



CITY COUNCIL AGENDA

FEBRUARY 26, 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. 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**
 - 9:31 a.m.** - Closed Session, Call to Order in Council Chambers
Absent Council Members: Reed. (Excused)
 - 1:33 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: Reed. (Excused)
 - 7:06 p.m.** - Public Hearings, Council Chambers, City Hall
Absent Council Members: Chirco; Reed. (Excused)
- **Invocation (District 2)**
Valley Christian High School Choir presented the Invocation.
- **Pledge of Allegiance**
Vice Mayor Cortese led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to Roem Development Corporation for developing critically needed affordable housing in the community, bringing neighbors together as a result of thoughtful design, and contributing to the quality of life in San José. (Nguyen/Constant)
Vice Mayor Cortese and Council Members Nguyen and Constant recognized and commended Roem Development Corporation for developing critically needed affordable housing to the City of San José.

1. CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to Julie Scott of the Rosicrucian Order AMORC for her guidance in leading the museum toward green practices. (Oliverio)
(Rules Committee referral 2/13/08)
Vice Mayor Cortese and Council Member Oliverio recognized and commended Ms. Julie Scott for her leadership in guiding the Rosicrucian towards green practices.
- 1.3 Presentation of a commendation to three outstanding junior tennis players: Cassandra Borjon, Tayler Davis, and Cameron Klinger. (Williams)
Heard in the evening.
Vice Mayor Cortese and Council Member Williams recognized and commended Cassandra Borjon, Tayler Davis and Cameron Klinger for their achievements and Don Johnson, Coach for helping each of them achieve success.
- 1.4 Presentation of commendations to the grand prize winners in the Art in Silicon Valley Conference for Community Justice’s Martin Luther King Jr. Student Art/Writing/Multimedia contest this past January; Heather Le in Art, Melissa Marfell in Writing and Randy Tran in Multimedia. (Williams/Nguyen)
(Rules Committee referral 2/13/08)
Heard in the evening.
Vice Mayor Cortese and Council Members Williams and Nguyen recognized and commended the grand prize winners in the Art in Silicon Valley Conference for Community Justice’s Martin Luther King Jr. Student Art/Writing/Multimedia contest this past January: Heather Le (Art), Melissa Marfell (Writing) and Randy Tran (Multimedia). Melissa Marfell read her award winning poem.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of January 8, 2008
- (b) Regular Minutes of January 15, 2008
- (c) Regular Minutes of January 29, 2008

Approved.

2.2 Final adoption of ordinances.

There were none.

2. CONSENT CALENDAR

2.3 Consultant Master Agreements for various City projects.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute consultant master agreements with the following firms for various City projects:
- (1) Quality Assurance Engineering dba 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.

Resolution No. 74238 adopted.

- (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.

Resolution No. 74239 adopted.

- (c) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute amendments to the above master agreements to amend the Schedule of Charges on an annual basis upon the request of the consultant for all the above master agreements..

CEQA: Not a Project. (Public Works)

(Deferred from 2/12/08 – Item 2.11)

Resolution No. 74240 adopted.

2.4 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 December 16, 2007 through January 15, 2008.* (City Auditor)
Report Accepted.

2.5 Urban Runoff Management Plan for Fiscal Year 2008-2009 Workplans.

Recommendation: Adoption of a resolution authorizing the City Manager to certify and submit the 2008-2009 City of San José Urban Runoff Management Work Plans to the San Francisco Bay Regional Water Quality Control Board in conformance with the City's Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System permit requirements. CEQA: Exempt, File No. PP06-013. (Environmental Services)

Resolution No. 74241 adopted.

2. CONSENT CALENDAR

2.6 Open Purchase Order #5 FY 2007-2008.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #5 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)
Approved.

2.7 Report on Status of City's Vending Machine Program.

Recommendation: Approval of the Report on the Status of Healthy Food Choices offered through the City Vending Machine Program and direction to amend the nutrition specifications for the City's Vending Machine Program by allowing the sale of fresh, canned, and dried fruits and vegetables. CEQA: Not a Project. (Finance)
Approved.

