



# CITY COUNCIL AGENDA

**FEBRUARY 12, 2008**

## **SYNOPSIS**

PETE CONSTANT  
FORREST WILLIAMS  
SAM LICCARDO  
KANSEN CHU  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON P. NGUYEN  
JUDY CHIRCO  
NANCY PYLE

DAVID D CORTESE, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

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

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

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

You may speak to the City Council about any item that is on the agenda, and you may also speak 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**  
9:32 a.m. - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: Cortese. (Excused)**  
  
1:30 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: None.**
- **Invocation (District 2)**  
Santa Teresa High School Choir presented 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.
- **Closed Session Report**  
City Attorney Doyle disclosed the following Closed Session actions of February 12, 2008:
  - A. **Authority to initiate Litigation:**  
  
Authority to initiate litigation was given in one (1) matter(s). The names of the action(s) and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action(s) is/are formally commenced.  
  
Council Vote:  
Ayes: Campos, Chirco, Chu, Constant, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.  
  
Noes: None.  
Disqualified: None.  
Absent: Cortese. (Excused)

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation recognizing the Department of Transportation’s pavement staff and various private partners for their innovative and collaborative approach to delivering the 2007 Residential Street Sealing maintenance project. (Transportation)  
**Mayor Reed and Director of Transportation James R. Helmer recognized and commended the Department of Transportation’s pavement staff and private partners for their dedication and successful completion of the 2007 Residential Street Sealing maintenance project.**
- 1.2 Presentation of proclamation honoring Univision’s 20<sup>th</sup> Annual “Premio Lo Nuestro a La Música Latina,” the most-watched Latin music awards show in the United States. (Campos)  
(Rules Committee referral 2/6/08)  
**Mayor Reed and Council Member Campos recognized Univision’s 20<sup>th</sup> Annual “Premio Lo Nuestro a La Música Latina,” as the most-watched Latin music awards show in the United States.**
- 1.3 Ceremonial presentation of a check from the Tech Museum of Innovation to Team San José of proceeds from the Body Worlds exhibit. (Constant)  
(Rules Committee referral 2/6/08)  
**Mayor Reed and Council Member Constant accepted a check from the Tech Museum of Innovation to Team San José of proceeds from the Body Worlds exhibit.**
- 1.4 Presentation of a commendation to Daniel Keegan, Executive Director for the San José Museum of Art since 2000, upon leaving the museum after successfully managing the museum through challenging economic times while completing a successful endowment campaign and significantly increasing the size of the museum’s permanent collection. (Liccardo)  
(Rules Committee referral 2/6/08)  
**Mayor Reed and Council Member Liccardo recognized and commended Daniel Keegan, Executive Director for the San José Museum of Art for his dedication and important contributions to the San José Museum of Art.**
- 1.5 Presentation of Business Appreciation Commendations recognizing Edison Pharmaceuticals and Tacere Therapeutics for their outstanding achievements in advancing the forefront of drug discovery and development, creating jobs, and building a public private partnership with the City of San José and the San José BioCenter. (Mayor/Williams)  
(Orders of the Day)  
**Mayor Reed and Council Member Williams recognized and commended Edison Pharmaceuticals and Tacere Therapeutics for their outstanding achievements and significant contributions to the City of San José.**

## 2. CONSENT CALENDAR

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### 2.1 Approval of Minutes.

There were none.

### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

(a) ORD. NO. 28237 – Rezoning certain real property situated at the northwest corner of Palm Street and West Alma Avenue to A(PD) Planned Development Zoning District. PDC06-057

**Ordinance No. 28237 adopted.**

(b) ORD. NO. 28238 – Rezoning certain real property situated at the north side of East Santa Clara Street, approximately 360 feet east of 21<sup>st</sup> Street (1051 East Santa Clara Street) to A(PD) Planned Development Zoning District. PDC06-009

**Ordinance No. 28238 adopted.**

(c) ORD. NO. 28239 – Rezoning certain real property situated at the north side of Ridder Park Drive at the southeast corner of Interstate 880 and Brokaw Road to the CG – Commercial General Zoning District. C07-048

**Ordinance No. 28239 adopted.**

(d) ORD. NO. 28240 – Adding Chapter 14.30 to Title 14 of the San José Municipal Code in order to adopt a traffic impact fee on new industrial, commercial, and residential development in the proximity of the US-101/Oakland and US-101/Mabury interchanges.

