes of April 25, 2006
- (i) Minutes of Joint Council/Santa Clara Valley Water District of April 4, 2006
- (j) Minutes of San José Housing Authority of April 4, 2006
- (k) Minutes of San José Financing Authority of April 25, 2006

**Approved.**

### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 27911 – Rezoning certain real property situated in the West Evergreen Strong Neighborhoods Initiative area and located generally on both sides of Towers Lane, between Aborn Road and Amberly Lane, to R-1-8 Single-Family Residence District. CC06-058  
**Ordinance No. 27911 adopted.**
- (b) ORD. NO. 27952 – Rezoning certain real property situated on the north side of Rock Avenue, approximately 450 feet westerly of Oakland Road (1041 Rock Avenue) to A(PD) Planned Development Zoning District. PDC06-012  
**Ordinance No. 27952 adopted.**
- (c) ORD. NO. 27953 – Rezoning certain real property situated at the southerly side of Shenado Place, approximately 500 feet easterly of Gerine Blossom Drive from the R-1-1 Single-Family Residence District to the A(PD) Planned Development Zoning District. PDC06-026  
**Ordinance No. 27953 adopted.**
- (d) ORD. NO. 27954 – Prezoning certain real properties situated at the east side of Noble Lane, 200 feet north of Noble Avenue, to R-1-5 Single Family Residence District. C06-037  
**Ordinance No. 27954 adopted.**

## 2. CONSENT CALENDAR

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### 2.2 Final adoption of ordinances (Cont'd.)

**Recommendation:**

- (e) ORD. NO. 27955 – Amending Sections 20.90.060 and 20.90.220 of Chapter 20.90 of Title 20 of the San José Municipal Code to reduce parking requirements for specific ground floor commercial uses within neighborhood business districts, to reduce parking requirements for certain miniwarehouses/ministorage uses citywide, and making minor, technical or clerical corrections to existing municipal code language.

**Ordinance No. 27955 adopted.**

### 2.3 Approval of actions related to the Airport Advertising Concession Request for Proposals.

**Recommendation:** Approval of the terms and conditions for the Airport advertising concession request for proposals at the Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, File No. PP06-173. (Airport)  
(Deferred from 12/12/06 – Item 2.3)

**Approved.**

### 2.4 Acceptance of the Annual Financial Reports on the various Bond Programs.

**Recommendation:**

- (a) Acceptance of the annual report on the Neighborhood Security Bond Program for fiscal year 2005-2006.
- (b) Acceptance of the annual report on the Safe Neighborhood Parks and Recreation Bond Program for fiscal year 2005-2006.
- (c) Acceptance of the annual report on the Branch Library Bond Program for fiscal year 2005-2006.

CEQA: Not a Project. (Citizen Oversight Committee)

**Accepted.**

### 2.5 Approval to amend an agreement for solid waste consulting services for the 2007 Recycle Plus Transition.

**Recommendation:** Approval of a second amendment to the agreement between the City and R3 Consulting for solid waste consulting services to revise the scope of services to include monitoring and technical services for the 2007 Recycle Plus Transition and for Recycle Plus rate modeling, extending the term through December 30, 2007, and increasing the compensation by \$100,000, from \$300,000 to a not to exceed amount of \$400,000. CEQA: Not a Project. (Environmental Services)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.6 Approval to reject the sole bid for the Water Pollution Control Plant Project.

**Recommendation:** Approval to reject the sole bid for the construction project entitled “San José/Santa Clara Water Pollution Control Plant, FY 2006-2007 Capital Improvement Program, 30-inch Gate Valves Replacement for Process Water Pump.” CEQA: Exempt, File No. PP05-124. (Environmental Services)

**Approved.**

### 2.7 Approval of an agreement for consultant services for the Plant Reliability Improvements Project at the Water Pollution Control Plant.

**Recommendation:** Approval of an agreement with Carollo Engineers for consultant services for the development of the San José/Santa Clara Water Pollution Control Plant’s “Plant Reliability Improvements Project-Operations and Maintenance Manual,” from the date of execution until December 15, 2008 for a total amount not to exceed \$399,000. CEQA: Not a Project. (Environmental Services)

**Approved.**

### 2.8 Approval to award open purchase order #13 for FY 2006-2007.

**Recommendation:** Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #13 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration’s Memorandum to Council for specific CEQA clearance determinations on each recommended action. (Finance)