2.8 Request for an excused absence for Council Member Nguyen.

Recommendation: Request for an excused absence for Council Member Nguyen from the Priority Setting Session on February 15, 2008 from 12:00 Noon to 4:00 p.m. due to prior long standing commitment. (Nguyen)
(Rules Committee referral 2/13/08)
Excused.

2.9 Actions related to Los Lagos Golf Course.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement between the City of San José and Los Lagos Golf Course, LLC for Construction of the Safety Improvements, increasing the contract amount by \$260,946 from \$1,958,125 to \$2,219,071, and extending the term from June 30, 2008 to January 31, 2009.

Resolution No. 74242 adopted.
Noes: Oliverio.

- (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 Los Lagos Golf Course Safety Improvements appropriation in the Parks, Recreation and Neighborhood Services Department in the amount of \$261,000; and
- (2) Decrease the Ending Fund Balance by \$261,000.

CEQA: Exempt, File No. PP06-102. Council District 7. (Parks, Recreations and Neighborhood Service/City Manager's Office/Public Works)
Ordinance No. 28243 adopted.
Noes: Oliverio.

2. CONSENT CALENDAR

2.10 Ordering of the Consenting Reorganization/Annexation of Burbank No. 39.

Recommendation: Adoption of a resolution ordering the reorganization of territory designated as Burbank No. 39 which involves the consenting annexation to the City of San José of an approximately 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. CEQA: Resolution No. 65459, File No. C07-036. Council District 6. (Planning, Building and Code Enforcement)

Resolution No. 74243 adopted.

2.11 Amendment to an Agreement for Land Surveying Services.

Recommendation: Approval of the second amendment to the Master Agreement with HMM Engineers for consultant land surveying services for various projects extending the term of the agreement from February 29, 2008 to December 31, 2009 and to modify the rates of compensation, with no increase in total compensation. CEQA: Not a Project. (Public Works)

Approved.

2.12 Report on bids and award of contract for the Americans with Disabilities Act (ADA) Accessibility Ramps for the Street Resurfacing Project 2008.

Recommendation: Report on bids and award of contract for the ADA Accessibility Ramps for the Street Resurfacing Project 2008 to the low bidder, Golden Bay Construction and approval of a contract in the amount of \$793,367, plus a contingency in the amount of \$79,337 for a total contract amount of \$872,704. CEQA: Exempt, File No. PP05-212. Council Districts 1, 2, 3, 4, 6, 7, 9 and 10. (Transportation)

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report) No Report.

3.2 Report of the Rules and Open Government Committee – February 6, 2008 Mayor Reed, Chair Deferred to 3/4/08 per City Clerk.

3. STRATEGIC SUPPORT SERVICES

3.3 Report of the Rules and Open Government Committee – February 13, 2008

Mayor Reed, Chair

Deferred to 3/4/08 per City Clerk.

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

Council Member Nguyen, Chair

No Report.

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 certain 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 any use allowed under the Council Expenditure and Reimbursement Policy, except personnel.

(City Attorney)

(Rules Committee referral 1/30/08)

(Deferred from 2/12/08 – Item 3.5)

Deferred to 3/4/08 per City Attorney.

3.6 Resolution in support of Issuing a Postal Stamp in Honor of Mayor Tom Bradley.

Recommendation: Adopt a resolution in support of the issuance of a commemorative postal stamp in honor of the late Mayor Tom Bradley. (Williams)

(Rules Committee referral 2/13/08)

Resolution No. 74244 adopted.

3.7 Oppose Proposition 98 and Support Proposition 99 – Constitutional Amendments dealing with Government Acquisition Regulation of Private Property.

Recommendation: As recommended by the Rules and Open Government Committee on February 20, 2008, adopt an oppose position to Proposition 98 and a support position for Proposition 99 – Constitutional Amendments Dealing with Government Acquisition Regulation of Private Property. (City Manager's Office/Redevelopment Agency)

[Rules Committee referral 2/20/08 – Item (C)(1)(a)]

Oppose positions to Proposition 98 adopted.