**Ordinance No. 28240 adopted.**

### 2.3 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 November 16 through December 15, 2007*. (City Auditor)

**Report Accepted.**

### 2.4 Seven Principles of Bay Friendly Landscaping and Gardening.

**Recommendation:** Adoption of a resolution for San José to be a charter signatory to the Bay Friendly Coalition Declaration supporting the Seven Principles of Bay Friendly Landscaping and Gardening which provide a model approach to sustainable landscaping for residents and businesses City-wide. CEQA: Not a Project. (Environmental Services)

**Resolution No. 74231 adopted.**

## 2. CONSENT CALENDAR

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### 2.5 MOA for Trash Prevention and Removal Services.

**Recommendation:** Approval of a Memorandum of Agreement with the Santa Clara Valley Water District for Trash Prevention and Removal to supersede the agreement executed in 2004 and include City support for cleanup of illegal creekside encampments within City boundaries. CEQA: Exempt, File No. PP04-248. (Environmental Services)  
**Approved.**

### 2.6 City Auditor Compensation Package and Employment Agreement.

**Recommendation:** Approval of actions related to the City Auditor compensation package and employment agreement. (Mayor)  
(Rules Committee referral 1/30/08)  
**Approved.**

### 2.7 Lease of 132 South 10<sup>th</sup> Street, #1, San José and additional storage space at 484 E. San Fernando Street.

**Recommendation:**

(a) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with the Grace Baptist Church for the lease of 132 South 10<sup>th</sup> Street, #1, San José and additional storage space at 484 E. San Fernando Street to:

- (1) Increase the square footage to be leased by the City by 1,710 square feet; and
- (2) Increase the lease by \$1,566 per month, or \$12,528 effective November 1, 2007 through June 30, 2008 and \$18,794 thereafter.

**Resolution No. 74232 adopted.**

(b) Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):

- (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Grace Baptist Lease by \$13,000; and
- (2) Decrease the Ending Fund Balance by \$13,000.

CEQA: Exempt, File No. PP08-012. Council District 3. (Parks, Recreation and Neighborhood Services/City Manager's Office)

**Ordinance No. 28242 adopted.**

## 2. CONSENT CALENDAR

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### 2.8 Initiation of the Annexation/Reorganization of Burbank No. 39.

**Recommendation:** Adoption of a resolution initiating proceedings and setting February 26, 2008 at 1:30 p.m. for Council consideration on the reorganization of the territory designated as Burbank No. 39 which involves the annexation to the City of San José of 0.11 acres more or less of land located at the east side of North Bascom Avenue approximately 225 feet north of Olive Avenue, and generally bounded by City of San José Annexations Burbank Nos. 34 and 37, and the detachment of the same from the appropriate special districts including Central Fire Protection, Area No. 01 (Library Services) County Service, Burbank Sanitary and County Lighting County Services. Council District 6. CEQA: Resolution No. 65459, File No C07-036. (Planning, Building and Code Enforcement)

**Resolution No. 74233 adopted.**

### 2.9 Psychological Services for the Police Department.

**Recommendation:** Adoption of a resolution authorizing the City Manager to:

- (a) Execute an Agreement with Law Enforcement Psychological Services, Inc. related to providing psychological services to the San José Police Department for the period of February 1, 2008 to June 30, 2008 in an amount not to exceed \$83,500, and
- (b) Execute up to four additional annual renewal options for the periods and amounts not to exceed the amounts for the periods as follows:
  - (1) \$214,535 for the period of July 1, 2008 through June 30, 2009;
  - (2) \$229,552 for the period of July 1, 2009 through June 30, 2010;
  - (3) \$245,621 for the period of July 1, 2010 through June 30, 2011;
  - (4) \$262,815 for the period of July 1, 2011 through June 30, 2012; and
  - (5) The total amount of compensation for all periods of the contract not to exceed \$1,036,023.

CEQA: Not a Project. (Police)

**Resolution No. 74234 adopted.**

### 2.10 Polygraph Examinations for the Police Department.

**Recommendation:** Adoption of a resolution authorizing the City Manager to:

- (a) Execute an Agreement with Central Coast Polygraph Associates, Inc. related to providing polygraph examinations to the San José Police Department for the period of February 1, 2008 through January 31, 2009 in an amount not to exceed \$82,000, and

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.10 Polygraph Examinations for the Police Department (Cont'd.)

- (b) Execute four additional annual renewal options for the periods and amounts not to exceed the amounts for the periods as follows:
  - (1) \$86,000 for the period of February 1, 2009 through January 31, 2010,
  - (2) \$90,000 for the period of February 1, 2010 through January 31, 2011,
  - (3) \$90,000 for the period of February 1, 2011 through January 31, 2012,
  - (4) \$92,000 for the period of February 1, 2012 through January 31, 2013, and
  - (5) The total amount of compensation for all periods of the contract not to exceed \$440,000.

