

CITY COUNCIL AGENDA

APRIL 24, 2007

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
VACANT
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 <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
Absent Council Members: None.
Vacant: District 4.
 - 1:30 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
Vacant: District 4.
 - 7:04 p.m.** - General Plan Hearings, Council Chambers, City Hall
- Public Hearings, Council Chambers, City Hall
Absent Council Members: None.
Vacant: District 4.
- **Invocation (District 4)**
Dan Hoang, President of the Federation of Vietnamese Americans, commemorated the Fall of Saigon.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 1.9 heard in the evening, Items 3.1, 3.5 and 3.7 deferred to 5/1/07 and Item 8.1 was dropped (protest withdrawn).
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the 50th Anniversary Celebration Team (WPCP) for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)
Mayor Reed and City Manager Les White recognized and commended the 50th Anniversary Celebration Team for their outstanding dedication and important contributions to the City of San José.
- 1.2 Presentation of a proclamation recognizing April 29th as Justice for Immigrant Children Day. (Cortese)
Heard in the evening.
Mayor Reed and Vice Mayor Cortese recognized April 29, 2007 as "Justice for Immigrant Children Day" in the City of San José.
- 1.3 Presentation of a commendation recognizing the achievement of the Berryessa Branch Library's Customer Service staff. (Library)
Deferred to 5/8/07, per Administration.
- 1.4 Presentation of a proclamation declaring April 30, 2007 El Dia de los Ninos/El Dia de los Libros. (Mayor/Campos)
Mayor Reed and Council Member Campos recognized April 30, 2007 as "El Dia de los Ninos/El Dia de los Libros" in the City of San José. Mayor Reed presented the plaque to Library Director Jane Light.
- 1.5 Presentation of a commendation to Motor Masters Automotive, Salas O'Brien Engineers, Inc., Santa Clara County Council of Churches, Camden Community Center and KBAY/KZER Radio for achieving Green Business Certification and showing their exemplary commitment to protecting our environment. (Mayor/Liccardo/Chirco)
Mayor Reed and Council Members Liccardo and Chirco recognized and commended the Motor Masters Automotive, Salas O'Brien Engineers, Inc., Santa Clara County Council of Churches, Camden Community Center and KBAY/KZER Radio for achieving Green Business Certification and showing their outstanding commitment to protecting the environment.
- 1.6 Presentation of a commendation recognizing Public Works Property Acquisition and Property Asset Management Real Property Agents for their very important contributions to the City of San José. (Public Works)
Mayor Reed and Director of Public Works Katy Allen recognized and commended the Public Works Property Acquisition and Property Asset Management Real Property Agents for their very important contributions to the City of San José.

1 CEREMONIAL ITEMS

- 1.7 Presentation of a commendation to Bruno Figueroa, Consul General of Mexico, for his service to the City of San José upon his new appointment in France.
(Campos/Nguyen/Liccardo)
(Rules Committee referral 4/18/07)
Mayor Reed and Council Members Campos, Nguyen and Liccardo recognized and commended Mr. Bruno Figueroa, Consul General of Mexico, for his service to the City of San José upon his new appointment in France.
- 1.8 Presentation of a commendation to the Volunteer Center of Silicon Valley in recognition of National Volunteer Month, and the Center’s achievements to strengthen San José through the coordination of valued volunteer efforts. (Liccardo)
(Rules Committee referral 4/18/07)
Heard in the evening.
Mayor Reed and Council Member Liccardo recognized and commended Mr. Tim Quigley and the Volunteer Center of Silicon Valley for their achievements and in recognition of “National Volunteer Month” in the City of San José.
- 1.9 Presentation of a proclamation declaring the week of April 24 – May 1, 2007 as *Okayama Week* in the City of San José in recognition of the 50th anniversary of the San José – Okayama Sister City Relationship. (Mayor)
(Rules Committee referral 4/18/07)
Heard in the evening.
Mayor Reed recognized the week of April 24, 2007 through May 1, 2007 as “Okayama Week” in the City of San José in recognition of the 50th anniversary of the San José-Okayama Sister City Relationship. Mayor Reed also recognized Mr. Former Mayor Bob Door of San José in 1957 and Mr. Joe Hedge. Council Members Williams welcomed the Japanese visitors in their native language.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes:

- (a) Current Minutes
There were none.
- (b) Past Minutes
- (1) Regular Minutes of October 3, 2006
 - (2) Special Council Minutes of October 10, 2006
 - (3) Regular Minutes of October 17, 2006
 - (4) Regular Minutes of October 24, 2006
 - (5) Regular Minutes of October 31, 2006
- (Deferred from 4/3/07 – Item 2.1 and 4/17/07 – Item 2.1)
Approved.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances.

There were none.

2.3 Request for an excused absence for Council Member Campos.

Recommendation: Request for excused absences for Council Member Campos from the City Council Budget Study Sessions on May 16 and May 17, 2007 due to Authorized City Business: League of CA Cities Board of Directors Meeting in Sacramento, CA. (Campos) (Rules Committee referral 4/11/07)

Approved.

2.4 Acceptance of the findings report relating to the Bay 101 Conditional Approval of Stock Transfer.

Recommendation: Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending September 30, 2006. (City Auditor) (Rules Committee referral 4/11/07)

Accepted.