Support position to Proposition 99 adopted.

Noes: Constant, Oliverio.

3. STRATEGIC SUPPORT SERVICES

3.8 Santa Clara Valley Water District FY 2009 – Federally Partnered Projects.

Recommendation: As recommended by the Rules and Open Government Committee on February 20, 2008, accept the Santa Clara Valley Water District's (SCVWD) FY 2009 – Federally partnered projects in the City of San José's jurisdiction and approve the City's mutual request for funds through the appropriation process. (City Manager's Office/ Environmental Services)

[Rules Committee referral 2/20/08 – Item (C)(2)(a)]

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee Council Member Pyle, Chair

No Report.

4.2 Public Hearing on the Reorganization/Annexation of Evergreen No. 200.

Recommendation: Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Evergreen No. 200 on an approximately 34.1 gross acre County island consisting of 36 parcels located between Pleasant Acres Drive and Ruby Avenue, west of Murillo Avenue, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service (Multiple Owners).

CEQA: Resolution No. 65459 (Related Rezoning C06-127). Council District 8.
(Planning, Building and Code Enforcement)

(Deferred from 1/29/08 – Item 4.6)

Heard in the evening.

Public Hearing was held.

Resolution No. 74256 adopted.

4.3 Amendment for property located on the east side of Almaden Expressway approximately 300 feet northerly of Fleetwood Drive.

Recommendation: Denial or continued processing of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) on a 1.82-acre site located on the east side of Almaden Expressway approximately 300 feet northerly of Fleetwood Drive (Tom Mazzone, Owner and Applicant). CEQA: Incomplete. Director of Planning, Building and Code Enforcement recommends denial. Planning Commission recommends continued processing of the application (6-0-1, Platten Absent).

GP07-10-01 – District 10

(Deferred from 2/5/08 – Item 4.2) **Heard in the evening.**

(Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Amendment for property located on the east side of Almaden Expressway approximately 300 feet northerly of Fleetwood Drive (Cont'd.)

Continued processing of the General Plan Amendment request with the following direction:

- (1) Evaluate the dedication and improvement of project frontage to facilitate future construction of an acceleration/deceleration lane consistent with the Jayden Lane Planned Development Rezoning File No. PDC06-070 (Attachment A) since that evaluation will inform any future decision related to the subject site.**
- (2) Evaluate the establishment of a riparian setback along Los Alamitos Creek consistent with the City's Riparian Corridor Policy Study, May 1994 as a part of this application.**
- (3) Identify existing easements and other constraints related to this site on a survey plan prepared by a registered civil engineer.**
- (4) Pursue a residential development density that is consistent with the surrounding neighborhood.**

With added direction that the project not exceed six (6) units.

Noes: Oliverio.

4.4 The Haven Disaster Relief Shelter and The Locust Street Tri-Plex.

Recommendation:

- (a) Approval of the assumption of ownership through a deed in lieu of foreclosure of The Haven Disaster Relief Shelter and the Locust Street tri-plex located at 937-943 Locust Street by the City of San José from EHC Lifebuilders.**

Approved.

- (b) Adoption of a resolution authorizing the Director of Housing to negotiate and execute all required legal instruments to accomplish the assumption of ownership and continued operations of the property as a disaster and emergency relief shelter.**

CEQA: Exempt. Council District 3. SNI: Washington-Guadalupe. (Housing)

Resolution No. 74245 adopted.

4.5 Approval of fiscal actions related to the Building Equity and Growth in Neighborhoods Housing Program.

Recommendation:

- (a) Adoption of a resolution authorizing the Director of Housing to accept Building Equity and Growth in Neighborhoods Housing (BEGIN) Program grants from the California Department of Housing and Community Development and to negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the following BEGIN grants:**

(Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Approval of fiscal actions related to the Building Equity and Growth in Neighborhoods Housing Program (Cont'd.)