**Approved.**

### 2.9 Approval to amend an agreement for security guard services at the Airport.

**Recommendation:** Approval of a resolution authorizing the Director of Finance to execute the first amendment to the agreement between the City and National Security Industries for security guard services at the Norman Y. Mineta San José International Airport increasing compensation by \$550,000 from \$600,000 to \$1,150,000 for the contract period ending March 31, 2007. CEQA: Resolution Nos. 67380 and 71451, PP06-197. (Finance)

**Resolution No. 73582 adopted.**

### 2.10 Approval to amend the City Pay Plan to include a new classification.

**Recommendation:** Adoption of a resolution to create the following job classification: Principal Permit Specialist (3901). CEQA: Not a Project. (Human Resources)

**Resolution No. 73583 adopted.**

## 2. CONSENT CALENDAR

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### 2.11 Approval of report on bids and award of contract for the Davis Street Sanitary Sewer Replacement Project.

**Recommendation:** Report on bids and award of contract for the Davis Street Sanitary Sewer Replacement Project to the low bidder, D'Arcy Harty Construction, Inc., in the amount of \$1,163,690.40 and approval of a contingency in the amount of \$117,000. CEQA: Exempt, PP06-123. Council District 6. (Public Works)

**Approved.**

### 2.12 Acceptance of the Office of the City Auditor's Report.

**Recommendation:** Acceptance of the Office of the City Auditor's *Report of Activities and Findings for the Period October 16, 2006 through November 15, 2006.* (City Auditor)

(Rules In-Lieu referral 1/3/07)

**Report accepted.**

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session

**Recommendation:** Approval of minutes.

- (a) Council Study Session on the Coyote Valley Specific Plan minutes of April 28, 2006.

**Approved.**

### 3.2 Report of the Rules Committee – December 13, 2006

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council

- (1) Review January 9, 2007 Draft City Council Agenda

- (a) Adds to the January 9, 2007 Draft City Council Agenda

**The Committee approved the January 9, 2007 City Council Agenda with two (2) additions.**

- (2) Add New Items to December 19, 2006 Agenda

**NONE – MEETING CANCELLED**

- (3) List of Reports Outstanding

**There were none.**

- (c) Legislative Update

- (1) State

- (a) 2006 State Legislative Summary. (City Manager)

**The Committee accepted the report from the City's Legislative Representative.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – December 13, 2006 (Cont'd.)

- (2) Federal
  - (a) Summary of Federal Relation Activities – Year End 2006. (City Manager)  
**The Committee accepted the report from the City's Federal lobbyist.**
  - (d) Meeting Schedules
    - (1) Proposed 2007-2008 City Budget Calendar. (Budget Office)  
**The Committee approved the proposed 2007-2008 City Budget Calendar.**
  - (e) The Public Record  
**The Committee noted and filed the Public Record.**
  - (f) Appointments to Boards, Commissions and Committees  
**There were none.**
  - (g) Rules committee Reviews, Recommendations and Approvals  
**There were none.**
  - (h) Review of Significant Public Records Act Requests  
**There were none.**
  - (i) Review of Council Policy Updates per Sunshine Reforms  
**There were none.**
  - (j) Open Forum  
**Tessa Woodmansee spoke about the lack of enforcement by the City of San José of the noise and air quality standards of the Royal Coach Tour Bus Company.**
  - (k) Adjournment  
**The meeting was adjourned at approximately 3:08 p.m.**

**The Rules Committee Report and the actions of December 13, 2006 were approved.**

#### 3.3 Report of the Making Government Work Better Committee No Report.

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.4 Acceptance of the status report in telecommunication legislation and negotiations for Project Lightspeed.

**Recommendation:**

- (a) Acceptance of a report on recent State actions establishing a statewide franchising system for video services and implications on AT&T's encroachment permit applications for its Project Lightspeed.

**Report accepted.**

- (b) Approval of an ordinance allowing the use of City's right of way by providers of Video Services under certain specified conditions.

**Ordinance No. 27956 passed for publication.**

- (c) Direction to staff regarding the negotiation of a "Gap Agreement" with AT&T for the provision of video services within San José.

**Approved, as amended:**

- (1) Staff to work with the community and AT&T to minimize blockage of visibility and obstruction of views;
- (2) Staff to follow-up on new legislation regarding the State Franchise Agreements;
- (3) AT&T to include San José in their application for State Franchise Agreements;
- (4) AT&T to distribute notices in English, Spanish and Vietnamese and work with staff to identify any other languages that notices should be translated into;
- (5) Staff directed to begin issuing encroachment permits and move quickly to ensure that the communication plan is translated into additional languages;
- (6) Staff to provide a quarterly update on the progress of the project.

