



# CITY COUNCIL AGENDA

**FEBRUARY 6, 2007**

PETE CONSTANT  
FORREST WILLIAMS  
SAM LICCARDO  
VACANT  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED, MAYOR

VACANT  
MADISON P. NGUYEN  
JUDY CHIRCO  
NANCY PYLE

DAVID D CORTESE, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak 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**
  - 9:30 a.m. - Closed Session, Call to Order in Council Chambers  
Adjourn to Closed Session in Council Chambers Conference Room, W133  
See Separate Agenda
  - 1:30 p.m. - Regular Session, Council Chambers, City Hall
  - 3:30 p.m. - Hear Open Forum (no earlier than 3:30 p.m.)
  - 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 2)**
- **Pledge of Allegiance**
- **Orders of the Day**

**ITEM 9.1 IS TO BE CONSIDERED IN A JOINT CITY  
COUNCIL/REDEVELOPMENT AGENCY BOARD SESSION.**

**Items recommended to be added, dropped, or deferred are usually approved under  
Orders of the Day unless the Council directs otherwise.**

- **Closed Session Report**

## **1. CEREMONIAL ITEMS**

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- 1.1 Presentation of a commendation recognizing the “stars” of the Combined Giving Campaign for their outstanding contribution to the program. (City Manager’s Office/General Services)  
(Deferred from 1/30/07 – Item 1.2)

# 1. CEREMONIAL ITEMS

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- 1.2 Presentation of a commendation from Breathe California to the City Council for investing in tobacco control issues and being one of the top 10 healthiest cities in America. (Cortese)  
(Rules Committee referral 01/17/07)  
**TO BE HEARD IN THE EVENING**  
(Deferred from 1/30/07 – Item 1.5)
- 1.3 Presentation of a commendation to Joevelyn Orasa for her dedication and passion to promote the teachings and wisdom of Dr. Martin Luther King and to encourage students to creatively find meaning in his words and interpret them for her generation through writing, art and multimedia expression. (Cortese)  
**TO BE HEARD IN THE EVENING**  
(Rules Committee referral 1/24/07)
- 1.4 Presentation of a commendation recognizing the San José McEnery Convention Center Staff for providing great customer service and event support during the past three Project Homeless Connect events. (Housing)
- 1.5 Presentation of a commendation to retired Franklin McKinley School Boardmember Susan Sandy for her 8 years of dedicated service and leadership on the Franklin McKinley Board of Education. (Nguyen)  
(Rules Committee referral 1/24/07)

# 2. CONSENT CALENDAR

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

## 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes:

- (a) Current Minutes
  - (1) Regular minutes of December 5, 2006
  - (2) Regular minutes of December 12, 2006
- (b) Past Minutes
  - (1) Regular minutes of June 6, 2006
  - (2) San José Parking Authority minutes of June 6, 2006
  - (3) Regular minutes of June 13, 2006

## 2. CONSENT CALENDAR

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### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 27965 – Rezoning certain real property situated at the southeast corner of Capitol Avenue and Hostetter Road to R-M Multiple Residence Zoning District. C06-074
- (b) ORD. NO. 27966 –Rezoning certain real property situated at the northeast corner of Monterey Road and Phelan Avenue to A(PD) Planned Development Zoning District. PDC06-110
- (c) ORD. NO. 27967 –Rezoning certain real property situated at the north side of Blackford Avenue approximately 200 feet east of Rebecca Way (3801 Blackford Avenue) to A(PD) Planned Development Zoning District. PDC06-066

### 2.3 Approval of actions related to the establishment of fees for commercial activities at the Airport.

**Recommendation:** Adoption of a resolution amending Resolution No. 59988 to establish fees for commercial activities at the Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, PP06-209. (Airport)  
**RECOMMEND DEFERRAL TO 2/13/07, PER ADMINISTRATION**

### 2.4 [Acceptance of the Office of the City Auditor's Report.](#)

**Recommendation:** Acceptance of the Office of the City Auditor's *Sales Tax Audit Results for the Quarter Ended June 30, 2006*. (City Auditor)  
(Rules Committee referral 1/24/07)

### 2.5 [Adoption of a resolution increasing Delinquent Charges for Delinquent Lobbyist Reports.](#)

**Recommendation:** As recommended by the Elections Commission, adoption of a resolution increasing the fee for delinquent lobbyist reports from \$10.00/day to \$25.00/day. (City Clerk/City Attorney's Office)  
(Rules Committee referral 01/17/07)  
(Deferred from 1/30/07 – Item 2.6)