- (a) (1) A \$1,200,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in the Modern Ice condominium development.
- (2) A \$240,000 grant to fund down payment assistance loans to first-time homebuyers purchasing in The One East Julian condominium development.
- (3) A \$360,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in the Tierra Encantada townhome development.
- (4) A \$720,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in the Skyline/Tamien Station condominium development.
- (5) A \$480,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in the San Carlos Bowl townhome development.
- (6) A \$2,280,000 grant to fund down payment assistance loans to first-time homebuyers purchasing in the Monte Vista at Cannery Square development.

Resolution No. 74246 adopted.

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund for 2007-2008:
 - (1) Increase the estimate for Earned Revenue in the Multi-Source Housing Fund by \$5,280,000.
 - (2) Increase the CalHOME (BEGIN) Program appropriation in the Multi-Source Housing Fund by \$5,280,000.

CEQA: Not a Project. Council Districts 3, 5 and 6. SNI: 13th Street, Mayfair, Burbank/Del Monte and Washington. (Housing/City Manager's Office)

Ordinance No. 28244 adopted.

Resolution No. 74247 adopted.

4.6 Actions related to the Coyote Valley Specific Plan and the revised Environmental Impact Report.

Deferred to 3/4/08 per Rules Committee.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – February 14, 2008 Council Member Chirco, Chair

The Neighborhood Services and Education Committee Report and the Actions of February 14, 2008 were accepted.

5. NEIGHBORHOOD SERVICES

5.2 Fiscal actions related to various trails.

Recommendation:

(a) Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4 (Fund 381):

- (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$86,000 for the TRAIL: Lower Guadalupe River (Gold Street to Highway 880);
- (2) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$113,000 for the TRAIL: Coyote Creek (Highway 237 to Story Road);
- (3) Decrease the appropriation for TRAIL: Coyote Creek/Montague Expressway to Story Road Master Plan Project by \$113,000; and
- (4) Decrease the Ending Fund Balance by \$86,000.

Ordinance No. 28245 adopted.

(b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Subdivision Park Trust Fund (Fund 375):

- (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$1,819,000 for the TRAIL: Lower Guadalupe River (Gold Street to Highway 880);
- (2) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$955,000 for the TRAIL: Bay Trail Reach 9 (Gold Street to San Tomas Aquino);
- (3) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$991,000 for the TRAIL: Coyote Creek (Highway 237 to Story Road);
- (4) Decrease the Reserve: Trail Development - North San José by \$350,000;
- (5) Decrease the Reserve: Alviso Area Improvements by \$1,580,000;
- (6) Decrease the Reserve: District 4 North San José Development by \$494,000;
- (7) Decrease the Reserve: District 4 Land Acquisition, and Development Southern Area by \$862,000;
- (8) Decrease the Reserve: Future PDO/PIO Projects by \$380,000; and
- (9) Increase the Earned Revenue estimate by \$99,000.

CEQA: Not a Project. Council Districts 3 and 4. SNI: University, Spartan/Keyes, Five Wounds/Brookwood Terrace, 13th Street. (Parks, Recreation and Neighborhood Services/ City Manager's Office)

Ordinance No. 28246 adopted.

Resolution No. 74248 adopted.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – February 4, 2008 Council Member Williams, Chair

The Transportation and Environmental Committee Report and the Actions of February 4, 2008 were accepted.

6.2 Continuation of program support services on Airport Capital Improvement Projects.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the URS Corporation Master Agreement for continuing program support services on Airport Capital Improvement Projects, increasing compensation by \$7.5 million for a total amount not to exceed \$15 million, and clarifying the methodology used to set labor billing rates. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-255. (Airport)

Resolution No. 74249 adopted.

6.3 Ground Lease for Fuel System Agreement at the Airport.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the Ground Lease with SJC Fuel Company, LLC for Fuel System (Agreement) at Norman Y. Mineta San José International Airport to relocate the fuel dispensing area at a cost of \$1.435 million dollars, to expand the size of the premises with a corresponding rental increase of \$1.565 million over the term of the Agreement, and to allow for changes in the design of the fuel system. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-259. (Airport)

Resolution No. 74250 adopted.