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

(Deferred from 11/14/06 – Item 3.6, 12/5/06 – Item 3.4, and 12/12/06 – Item 3.9)

#### 3.5 Approval of actions related to the Reed Reforms.

**Recommendation:**

- (a) Discussion and direction to staff to take action on the Reed Reforms as recommended in Attachment A.

**Recommendations outlined in the Reed Reforms (Attachment A) approved, as amended:**

- (1) Recording of Closed Sessions postponed; referred to the Sunshine Reform Task Force;
- (2) Staff directed to publish all staff reports at least 10 days before the Council meeting and requested that staff bring back for Council consideration exceptions to the rule;

*(Item continued on the next page.)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.5 Approval of actions to the Reed Reforms. (Cont'd.)

- (3) Staff directed to publish agreements with bargaining units after ratified by the union and 10 days before the Council meeting;**
- (4) Monthly hearings on the status of the Council directives to be added to Council Committee Work Plans.**

- (b) Approval of Reed Reforms 29-32, in order to complete time sensitive tasks related to the budget process:
  - (1) Approval and direction to staff to begin work on reforms 29-32 related to “Change to a Community Based Budgeting Process” and direction to staff to take the necessary actions, as noted in actions below to implement these reforms.
  - (2) Direction to the Administration to designate funds from the Council General appropriation to fund the Community Budgeting Priorities Survey (Reed Reform #29) and the Neighborhood Association Meeting (Reed Reform #30), to be held on January 20, 2007.
  - (3) Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with Fairbank, Maslin, Maullin & Associates, Inc. to develop and implement the Community Budget Priorities Survey, increasing compensation by \$30,000, from \$99,930 to an agreement amount not to exceed \$129,930 with no change in the agreement term.
  - (4) Approval of the framework for the Council Priority Setting Process and to request that the Rules Committee set an all day Council Priority Setting Hearing on February 20, 2007.

(Reed)

(Rules Committee referral 12/13/06)

**Resolution No. 73593 adopted, and staff directed to:**

- (1) Get input from the public on unfunded needs;**
- (2) Collaborate with the Council Offices on public outreach (compare and compile various mailing lists);**
- (3) Work with the Consultant to ensure greater outreach to San José’s diverse communities.**

#### 3.6 Conduct a Public Hearing and execute a temporary construction easement agreement with PG&E.

**Recommendation:**

- (a) Conduct a public hearing to consider the use of public lands located within the Guadalupe Gardens Underground Utility District by Pacific Gas and Electric Company, and adoption of a resolution approving the use of the public lands.  
**Resolution No. 73584 adopted.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.6 Conduct a Public Hearing and execute a temporary construction easement agreement with PG&E. (Cont'd.)

- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute a temporary construction easement agreement and permanent easement agreement with Pacific Gas and Electric Company to use public lands for the installation of utility company aboveground cabinets.

CEQA: Exempt, PP02-10-306. Council District 3. (Public Works)

**Resolution No. 73585 adopted.**

#### 3.7 Adoption of a resolution urging NBC-Universal to reconsider its decision to eliminate KSTS-48 Telemundo's "Noticiero 48" broadcast.

**Recommendation:** Adoption of a resolution urging NBC-Universal to reconsider the decision to eliminate KSTS-48 Telemundo's "Noticiero 48" broadcast which serves the Latino community with access to local information and a platform for Latino concerns. (Campos)

**Dropped.**

(Rules In-Lieu referral 1/3/07)

#### 3.8 Approval of City Council and Redevelopment Agency Committee restructuring and appointments and amendments to the Council Rules of Conduct for Meetings.

**Recommendation:** Approval of City Council and Redevelopment Agency Committee restructuring and appointments, and adoption of a resolution amending the Council Rules of Conduct for Meetings. (Mayor)

(Rules In-Lieu referral 1/3/07)

**Resolution No. 73586 adopted.**

- (1) Closed Sessions to be convened in the Council Conference Room (W133).  
(2) Committee restructuring approved. Committee Assignments approved as modified:

- (1) The Investment Committee appointment was removed; a member of the public to be appointed;
- (2) The HCP Advisory Group name was changed to the Santa Clara Valley Habitat Plan and the assignment changed from Mayor Reed to Council Member Chirco;
- (3) The CDBG Steering Committee name was changed to the Housing and Community Development Advisory Commission;
- (4) The Mayor's Aging Leadership Council name was changed to Aging Leadership Group; and
- (5) Council Member Campos was added as Co-Chair of the Domestic Violence Advisory Board.