### 2.6 [Approval of an agreement for the Economic Development Catalyst Program.](#)

**Recommendation:** Adoption of a resolution authorizing the City Manager to execute a Loan Sale Agreement with CarVal Investors (formerly Cargill Value Investments) for the sale of \$285,260 in existing Development Enhancement Special Fund loan portfolio to assist in the capitalization of the Economic Development Catalyst Program with an estimated net proceeds of \$208,092. CEQA: Not a Project. (Economic Development)

## 2. CONSENT CALENDAR

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### 2.7 [Approval of an agreement for Solid Waste Consulting Services.](#)

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with HF&H Consultants, LLC to provide solid waste consulting services to the Environmental Services Department for a term from the date of execution through December 31, 2009 in an amount not to exceed \$250,000. CEQA: Not a Project. (Environmental Services)

### 2.8 [Approval of Council Member Nguyen's Travel Out of State.](#)

**Recommendation:** Approval of travel by Council Member Nguyen to Boston, MA on March 2-3, 2007 to attend the 13<sup>th</sup> Annual National Asian Pacific American Conference on Law and Public Policy at Harvard University as a panelist speaker. Source of Funds: Asian Pacific American Law Students Association at Harvard Law School. (Nguyen)

### 2.9 [Approval to increase the contingency for the Bailey Avenue Extension Segment C Project.](#)

**Recommendation:** Approval to increase the contingency for the Bailey Avenue Extension Segment C Project in the amount of \$45,000, from \$238,000 to \$283,000 for a four-lane grade separation over Union Pacific Railroad tracks and Monterey Road. CEQA: Resolution No. 68705. Council District 2. (Public Works)

### 2.10 [Approval of actions related to the SNI WA 03: Alma Storm Drain Improvements Project.](#)

**Recommendation:**

- (a) Increase the contingency budget for the SNI WA 03: Alma Storm Drain Improvement Project by \$40,000 from \$120,000 to \$160,000.
- (b) Approval of Contract Change Order No. 6 with Stoloski and Gonzalez, Inc., for the SNI WA 03: Alma Storm Drain Improvement Project in the amount of \$46,788.97 for a total contract amount of \$1,278,494.51 and an extension of fifteen (15) working days for a total of 105 working days.

CEQA: Exempt, File No. PP05-129. Council District 3. SNI: Washington. (Public Works)

### 2.11 [Approval of improvements to the Eden Avenue and Williams Road intersection.](#)

**Recommendation:** Direction to the Department of Transportation to improve the Eden Avenue and Williams Road intersection with signage, median islands and marking improvements in-lieu of installing a new traffic signal identified in the Adopted FY 2006-07 Traffic Capital Improvement Budget. CEQA: Exempt, File No. PP06-171. Council District 1. SNI: Winchester. (Transportation)

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.1 Report of the Study Session Mayor Reed, Chair

**Recommendation:** Approval of minutes.

- (a) Current Minutes
- (b) Past Minutes
  - (1) Council Study Session on the Mayor's Fiscal Year 2006-2007 June Budget Message minutes of June 12, 2006
  - (2) Study Session on the Coyote Valley Specific Plan Draft Affordable Housing Strategy minutes of June 12, 2006

#### 3.2 Report of the Rules and Open Government Committee – January 24, 2007 Mayor Reed, Chair

- (a) City Council
  - (1) Review February 6, 2007 Draft City Council Agenda
    - (a) Add New Items to Draft Agenda
    - (b) Review number of commendations
    - (c) Assign Time Certain for Agenda Items (if needed)
  - (2) Review New Add Items to January 30, 2007 Agenda
    - (a) Review number of commendations
    - (b) Review Exceptions to the 10-day rule
    - (c) Assign Time Certain for Agenda Items (if needed)
  - (3) List of Reports Outstanding
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) 2007 Legislative Guidelines Priorities. (City Manager's Office)
  - (2) Federal
- (d) Meeting Schedules
  - (1) Approve a Study Session on the Evergreen \*East Hills Strategy on February 1, 2007. (Planning, Building and Code Enforcement)  
**DEFERRED FROM JANUARY 17, 2007.**
  - (2) Approve the following study sessions:
    - (a) February 5, General Plan: Major Strategies, 1:00 - 4:00 p.m.
    - (b) February 20, City Council Priority Setting Session, 9:00 a.m. - 4:00 p.m.
    - (c) February 22, Unfunded Programs/New Initiatives, 9:00 a.m. - Noon
    - (d) March 1, Old City Hall, 9:00 a.m. – Noon
    - (e) March 15, Mayor's March Budget Message Study Session, 9:00 a.m. – Noon
    - (f) March 19, Convention Center Expansion, 1:00 p.m. – 4:00 p.m.
    - (g) March 22, BART, 8:30 a.m. – Noon