6.4 Design and Construction of the Airport Consolidated Rental Car Garage.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute the first amendment to the On-Airport Rental Car Operations and Lease Agreements with the current on-Airport rental car companies (Avis Budget Car Rental (operating as Avis and Budget), DTG Operations, Inc. (operating as Dollar and Thrifty), EAN, LLC (operating as Enterprise, Alamo and National), Fox Rent A Car, Inc. and The Hertz Corporation) for on-Airport rental car operations at the Consolidated Rental Car Garage to extend the maximum term for an additional five year period by providing for a term of ten years from commencement of operations at the Consolidated Rental Car Garage, and up to two ten-year renewal periods, subject to mutual agreement of the City and the rental car companies, for a total maximum term of up to thirty years, to establish a Rent Stabilization Fund to be funded from excess facility rent payments in an amount not to exceed \$1,000,000 and to provide that any unexpended Program Reserve on hand upon completion of construction of the Consolidated Rental Car Garage will be credited to either the Rent Stabilization Fund or the repayment of debt on the Consolidated Rental Car Garage.

Resolution No. 74251 adopted.

6. TRANSPORTATION & AVIATION SERVICES

6.4 Design and Construction of the Airport Consolidated Rental Car Garage (Cont'd.)

- (b) Approval of the second amendment to the Contract with Hensel Phelps Construction Co. for design and construction of the Airport Terminal Area Improvement Program to increase the maximum not-to-exceed contract compensation by \$13 million, from \$647,119,130 to \$660,119,130.
Approved.
- (c) Adoption of the following Appropriation Ordinance Amendments in the Airport Revenue Bond Improvement Fund:
- (1) Increase the Consolidated Rental Car Facility appropriation by \$22,900,000;
 - (2) Increase the Public Parking Garage appropriation by \$1,300,000;
 - (3) Decrease the Terminal Area Development, Phase I appropriation by \$1,300,000;
 - (4) Decrease the Ending Fund Balance by \$22,900,000.

Ordinance No. 28247 adopted.

- (d) Approval of a City-controlled program reserve for potential additions to the scope of the Consolidated Rental Car Garage, in an amount not to exceed \$11,200,000.

Approved.

- (e) Adoption of a resolution authorizing the City Manager to negotiate and execute contract change orders for the City-controlled program reserve in an amount not to exceed \$11,200,000.

Resolution No. 74252 adopted.

- (f) Authorize the City Manager to increase the estimated premium and estimated loss reserves in the City's current Owner Controlled Insurance Program for the Airport's Master Plan projects with American International Group from \$19,500,000 to a total amount not to exceed \$25,000,000.

CEQA: Resolution Nos. 67380 and 71451, File No. PP08-015. (Airport/Public Works/City Manager's Office)

Approved.

6.5 Actions relating to an Agreement for Airport Shuttle Bus Services.

Recommendation: Report on Request for Proposal for shuttle bus service at the Norman Y. Mineta International Airport and adoption of a resolution authorizing the Director of Finance, subject to annual appropriation of funds, to:

- (a) Execute an agreement with ShuttlePort California LLC (Oak Brook, IL) for shuttle bus service to include management, operations, scheduling and maintenance, with a first year maximum compensation of \$9,500,000, for a three-year initial term subject to the Consumer Price Index (CPI).
- (b) Execute amendments to the agreement to add and delete routes and schedules.
- (c) Exercise one two-year option to renew the agreement subject to the CPI.