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.1 Report of the Driving a Strong Economy Committee No report.**

### **4.2 Public hearing on the reorganization/annexation of Monterey Park No. 110.**

**Recommendation:** Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Monterey Park No. 110 on an approximately 42.6 gross acre County Pocket containing 3 parcels on the East side of Coyote Rd., 1700 ft. northerly of Silver Creek Valley Rd. and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement)

(Continued from 11/14/06 – Item 4.10)

**TO BE HEARD IN THE EVENING**

**Resolution No. 73594 was adopted.**

### **4.3 Public hearing on the reorganization/annexation of Oak Grove No. 70.**

**Recommendation:** Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Oak Grove No. 70 on an approximately 14.66 gross acre County Pocket consisting of portions of 7 parcels on the south side of Manila Dr. and Curie Dr., west of San Ignacio Ave. and detachment of the same from the appropriate special districts properties including Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement)

(Continued from 11/14/06 – Item 4.11)

**HEARD IN THE EVENING**

**Resolution No. 73595 was adopted.**

### **4.4 Public hearing on the reorganization/annexation of Orchard No. 148.**

**Recommendation:** Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Orchard No. 148 on an approximately 36.09 gross acre County Pocket consisting of 3 parcels on the northerly side of Seely Ave., west of Montague Expressway and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 4. (Related Rezoning C06-083). (Planning, Building and Code Enforcement)

(Continued from 11/14/06 – Item 4.15)

**HEARD IN THE EVENING**

**Resolution No. 73596 was adopted.**

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.5 Public hearing on the reorganization/annexation of McKee No. 132.**

**Recommendation:** Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as McKee No. 132 on an approximately 10.89 gross acre County Pocket consisting of one parcel on the southwesterly corner of Capitol Avenue and Gimelli Way and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459 (Related Rezoning C06-044). Council District 5. (Planning, Building and Code Enforcement) (Continued from 11/14/06 – Item 4.16)

#### **HEARD IN THE EVENING**

**Resolution No. 73597 was adopted.**

### **4.6 Public hearing on the reorganization/annexation of Sunol No. 73**

**Recommendation:** Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Sunol No. 73 on an approximately 0.41 acre County Pocket containing 3 parcels on the east side of Page Street, approximately 200 feet southerly of Douglas Street, and the implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Mitigated Negative Declaration, File No. PDC06-010. SNI: Burbank/Del Monte. Council District 6. (Planning, Building and Code Enforcement)

#### **HEARD IN THE EVENING**

**Resolution No. 73598 was adopted.**

## **5. NEIGHBORHOOD SERVICES**

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### **5.1 Report of the All Children Achieve Committee – December 14, 2006**

- (a) Agreement between United Way Community Impact Needs Assessment Report and Neighborhood Services CSA Programs and Services (City Manager's Office)
- (b) Follow up to Review of Legislative Priorities (City Manager's Office) [Continued from November 9, 2006] (DROPPED – Information Memo coming in December)
- (c) BEST Cycle 15 Final Evaluation Report (Parks, Recreation, and Neighborhood Services)
- (d) Review of Neighborhood Services CSA Administrative Workload (Parks, Recreation, and Neighborhood Services/Library/Housing)
- (e) Report from the San José Education Foundation (Mayor's Office)
- (f) Oral Petitions
- (g) Adjournment

**The All Children Achieve Committee Report and the actions of December 14, 2006 were approved.**

## 5. NEIGHBORHOOD SERVICES

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### 5.2 Report of the Building Strong Neighborhoods Committee – December 18, 2006

- (a) Building Strong Neighborhoods Update/Status Report (City Manager's Office)  
**The Committee approved the report.**
- (b) Review of Neighborhood Services CSA Administrative Workload (Housing/ PRNS)  
**The Committee approved the report.**
- (c) Review of Public Safety CSA Administrative Workload (Police/Fire/OES)  
**The Committee approved the report.**
- (d) Animal Care & Services (Parks, Recreation and Neighborhood Services)  
**The Committee approved the report.**
- (e) Oral Petitions  
**Peter Ross, spoke on noise pollution.**
- (f) Adjournment  
**The Committee adjourned at 3:45 p.m.**

**The Building Strong Neighborhoods Committee Report and the actions of December 18, 2006 approved.**

### 5.3 Approval of actions related to Parkland Dedication and Park Impact Ordinances and revisions to the schedule of park in-lieu fees and credits.