CEQA: Not a Project. (Police)

**Resolution No. 74235 adopted.**

### 2.11 Consultant master agreements for various City projects.

#### **Recommendation:**

- (a) Approval of consultant master agreements with the following firms for various City projects:
  - (1) Consolidated Engineering Laboratories for a variety of special inspections and material testing services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.
  - (2) Kleinfelder West, Inc. for a variety of special inspections and material testing services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.
  - (3) Krazan & Associates, Inc. for a variety of special inspections and material testing services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.
- (b) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute amendments to the above master agreements to amend the scope of services and to add additional standard services.
- (c) Adoption of a resolution authorizing the Director of Public Works to negotiate and amend the Schedule of Charges on an annual basis upon the request of the consultant for all of the above master agreements.

CEQA: Not a Project. (Public Works)

**Deferred to 2/26/08 per Administration.**

### 2.12 Request for an excused absence for Council Member Constant.

**Recommendation:** Request for an excused absence for Council Member Constant from the Green Vision City Council Study Session on February 1, 2008 due to Authorized City Business: Personnel Matter. (Constant)  
(Rules Committee referral 2/6/08)

**Excused.**

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

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**3.1 Report of the City Manager, Debra Figone (Verbal Report)  
Report Accepted.**

**3.2 Report of the Rules and Open Government Committee – January 30, 2008  
Mayor Reed, Chair  
The Rules and Open Government Committee Report and the Actions of  
January 30, 2008 were accepted.**

**3.3 (a) Report of the Public Safety, Finance and Strategic Support Committee –  
December 20, 2007  
Council Member Nguyen, Chair  
(b) Report of the Public Safety, Finance and Strategic Support Committee –  
January 17, 2008  
Council Member Nguyen, Chair**

**The Public Safety, Finance and Strategic Support Committee Reports and Actions  
of December 20, 2007 and January 17, 2008 were accepted.**

**3.4 2007-2008 Mid-Year Budget Review Report.**

**Recommendation:**

(a) Approval of the 2007-2008 Mid-Year Budget Review Report.  
**Approved.**

(b) Adoption of related Appropriation Ordinance and Funding Sources Resolution  
amendments in various funds as detailed in Section III (Appropriation/Clean-Up  
Adjustment Actions) in the 2007-2008 Mid-Year Budget Review.  
**Ordinance No. 28241 adopted.  
Resolution No. 74228 adopted.**

(c) Approval of the addition of 2.5 positions in the Parks, Recreation and  
Neighborhood Services Department and the elimination of 6.0 positions in the  
Planning, Building and Code Enforcement Department as described in Section III  
of the 2007-2008 Mid-Year Review document.

(d) Approve funding strategy for interior artwork at the South Police Substation, to  
use Districts 2, 4, and 5 Construction Tax and Property Conveyance Tax funds to  
reimburse the General Fund \$400,000 for prior expenditures on eligible projects,  
and return to Council within 30 days with appropriation actions;

(e) Continue to evaluate options for exterior artwork at the South Police Substation, with  
funding recommendations to be brought forward in the 2008-2009 Proposed Budget.

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

**Approved.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.5 HP Funds allocated for constituent outreach.

**Recommendation:**

- (a) Approval of Amendment No. 3 to the Naming Rights and Trademark License Agreement among the City, San José Arena Management, San José Sharks and Hewlett Packard Corporation removing restrictions on the use of a portion of the funds received by the City in exchange for the Arena naming rights.
- (b) Adoption of a resolution specifying the City Council's intent to use the additional funds from the Naming Rights Agreement for constituent outreach in compliance with the Council Expenditure and Reimbursement Policy.

(City Attorney)

(Rules Committee referral 1/30/08)

**City Attorney directed to reflect the need for constituent outreach in the draft resolution.**

**Deferred to 2/26/08 per the City Attorney.**

#### 3.6 Public/Private Partnership Case Study Wrap-Up and Recommendations.

**Recommendation:** Acceptance of the final report on the Public-Private Partnership case studies and approve, and provide direction on the following:

- (a) Proposed framework for advancing future public-private partnerships;
- (b) Develop a proposed structure and work plan to establish a citywide Parks Foundation and agenda for future Council consideration;
- (c) Develop a Parks community volunteer program;
- (d) Review Council policies applicable to demonstration projects and recommend revisions to the Council to facilitate public-private partnerships;
- (e) City Attorney to prepare an amended Prevailing Wage Policy (i) reflecting City Council direction on September 25, 2007 clarifying that the Prevailing Wage Policy excludes all of the following: volunteers, volunteer coordinators, work performed by employees of San José Conservation Corps, Habitat for Humanity, and Our City Forest and community service days by paid employees of corporations, (ii) and modifying City Council direction regarding maintenance agreements for City owned buildings, structures and ground facilities to provide an exemption for agreements for donated parks maintenance services (including landscaping, restroom cleaning, and other routine maintenance), when those services are paid for solely by the donor, subject to the following criteria:
  - (1) Donors must not have been affiliated with a development application within two years prior or during the term of the partnership agreement, and agreements shall have durations of no less than two years; and,
  - (2) Staff shall consult with applicable labor organizations prior to entering into new parks maintenance donations or extensions of such agreements, and donations valued in excess of \$100,000 annually shall be presented to the City Council for approval.