CEQA: Resolution Nos. 67380 and 71451, File No. PP08-004. (Finance)

Resolution No. 74253 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Actions related to 2007 Super Urban Area Security Initiative (SUASI) Grant.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to:
 - (1) Negotiate and execute a Memorandum of Understanding (Governance MOU) with the City and County of San Francisco, City of Oakland, Alameda County, and Santa Clara County as partners in the Fiscal Year 2007 Super Urban Area Security Initiative (SUASI) grant.
 - (2) Negotiate and execute a joint Memorandum of Understanding (Funding MOU) between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area SUASI, to allocate \$3,860,000 of the 2007 SUASI grant to the City of San José.
 - (3) Negotiate and execute an amendment to the existing 2006 SUASI MOU to extend the grant term from February 29, 2008, to June 30, 2008, facilitating completion of the ECOMM project.

Resolution No. 74254 adopted.

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution in the General Fund for Fiscal Year 2007-2008:
 - (1) Establish a City-wide appropriation to the Police Department for the 2007 Super Urban Area Security Initiative (SUASI) - Police in the amount of \$200,000;
 - (2) Establish a City-wide appropriation to the Police Department for the 2007 Super Urban Area Security Initiative (SUASI) - Interoperable Communications in the amount of \$2,660,000;
 - (3) Establish a City-wide appropriation to the Office of Emergency Services (OES) for the 2007 Super Urban Area Security Initiative (SUASI) - OES in the amount of \$1,000,000;
 - (4) Increase the Revenue from the Federal Government estimate by \$3,860,000;

CEQA: Mitigated Negative Declaration, File No. PP07-055. (Police/City Manager's Office)

Ordinance No. 28248 adopted.

Resolution No. 74255 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**
 - (1) **Ross Signorino commented on the protest at City Hall about the naming of a portion of Story Road.**
 - (2) **Ben Deniston and Damien Yule provided information about the Homeowners and Bank Protection Act of 2007.**
 - (3) **David Wall informed Council that there is a code enforcement problem in District 3 regarding illegal signage and vehicle abatement issues.**
 - (4) **Therese Wiese urged Council to keep the Pearl Avenue Library open.**
 - (5) **Wilma Hashi urged Council to keep the Seven Trees Library open.**

- **Adjournment**

The Council of the City of San José adjourned the afternoon session at 3:41 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located at the northeast corner of Monterey Road and Umbarger Road (2680 Monterey Rd) from County to the CN Commercial Neighborhood Zoning District to allow commercial uses on a 2.7 gross acre site (Caputo, Daniel J. Jr. Trustee & Et Al, Owner; Phil Rolla, Developer). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C07-092 – District 7

[Deferred from 1/29/08 – Item 11.1(e)]

Ordinance No. 28249 passed for publication.

- (b) Consideration of an ordinance rezoning the real property located on the north side of San Felipe Road, approximately 650 feet south of Fowler Road (3810 San Felipe Road) from Agriculture to R-1-5 Single Family Residence Zoning District on a 0.46 gross acre site (Li Chaoyang and Cao Hong, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C07-093 – District 8

[Continued from 2/5/08 – Item 11.1(c)]

Ordinance No. 28250 passed for publication.

- (c) Consideration of an ordinance rezoning the real property located at/on the east side of Almaden Road, approximately 450 feet south of McKean Road (19600 Almaden Road) from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to six single-family detached residences on a 1.09 gross acre site (Masoumi Mike Et Al, Owner; Mike Masoumi, Developer). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC07-037 – District 10

[Deferred from 2/5/08 – Item 11.1(d)]

Ordinance No. 28251 passed for publication.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar (Cont'd.)

- (d) Consideration of an ordinance rezoning the real property located on the southwest corner of Neilson Court and Eberly Drive (Giani Smith, Owner) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow for a total of four single-family detached residences and subsequent subdivision on a 1.7 gross acre site. This rezoning differs from the previously approved rezoning (PDC04-091) in that it would allow a 25-foot front setback instead of the 30-foot front setback as previous approved. All other aspects of the subjects rezoning are identical to the previous approval. CEQA: Re-Use of MND. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

PDC07-100 – District 2

Ordinance No. 28252 passed for publication.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Rezoning real property located on the south side of East Taylor Street.