*(Item continued on the next page)*

### **3. STRATEGIC SUPPORT SERVICES**

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#### **3.2 Report of the Rules and Open Government Committee – January 24, 2007 (Cont'd) Mayor Reed, Chair**

- (d) (2) (h) March 29, Airport Obstruction Study, 9:00 a.m. – Noon
- (i) April 5, General Plan: Economic Development And Employment Lands, 9:00 a.m. – Noon
- (j) April 19, Community Center Re-Use, 9:00 a.m. – Noon
- (k) April 23, General Plan: Downtown Revitalization/First Act, 1:00 p.m. – 4:00 p.m.
- (l) May 3, General Plan: Formal Initiation of the General Plan Update, 9:00 a.m. – Noon
- (m) May 7-18, Budget Study Sessions, TBD
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Discussion on Council Expenditure and Reimbursement Policy. (City Attorney/City Clerk)
  - (2) Mayor’s Transition Report. (Mayor)
  - (3) Mayor’s Transition Government Reforms & Ethics Subcommittee Report Recommendations. (Mayor)
  - (4) Approve travel by Councilmember Williams to attend Conference of Mayors. (Councilmember Williams)
  - (5) Acceptance of the 6-month City Council Horizon Report: January 2007 – June 2007. (City Manager’s Office)
- (h) Public Records Act Requests
  - (1) Review of Significant Public Records Act Requests
    - (a) San José Police Department’s Response to Public Record Requests made by Californians Aware. (Mayor)
  - (2) Receive Public Concerns
- (i) Review of Council Policy Updates per Sunshine Reforms
- (j) Open Forum
- (k) Adjournment

#### **3.3 Report of the Public Safety, Finance and Strategic Support Committee Councilmember Nguyen, Chair**

#### **3.4 Approval of actions related to the Procurement Reforms.**

##### Supplemental

##### **Recommendation:**

- (a) Acceptance of the administration’s report on the implementation of approved Procurement Reforms as modified by this supplemental memorandum.
- (b) Adoption of a resolution approving Council Policy titled “Procurement and Contract Process Integrity and Conflicts of Interest”.

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.4 Approval of actions related to the Procurement Reforms. (Cont'd.)

**Recommendation:**

- (c) Deferral of approval of an ordinance of the City of San José amending Chapters 4.04 and 4.12, and repealing Chapters 4.06 and 4.13 of Title 4 of the San José Municipal Code to increase administrative contract authority for purchase of supplies, materials, equipment, and services to \$1,000,000, to enact a protest procedure for purchases, and to amend, reorganize and consolidate various purchasing procedures with the amendment to previous Council direction to the City Attorney and City Manager to set the contract approval authority for services at \$250,000 and to amend San José Municipal Code Section 4.12.210 to change the reporting requirement for purchases from \$20,000 and above to \$100,000 and above.

CEQA: Not a Project. (Finance/City Attorney's Office)

(Deferred from 11/21/06 – Item 3.4, 12/5/06 – Item 3.7 and 1/30/07 – Item 3.5)

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

**Recommendation:**

- (a) Acceptance of staff's report on the Reed Reforms and direction to staff to proceed as outlined in the attached matrix.
- (b) Provide clarification to staff on Reed Reforms:
  - (1) Reed Reform #1, Ask the voters to revise the Charter to make it easier to recall the Mayor and Councilmembers for a violation of the Charter or the Oath of Office.
  - (2) Reed Reform # 5, Prohibit late staff memos so that the public can have a greater opportunity to respond to proposals and fully participate in the debate.
  - (3) Reed Reform #8, Disclose all offers made to City unions for pay or benefit increases when the offers are made.
  - (4) Reed Reform #26, Hold regular public hearings on ethical issues around the state so we can learn from our mistakes and the mistakes of others.
- (c) Provide direction regarding exceptions outlined in this report, for Reed Reform #5, Prohibit late staff memos so that the public can have a greater opportunity to respond to proposals and fully participate in the debate.