#### **Recommendation:**

- (a) Final adoption of Ordinance No. 27949, amending Chapter 14.25 of Title 14 and Chapter 19.38 of Title 19 of the San José Municipal Code in order to revise crediting provisions for public recreational improvements, to revise the time for payment of the In-Lieu fees to include recreation facilities, and to make technical changes.  
**Ordinance No. 27949 adopted.**
- (b) Adoption of a resolution establishing the revised Fees and Credits associated with the Parkland Dedication Ordinance and Park Impact Ordinance (1) to increase the park in-lieu fees to 100% of the 2005 land values; (2) to revise the credit schedule for private recreation improvements and (3) to set a discounted fee for certain residential high rise projects located in the Downtown Core Area and to permit certain eligible high rise projects located in the Downtown Core Area to defer payment until no later than the scheduling of the final inspection for the first certificate of occupancy.  
CEQA: Resolution No. 65459. (City Attorney's Office)  
[Deferred from 12/12/06 – Item 5.2(b)(2)]  
**Resolution No. 73587 adopted.**

## 5. NEIGHBORHOOD SERVICES

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### 5.4 Approval to award the contract for the Lake Cunningham Regional Skate Park Project.

**Recommendation:**

- (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction and Conveyance Tax Fund: City-wide Parks Purposes (Fund 391);
  - (1) Increase the estimate for Grants in the amount of \$541,000;
  - (2) Increase the City-wide Skateboard Park Development appropriation in the Parks, Recreation and Neighborhood Services Department in the amount of \$997,000; and
  - (3) Decrease the Ending Fund Balance by \$456,000

**Ordinance No. 27957 adopted.**

**Resolution No. 73588 adopted.**

- (b) Report on bids and award of contract for the Lake Cunningham Regional Skate Park Project to the low bidder, Robert A. Bothman, Inc., in the amount of \$4,761,300, and approval of a contingency in the amount of \$240,000.

**Approved.**

- (c) Adoption of a resolution approving the Lake Cunningham Regional Skate Park Project and incorporating environmental mitigation measures set forth in the Mitigation Monitoring and Reporting Program for the project.

**Dropped.**

CEQA: Mitigated Negative Declaration, PP06-043. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

### 5.5 Approval of actions related to ABAG on Regional Housing Needs Methodology.

**Recommendation:**

- (a) Authorization to forward correspondence to ABAG on draft housing needs methodology. (Cortese)
- (b) Direction to the City Manager to prepare a letter forwarding comments to the Association of Bay Area Governments regarding the proposed Regional Housing Needs Methodology. CEQA: Not a Project. (Planning, Building and Code Enforcement/Housing)

(Rules In-Lieu referral 1/3/07)

**Approved, with direction to the staff to brief ABAG representatives before the 1/18/07 ABAG meeting.**

## **6. TRANSPORTATION & AVIATION SERVICES**

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### **6.1 Report of the Building Better Transportation Committee – December 4, 2006**

- (a) Update on Transportation Infrastructure Maintenance Needs Master Plan. (Transportation)
- (b) Progress Report on BART to Silicon Valley Project. (Transportation)  
**SEE ITEM 6.4 FOR COUNCIL ACTION TO BE TAKEN**
- (c) Final Report on Taxi Program. (Transportation, Airport, Police Department)  
**SEE ITEM 6.5 FOR COUNCIL ACTION TO BE TAKEN**
- (d) Oral Petitions
- (e) Adjournment

**Deferred to 1/23/07.**

### **6.2 Approval of the Airport Commercial Paper Program Expansion.**

#### **Recommendation:**

- (a) Hold a Tax Equity and Fiscal Responsibility Act hearing for the issuance of Series B [Alternative Minimum Tax (AMT)] commercial paper notes under the commercial paper program established for the Norman Y. Mineta San José International Airport with a limit of \$450 million in order to fund projects and capitalized interest associated with the implementation of the Airport Master Plan.

**Tax Equity and Fiscal Responsibility Act (TEFRA) hearing held.**

- (b) Adoption of a resolution of the City Council amending Resolution No. 69200, as amended, to authorize an increase of \$250 million, for a total authorization of \$450 million, in the aggregate maximum amount of Series A, Series B, and Series C commercial paper notes that can be issued under the commercial paper program established for the Norman Y. Mineta San José International Airport to fund projects and capitalized interest associated with the Airport Master Plan.

**Resolution No. 73589 adopted.**

- (c) Adoption of a resolution of the City Council authorizing the Director of Finance to negotiate and execute the Amended and Restated Letter of Credit and Reimbursement Agreement among the City of San José and JPMorgan Chase Bank National Association, Bank of America, N.A., Citibank, N.A., and Dexia Credit Local (collectively, the “Banks”) relating to the Norman Y. Mineta San José Airport International Subordinated Commercial Paper Program, increasing the Maximum Stated Amount from \$200 million to \$450 million, and removing the \$35 million cap on the issuance of taxable notices.