Recommendation: Consideration of an ordinance zoning the real property located on the south side of East Taylor Street approximately 90 feet westerly of North 20th Street (944 E Taylor St.) to remove one existing single-family residence and construct two single-family detached residences on a 0.23 gross acre site (Anh-Mai Phuong Le, Owner).

CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval and Planning Commission recommended approval with conditions (4-2-1).

PDC07-003 – District 3

[Deferred from 1/29/08 – Item 11.1(b)]

Ordinance No. 28253 passed for publication.

The memorandum from Council Member Liccardo, dated February 22, 2008 was approved and included the following conditions:

- (1) **Limit the Floor Area Ratio (FAR) of each unit to 0.45. The community appropriately expressed concern regarding the scale and massing of the proposed design. Limiting the FAR to 0.45 would better fit the residential scale of the neighborhood.**
- (2) **Employ architecture and design consistent with the neighborhood. Although design review and consistency with the surrounding neighborhood is not typically addressed at this stage of approval, due to significant neighborhood concern about the loss of an existing structure, it should be included as a development standard in rezoning.**

Noes: Constant.

11.3 Administrative Hearing regarding an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity.

Recommendation: Administrative Hearing and consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow demolition of 78,409 square feet of existing commercial building and allow construction of 80,800 square feet resulting in a total of 122,584 square feet for commercial uses including the off-sale of alcohol for a new grocery store (Whole Foods) on a 10.2 gross acres (Mandatory denial by the Planning Commission 12/10/07), in the CG General Commercial Zoning District, located in the area generally bound by Blossom Hill Road on the north, Gallup Drive to the west, Mesa drive to the south, and Almaden Expressway to the east (1110 Blossom Hill Road) (Pueblo Plaza Partnership, Owner). SNI: Hoffman/Via Monte. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to uphold the appeal and approve the subject Conditional Use Permit and make a Determination of Public Convenience or Necessity by finding that the required findings for a Determination of Public Convenience or Necessity can be made and that there is a significant overriding public benefit served by the proposed off-sale of alcohol.

CP07-072/ABC07-006 – District 10

(Deferred from 1/29/08 – Item 11.3)

Deferred to 3/18/08 per Council Member Pyle.

11. PUBLIC HEARINGS

11.4 Rezoning real property located on the north side of East Taylor Street.

Recommendation: Consideration of an ordinance rezoning the real property located on the north side of East Taylor Street approximately 110 feet east of North Second Street (65 E. Taylor Street) from R-M Multi-Family Residential District to A(PD) Planned Development Zoning District to allow office uses in an existing single-family residence on a 0.13 gross acre site (Lindstrom Cary O., Owner). CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (6-0-1).

PDC05-123 – District 3
(Deferred from 2/5/08 – Item 11.2)

Denied.

11.5 Rezoning real property located on the southwest corner of the intersection of Airport Parkway and Old Bayshore Highway.

Recommendation:

- (a) Adoption of a resolution overriding a determination by the Airport Land Use Commission that the PD Rezoning request File No. PDC06-130 is inconsistent with the maximum allowable height policies of the Land Use Plan for Areas Surrounding Santa Clara County Airports due to inconsistency with the height regulations as stated in the FAA Part 77 elevations.

Resolution No. 74257 adopted.

- (b) Consideration of an ordinance rezoning IP Industrial Park Zoning District to A(PD) Planning Development Zoning District for construction of up to 600 multiple dwelling units in two high-rise towers with ground floor commercial on a 6.08 gross acre site, located on the southwest corner of the intersection of Airport Parkway and Old Bayshore Highway (50 Airport Pkwy.) (Foster Airport Pkwy. LP, Owner). CEQA: Resolution No.72768, and Addenda thereto. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

PDC06-130 - District 3

Ordinance No. 28254 passed for publication.