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

**TO BE HEARD FIRST IN THE EVENING**

(Rules Committee referral 01/17/07)

#### 3.6 Discussion and direction regarding illegal tree removal.

**Recommendation:** Discussion and direction regarding illegal tree removal in San José and protecting San José's urban forest. (Cortese)

(Rules Committee referral 01/17/07)

**TO BE HEARD NO EARLIER THAN 3:00 P.M.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 Report of the Community & Economic Development Committee Councilmember Pyle, Chair

### 4.2 Approval of actions related to the interim uses of Airport West Property.

**Recommendation:**

- (a) Adoption of a resolution:
    - (1) Approving the work plan for securing interim uses for the 23.23 acre parcel of the Airport West (formerly FMC) property located at 1125 Coleman Avenue as described in this memo.
    - (2) Authorizing the City Manager to release a Request for Proposals (RFP) for consultant services to assist City staff in developing an RFP for interim uses of 23.23 acres of the Airport West property, analyzing the responses to the RFP, and negotiating an agreement with the successful respondent.
    - (3) Authorizing the City Manager to release an RFP seeking proposals from developers for interim uses of 23.23 acres of the Airport West property.
  - (b) Adoption of the following appropriation ordinance amendments in the General Fund:
    - (1) Establish a City-wide Airport West Property Development appropriation in the General Fund to the Office of Economic Development in the amount of \$116,000.
    - (2) Decrease the Reserve: Future Economic Development by \$116,000.
- CEQA: Resolution No. 71716. Council District 3. (Economic Development/City Manager's Office)

### 4.3 Conduct a Public Hearing and approval of an agreement for the development of a single-family home located on Delmas Avenue.

**Recommendation:** Conduct a public hearing and adoption of a resolution approving a Disposition and Development Agreement between the City of San José and Silicon Valley Habitat for Humanity, or an affiliated entity, for the development of a single-family home located on a City-owned property located on the east side of Delmas Avenue, between Jerome Street and Fuller Avenue. CEQA: Exempt, File No. PP06-144. Council District 3. SNI: Greater Gardner. (Housing)

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Report of the Neighborhood Services and Education Committee Councilmember Chirco, Chair

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

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- 6.1 Report of the Transportation and Environment Committee  
Councilmember Williams, Chair**

## **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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**CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 9.1 IN  
A JOINT SESSION**

- 9.1 Revisions to the City of San José Conflict of Interest Code.**

**Recommendation:**

- (a) [Adoption of a resolution by the City Council amending the City's Conflict](#) of Interest Code as it relates to the List of Designated City Filers.
- (b) [Adoption of a resolution by the City Council amending the City's Conflict](#) of Interest Code as it relates to the List of Designated Agency Filers.

(City Clerk/City Attorney's Office)

(Rules Committee referral 01/17/07)

- Notice of City Engineer's Pending Decision on Final Maps
- Notice of City Engineer's Award of Construction Projects
- Open Forum (To be heard no earlier than 3:30 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.)

**Notice to the public:** There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

### **11.1 Public Hearings on Consent Calendar.**

No Public Hearings on Consent Calendar at this time.

## **11. PUBLIC HEARINGS**

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### **11.2 Rezoning the real property located on the terminus of Duckett Way.**

**Recommendation:** Consideration of an ordinance rezoning the real property located on the terminus of Duckett Way, approximately 420 feet east of S. De Anza Boulevard from R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 19 new single family attached residential units and one single family residence on an 1.83 gross acre site (1566 Duckett Way) (P. Lenahan and M. Barshow, Owners; Barry Swenson Builders, Developer). CEQA: Mitigated Negative Declaration. The Director of Planning, Building and Code Enforcement and Planning Commission recommends to not adopt the rezoning ordinance (4-1-2).

PDC06-062 - District 1

(Continued from 12/5/06 – Item 11.4, 12/12/06 – Item 11.7 and 1/23/07 – Item 11.4)

## 11. PUBLIC HEARINGS

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### 11.3 [Administrative Hearing on consideration of an appeal of the Planning Commission's decision to deny a Determination of Public Convenience or Necessity.](#)

**Recommendation:** ADMINISTRATIVE HEARING on consideration of an appeal of the Planning Commission's decision to deny a Determination of Public Convenience or Necessity to allow off-sale beverages at a supermarket on a 2.3 gross acre site in the CP Pedestrian Commercial Zoning District, located on the north side of McKee Road, approximately 320 feet westerly of White Road (3065 McKee Road) (Rohnert Marie C Trustee & Et Al, Ell McKee LLC, Owner). CEQA: Exempt.

ABC06-002 – District 5

- Open Forum
- Adjournment