CEQA: Not a Project. (City Manager's Office/Parks, Recreation and Neighborhood Services)  
**Report Accepted.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.7 City of San José Airport Revenue Bonds.

**Recommendation:** Adoption of a resolution of the City Council authorizing the Director of Finance or the Director's authorized designee to:

- (a) Negotiate and execute the Broker-Dealer Agreement among the City of San José, U.S. Bank National Association, and Citigroup Global Markets, Inc. relating to the City of San José Airport Revenue Bonds, Series 2004B;
- (b) Negotiate and execute the Broker-Dealer Agreement among the City of San José, U.S. Bank National Association, and Lehman Brothers, Inc. relating to the City of San José Airport Revenue Bonds, Series 2004A; and
- (c) Enter into broker-dealer agreements with other broker-dealers to participate in the auctions of the Series 2004A and the Series 2004B Bonds and make amendments to the broker-dealer agreements within the parameters specified in the resolution.

CEQA: Resolution Nos. 67380 and 71451. (Finance)

**Resolution No. 74236 adopted.**

#### 3.8 Report on the Neighborhood Association Priority Setting Session and the Telephone Community Survey.

**Recommendation:**

- (a) Acceptance of report on the January 19, 2008 Neighborhood Association Priority Setting Session.
- (b) Acceptance of report on the Telephone Community Survey.

(Mayor)

(Rules Committee referral 1/30/08)

**Reports accepted, with Staff directed to post the Telephone Community Survey on the City website.**

#### 3.9 Mayor's Budget Shortfall Advisory Group Recommendations.

**Recommendation:** Initial review and discussion of the Mayor's Budget Shortfall Advisory Group recommendations. (Mayor)

(Rules Committee referral 1/30/08)

**City Manager directed to develop an outreach plan to engage stakeholder groups and report back via an information memorandum.**

#### 3.10 Report of the Rules and Open Government Committee – January 23, 2008

**Mayor Reed, Chair**

**The Rules and Open Government Committee Report and the Actions of January 23, 2008 were accepted.**

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

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#### **3.11 Proposed Ordinance providing flexibility for Property and Business Improvement Districts.**

**Recommendation:** As recommended by the Rules and Open Government Committee on February 6, 2008, direct the City Attorney to draft an Ordinance based on the State Property and Business Improvement District law that would allow for more flexibility in forming and operating such districts. (Oliverio)  
[Rules Committee referral 2/6/08 – Item G(3)]

**Approved.**

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

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#### **4.1 Report of the Community & Economic Development Committee – January 28, 2008 Council Member Pyle, Chair**

**The Community & Economic Development Committee Report and the Actions of January 28, 2008 were accepted.**

### **5. NEIGHBORHOOD SERVICES**

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#### **5.1 Report of the Neighborhood Services and Education Committee Council Member Chirco, Chair**

**No Report.**

#### **5.2 Award of contract for the Julian-Sunol Supplement Sanitary Sewer Rehabilitation Project.**

**Recommendation:** Report on bids and award of contract for the Julian-Sunol Supplement Sanitary Sewer Rehabilitation Project to the low bidder, Insituform Technologies, Inc. in the amount of \$1,631,085, and approval of a contingency in the amount of \$163,000. CEQA: Exempt, File No. PP07-191. Council District 3. (Public Works)

**Approved.**

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

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#### **6.1 Report of the Transportation and Environment Committee Council Member Williams, Chair**

**No Report.**

## 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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- Notice of City Engineer's Pending Decision on Final Maps  
None.

- Notice of City Engineer's Award of Construction Projects

In accordance with Council Resolution No. 73532, the construction Contract Process Streamlining Policy approved on December 5, 2006, the following is a list of projects that were awarded or rejected by the Director of Public Works in January 2008:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Traveler Information Center at City Hall	3	Alde Construction	\$168,750	1/8/08
Alum Rock Park New Entrance Restroom	4	CRW Industries, Inc.	\$261,150	1/18/08

- Open Forum

- (1) Ross Signorino suggested the Council's meeting conduct policy be revised to encourage the use of tap water (instead of purchased bottle water) and a reminder to keep the stairway clear in Chambers.
- (2) William Garbett recommended a consistent standard for public arts projects.
- (3) Mark Trout expressed religious viewpoints.

- Adjournment

The Council of the City of San José was adjourned at 6:08 p.m.