The memorandum from Council Member Liccardo dated February 25, 2008 was approved with the following direction to Staff:

- (1) **Require construction of commercial retail of no less than 6,000 square feet on the site, regardless of the size of the residential development.**
- (2) **Override the contrary decision of the Airport Land Use Commission, such that the Council specifically finds that each of the conditions listed on pages 7-8 in the January 23, 2008, Staff memorandum, paragraphs 1-4, to be true.**

(Continued on the next page)

11. PUBLIC HEARINGS

11.5 Rezoning real property located on the southwest corner of the intersection of Airport Parkway and Old Bayshore Highway (Cont'd.)

- (3) Require “green building” practices similar to those standards that Council has mandated on construction throughout North San José since mid 2007. Specifically, the Department of Planning, Building and Code Enforcement will ensure that construction is roughly equivalent to a “Silver” Leadership in Energy and Environmental Design (LEED) standard or similar GreenPoint Rating level, or if a less stringent Citywide policy is in effect at the time of approval of the Planned Development Permit, then to the standard in effect Citywide.

11.6 Rezoning real property located between Los Esteros Road and Grand Blvd.

Recommendation: Consideration of an ordinance rezoning the real property located between Los Esteros Road and Grand Blvd. (675 Los Esteros Road) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to expand resource recovery and recycling operations to construct an approximately 200,000 square foot materials recovery facility building and to allow 24-hour operations on a 52.5 gross acre site (Zanker Road Resource Mgt Ltd, Owner/Developer). CEQA: Environmental Impact Report. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC06-120 – District 4

Ordinance No. 28255 passed for publication.

The memorandum from Mayor Reed and Council Member Chu, dated February 22, 2008, was approved, with the following additions:

- (1) Direction to the applicant, Zanker Road Resource Management, Ltd., to assist the City in analyzing traffic counts and traffic impacts at or immediately after commencement of operations of the proposed development. While Staff has determined that the proposed project is in conformance with the City of San José Transportation Level of Service Policy, it is important to validate that the proposed project, once it is in full operation, will not cause safety risks to truck drivers who serve the site or to residents and visitors in the vicinity of the proposed project.
- (2) Direction to the applicant to work with the City to conduct a street sweeping program for Los Esteros that maintains the health, safety and cleanliness of the road using the timetable under the direction in Item (1) above.
- (3) Direction to applicant to work with the City during the Planned Development permit phase of the project to generate an appropriate plan and protocol for truck parking at the facility.

11. PUBLIC HEARINGS

11.7 Rezoning real property located on the northwest corner of North First Street and River Oaks Place.

Recommendation: Consideration of an ordinance rezoning the real property located on the northwest corner of North First Street and River Oaks Place from the IP Industrial Park zoning District to the A(PD) Planned Development Zoning District to allow up to 1,660 single-family and multi-family attached residences, 40,000 square feet of retail space, and a 5.1 acre public park on a 32.6 gross acre site (Wti Inc, Owner; Thompson Dorfman, Developer). CEQA: Addendum to North San José EIR. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-1). PDC07-057 – District 4

Ordinance No. 28256 passed for publication.

The memorandum from Mayor Reed and Council Member Chu, dated February 22, 2008, was approved, with the following additions:

- (1) **Direction to the developer to maximize retail square footage as market conditions provide and to establish a strong retail presence along both River Oaks Place and North First Street.**
- (2) **Direction to the developer to work with the City to assess the feasibility of the installation of automatic external defibrillators as a special feature of the residential and retail development.**
- (3) **Direction to the developer to implement green building techniques to achieve credits sufficient for a LEED Silver or equivalent certification.**

- **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>
9466	S/E corner of Lucretia Ave. and Owsley Ave.	7	Union Pacific Funding, Inc.	15 Lots / 15 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>
9981	NE corner of Willow Glen Way and Cross Way	6	H3 Development LLC	10 Lots / 9 Units	SFD

- **Notice of City Engineer's Award of Construction Projects**
None

- **Open Forum**
 - (1) **Lori Hart Beninger requested that the City address and correct complacency and corruption with the Animal Care and Services Department. City Manager Debra Figone agreed to follow up.**

- **Adjournment**
The Council of the City of San José was adjourned at 8:45 p.m.