CEQA: Resolution Nos. 67380 and 71451, PP 06-193. (Finance/Airport)

**Resolution No. 73590 adopted.**

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.3 Approval of actions related to the On-Airport Rental Car Agreements.

**Recommendation:**

- (a) Approval of sixth amendments to the On-Airport Rental Car Operations Agreement and Leases with Enterprise Rent-A-Car Company of San Francisco, Fox Rent A Car, Inc., and Thrifty Rent-A-Car System, Inc., changing the definition of Gross Revenues, reallocating space, providing rent credits for required refurbishments, requiring reporting of Disadvantage Business Enterprise participation, and extending the term of the agreements from January 31, 2007 to June 30, 2010.
- (b) Approval of sixth amendments to the Amended and Restated On-Airport Rental Car Operations Agreement and Leases with Avis Rent A Car System, LLC, Vanguard Car Rental, USA, Inc. dba Alamo/National, Budget Rent-A-Car Systems, Inc., DTG Operations, Inc d/b/a Dollar Rent A Car, and The Hertz Corporation, changing the definition of Gross Revenues, reallocating space, providing rent credits for required refurbishments, requiring reporting of Disadvantage Business Enterprise participation, and extending the term of the agreements from January 31, 2007 to June 30, 2010.
- (c) Approval of third amendments to the Rental Car Storage Ground Leases with Enterprise Rent-A-Car Company of San Francisco, Fox Rent A Car, Inc., and Thrifty Rent-A-Car System, Inc., extending the term of the agreements from January 31, 2007 to June 30, 2010.
- (d) Approval of ninth amendments to the Rental Car Service Center Ground Leases with Avis Rent A Car System, LLC, Vanguard Car Rental, USA, Inc. dba Alamo/National, Budget Rent-A-Car Systems, LLC, DTG Operations, Inc. d/b/a Dollar Rent A Car, and The Hertz Corporation, extending the term of the agreements on the same terms and conditions from January 31, 2007 to June 30, 2010.

CEQA: Resolution Nos. 67380 and 71451, PP 06-192. (Airport)

**Approved.**

### 6.4 Acceptance of the progress Report on BART to Silicon Valley Project.

**Recommendation:** Acceptance of the status report on BART extension to San José/Silicon Valley.

[Building Better Transportation Committee referral 12/4/06 – Item(b)]

**Deferred to 1/23/07.**

### 6.5 Approval to amend an agreement for On-Demand Dispatch Services at the Airport.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the On-Demand Dispatch Services Agreement with Taxi San José, Inc. to eliminate the increase in compensation for the second year of the agreement, retroactive to October 1, 2006.

[Building Better Transportation Committee referral 12/4/06 – Item(c)]

**Deferred to 1/23/07.**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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## 8. PUBLIC SAFETY SERVICES

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## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 9.1 Approval of actions related to a lease for space at 1180 Blossom Hill Road.

**Recommendation:**

(a) Adoption of a resolution terminating a Ground Lease with the Almaden Hills United Methodist Church for the Hoffman/Via Monte Neighborhood Center; and,  
**Deferred.**

(b) Approval of a five-year lease agreement with Harry Delizonna Family Trust for 900 square feet of commercial space on the ground floor of a building located at 1180 Blossom Hill Road at a rental rate of \$2,520 per month for the first year of the lease with annual increases of 3% to \$2,836 per month for the final year for a total rent of \$160,548.24 plus annual operating expenses over the five-year term of the lease.

**Approved.**

(c) Approval of the termination of the Cooperation Agreement between the City and the Redevelopment Agency for the Hoffman/ Via Monte Neighborhood Center.

CEQA: Not a Project. SNI: Hoffman/Via Monte. District 10. (Redevelopment Agency/City Manager's Office)

(Rules Committee referral 12/13/06)

**Deferred.**

- **Closed Session Report**

**No report.**

- **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>
9811	Westerly terminus of Delmas Avenue and Dorothy Avenue	6	Stonebridge Development LLC	8 Lots / 7 Units	SFD	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9889	North side of Cherry Avenue, 1,000 feet west of Almaden Expressway	9	4970 Cherry Avenue Owner, LLC	1 Lot / 32 Units	Multi-Family Attached
9892	Northeast corner of Southwest Expressway and Fruitdale Avenue	6	Mr. Daniel Hudson	1 Lot / 91 Units	Multi-Family Attached

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

On October 25, 2005, City Council approved a one year pilot program that delegated authority to the Director of Public Works to award or reject bids on construction projects where the base contract amount is below \$1,000,000. In accordance with this policy, the following is a list of projects that were awarded or rejected by the Director of Public Works in December 2006

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Norman Y. Mineta San José Internation Airport General Engineering Contract 06-07 Bravo	Citywide	O’Grady Paving Inc.	\$781,000	12/7/06
Singleton Road Landfill Flaring System Project	9	LFG Control Corporation	\$261,000	12/21/06

- **Open Forum**

- (1) **Stephen Hazel provided suggestions to the Mayor regarding accepting public comments.**
- (2) **Jill Cody requested an opportunity to present to the Council an overview of the “Climate Project”.**
- (3) **Daniel McCall issued a complaint regarding treatment by San José Police.**
- (4) **William Garbett commented on Brown Act requirements for Council Assistants’ meetings and summarized observations about Fire Station #13.**
- (5) **Robert Apgar voiced personal observations.**
- (6) **Ross Signorino expressed concerns regarding the City of San José supplying services to Sunnyvale in relation to the 49er’s move to Santa Clara and urged the Council to disclose to the public costs for “in –kind” services.**

- **Adjournment**

The afternoon Council session adjourned at 3:47 p.m.

## 10. GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearing at this time.

## 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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(To be heard by the City Council at 7:00 p.m.)

### 11.1 Public Hearings on Consent Calendar.

#### **Recommendation:**

- (a) Consideration of an ordinance rezoning the real property located at the southwest corner of Winchester Boulevard and Payne Avenue (1301 S. Winchester Boulevard) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow retail sales of food and beverages at an existing gasoline service station on a 0.58 gross acre site (Chevron USA Inc, Owner). SNI: Winchester. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

PDC06-103 – District 1

**Ordinance No. 27958 passed for publication.**

- (b) Consideration of an ordinance rezoning the real property located on the west side of 26th Street, approximately 41 feet north of E. Saint John Street (103 N. 26th Street), from R-2 Two-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow the demolition of an existing single-family residence and construction of up to 3 new single-family detached residences on 0.23 gross acre site (Silva Anna Trustee, Owner). SNI: Five Wounds/Brookwood Terrace. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1).

PDC 06-041 – District 3

**Ordinance No. 27959 passed for publication.**

- (c) Consideration of an ordinance rezoning the real property located on the northwest corner of Aborn Road and King Road (1685 Aborn Road) from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow 104,234 square feet for storage uses and a reduction in the parking requirement listed in Title 20 of the Municipal Code on a 1.55 gross acre site (PSI Institutional Realty Inc, Owner). SNI: West Evergreen. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1).

PDC06-059 – District 7

**Ordinance No. 27960 passed for publication.**

## 11. PUBLIC HEARINGS

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### 11.2 Administrative Hearing on consideration of an appeal of the Planning Commission's decision to conditionally approve a Conditional Use Permit.

**Recommendation:** Administrative Hearing on consideration of an appeal of the Planning Commission's decision to conditionally approve a Conditional Use Permit to allow the co-location of six (6) additional wireless antennas at a height of approximately 52 feet on an existing 75 foot monopole with 12 existing antennas and allow associated equipment within an existing building on a 0.24 gross acre, in the HI Heavy Industrial Zoning District, located on the north side of Lano Street approximately 300 feet east of Almaden Expressway (419 Lano Street) (Froom Judith R Trustee & Et al., Owner). The Director of Planning, Building and Code Enforcement recommended the City Council uphold the Planning Commission's decision to conditionally approve a Conditional Use Permit (File No. CP06-030) to allow the co-location of six additional wireless antennas at a height of approximately 52 feet on an existing 75 foot monopole with 12 existing antennas and allow associated equipment within an existing building. CEQA: Exempt.

CP06-030 – District 7

(Continued from 12/12/06 – Item 11.6)

**Resolution No. 73599 adopted granting the appeal and approving the application. Staff to come back with more information about the history of co-locations.**

### 11.3 Administrative Hearing on Consideration of Approval of a Conditional Use Permit.

**Recommendation: Administrative Hearing** on consideration of an appeal of the Planning Commission's decision to conditionally approve a Conditional Use Permit to allow an existing private club use operating without benefit of permits and to allow site improvements including an outdoor deck, parking lot, and lighting on a 0.54 gross acre site, in the CO Office Commercial Zoning District, located on the north side of Minnesota Avenue, approximately 350 feet westerly of Lincoln Avenue (1139 and 1143 Minnesota Avenue) (Alano Club West of San José and Stringfellow Properties, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends that the City Council uphold the Planning Commission's decision to conditionally approve a Conditional Use Permit.

CP05-038 – District 6

**Resolution No. 73600 adopted upholding the Planning Commission's decision to approve the Conditional Use Permit, as modified, by establishing hours of operation from 6:00 a.m. until 10:00 p.m.; reducing the size of the rear deck ( not to exceed 500 feet) and requiring partial enclosure, subject to the Planning Director's approval; prohibiting the use of the deck to the hours of 7:30 a.m. and after 8:00 p.m. on weekdays and prior to 8:30 a.m. and after 7:30 p.m. on weekends; to approve resuming operations upon completion of the required phase 1 site improvements set forth in the CUP, including the proposed reduction in size (not to exceed 500 feet) and partial enclosure of the deck and other improvements as set forth on page 9, item 4, in staff's report to Council dated December 15, 2006, with staff encouraged to expedite permits; requesting a community advisory council to address on-going issues as they arise; and direct staff to return with a status update and associated circumstances six months from implementation was approved.**

## 11. PUBLIC HEARINGS

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### 11.4 Rezoning the real property located on the northeasterly side of Monterey Road.

**Recommendation:** Consideration of an ordinance rezoning the real property located on the northeasterly side of Monterey Road approximately 100 feet southeasterly of Umbarger Road from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow the construction of up to 60 single family attached residences on an approximately 3.17 gross acre site (2724 Monterey Road and 80 Umbarger Road) (Raman and Ruximaniben Patel; Christine Backhouse and Francis Gladding, Owners/Pinn Bros., Applicant). CEQA: Mitigated Negative Declaration.

PDC06-015 – District 7

**Dropped.**

### 11.5 Rezoning the real property located on the east side of San Felipe Road.

**Recommendation:** Consideration of an ordinance rezoning the real property located on the east side of San Felipe Road, approximately 700 feet northerly of Silver Creek Road from A Agriculture Zoning to A(PD) Planned Development Zoning District to allow up to 22 single-family detached residences on a 17.98 gross acre site (Pan Clair Gen Partnership, Owner; Dal Properties LLC/Mark Lazzarini, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1).

PDC06-092 – District 8

**Ordinance No. 27961 passed for publication, with the following amendments:**

- (1) **Accept applicant's voluntary offer of additional conditions submitted for the record to Council (13 items); and**
- (2) **Direct staff work with neighbor Mr. Sidhu, the applicant and any neighborhood groups during the P.D. permit process to address concerns regarding the adjacent property.**

- **Open Forum**

- (1) **Robert Apagar voiced personal observations.**

- **Adjournment**

**The Council of the City of San José was adjourned at 10:50 p.m.**

## **8. JOINT REDEVELOPMENT AGENCY ITEM**

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### **8.1 Approval of a Reimbursement Agreement with Nanosolar, Inc., for acquisition of capital equipment.**

#### **Recommendations:**

- (a) Redevelopment Agency Board approval of a Reimbursement Agreement with Nanosolar, Inc., to provide financial assistance in an amount not to exceed \$1,500,000, for acquisition of capital equipment for its industrial and manufacturing facility in the Edenvale Redevelopment Project Area and making certain findings; and,
- (b) City Council direction to the City Manager for the Office of Economic Development to pursue Employment Training Panel Funds, in the amount of \$500,000, to support workforce development efforts on behalf of Nanosolar.

CEQA: Resolution No. 69699. [EDENVALE]

**Approved.**

### **8.2 Award of a contract to Environmental Systems, Inc., for the McCabe Hall HVAC Project.**

#### **Recommendations:**

- (a) Adoption of a resolution by the City Council making certain determinations, consistent with the Health and Safety Code Section 33445, as required by state law for Redevelopment Agency funding of the proposed improvements to McCabe Hall; and,

**Resolution No. 73592 adopted.**

- (b) Redevelopment Agency Board award of a contract to Environmental Systems, Inc., the low bidder in the amount of \$370,300, for the McCabe Hall Heating, Ventilation, and Air Conditioning Project, and authorization of a construction contingency in the amount of \$37,030 for a total contract amount of \$407,330.

[MERGED]

**Award of contract and Redevelopment Agency Resolution No. 5726 adopted.**

### **8.3 Approval of a Cooperation Agreement for the loan of an Agency employee to the City.**

**Recommendation:** City Council and Redevelopment Agency Board approval of a Cooperation Agreement specifying the terms and conditions for the loan and employment of an Agency employee to the Office of the Mayor on a temporary basis, for up to one year.

**Approved.**

The Joint Redevelopment Agency Board was adjourned at 4:47 p.m.