2.5 Approval of actions for the Park Avenue Streetscape Improvement Project.

Recommendation:

- (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):
- (1) Increase the estimate for Earned Revenue by \$186,000.
 - (2) Establish an appropriation to the Department of Public Works for the Park Avenue Streetscape Improvement Project (PSM #491) on the north side of Park Avenue near Market Street in the amount of \$186,000.

Ordinance No. 28020 adopted.

Resolution No. 73731 adopted.

- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Park Avenue Streetscape Improvement Project as more specifically described in the memorandum from the Redevelopment Agency, dated March 15, 2007.

CEQA: Exempt, File No. PP07-061. Council District 3. (City Manager's Office/Public Works)

Resolution No. 73732 adopted.

2. CONSENT CALENDAR

2.6 Request for an excused absence for Vice Mayor Cortese.

Recommendation: Request for an excused absence for Vice Mayor Cortese from the Regular Meeting of the Rules and Open Government Committee on April 11, 2007 due to Authorized City Business: Preparation and review of compliance documents, public calendar and income time and disclosure statement. (Cortese)
(Rules Committee referral 4/11/07)

Approved.

2.7 Approval of a continuation agreement for Public Safety recruitment testing.

Recommendation: Approval of a continuation agreement with Hargis & Associates for test development services for Police and Fire Department promotional examinations in an amount not to exceed \$32,950, for a total contract amount of \$127,950. CEQA: Not a Project. (Human Resources)

Approved.

2.8 Approval of an agreement for architectural consultant services for Fire Station No. 19.

Recommendation:

(a) Approval of an exception to following the procedures set forth in the Qualifications Based Consultant Selection Policy with regard to selecting Don Dommer Associates to provide architectural services for the Fire Station No. 19 Project.

Approved.

(b) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Don Dommer Associates for architectural consultant services for the Fire Station No. 19 Project, from the date of execution to June 30, 2009, in an amount not to exceed \$325,000.

CEQA: Exempt, PP06-116 (Fire Station No.19). Council District 4. (Public Works)

Resolution No. 73733 adopted.

2.9 Approval for the allocation of Transportation Development Act, Article 3.

Recommendation: Adoption of a resolution approving the request to the Metropolitan Transportation Commission for the allocation of Fiscal Year 2007-2008 Transportation Development Act, Article 3 grant funding in the amount of \$566,510 and authorizing the City Manager to negotiate and execute grant documents. CEQA: Exempt, File No. PP07-062. (Transportation)

Resolution No. 73734 adopted.

2. CONSENT CALENDAR

2.10 Approval to amend an agreement for Airport Custodial Services.

Recommendation: Adoption of a resolution authorizing the Director of Finance to execute the first amendment to the agreement between the City of San José and Acme Building Maintenance for Custodial Service at the Norman Y. Mineta San José International Airport by correcting the insurance requirement for janitorial services and adding services resulting in an increase in compensation by \$180,000 from \$216,000 to a not-to-exceed amount of \$396,000 for the first year of the Agreement. CEQA: Not a Project. (Finance)

(Deferred from 4/17/07 – Item 2.6)

Resolution No. 73735 adopted.

2.11 Approval to purchase an Integrated Cashiering System.

Recommendation: Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with The Active Network Inc. in an amount not to exceed \$253,398 for the purchase and installation of an Integrated Cashiering System, including software, hardware, professional services, five years of maintenance and support, shipping, and applicable sales taxes.
- (b) Execute change orders not to exceed a 15% contingency amount of \$38,010 to cover unanticipated changes or requirements related to the design, implementation, maintenance and support of the system over a five-year period.

CEQA: Not a Project. (Finance)

(Deferred from 4/10/07 – Item 2.11 and 4/17/07 – Item 2.8)

Resolution No. 73736 adopted, with Staff directed to return with an information memorandum describing efficiencies and the return on the investment.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – April 4, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to April 10, 2007 Agenda
 - (2) Review April 17, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (2) Federal
- (d) Meeting Schedules
 - (1) Adopt Revised 2007-2008 City Budget Calendar and Budget Study Session Schedule. (City Manager's Office)
- (e) The Public Record

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – April 4, 2007 (Cont'd.)

Mayor Reed, Chair

- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Review of the Mexican Heritage Corporation's Ability to Operate and Maintain Mexican Heritage Plaza. (Auditor's Office)
 - (2) Approve Travel Requests. (Constant/Liccardo)
- (h) Review of Council Committee Agendas
- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (a) Acceptance of the proposed curriculum for a Council Assistant Certification Program per Reed Reform #25. (City Manager's Office/City Clerk/City Attorney)
 - (2) Sunshine Reform Task Force
 - (3) Significant Public Records Act Requests
 - (a) Response to Public Records Act-Potential Soccer Stadium.
 - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

Deferred to 5/1/07, per Orders of the Day.

3.2 Report of the Public Safety, Finance and Strategic Support Committee Council Member Nguyen, Chair

No Report.

3.3 Approval of actions related to the Military Leave Program.

Recommendation: Acceptance of staff report regarding:

- (a) New comprehensive orientation program for all employees applying for supplemental military leave benefits, including a method to obtain customer feedback.
- (b) Further improvements to the reconciliation process, including the overpayment and underpayment of supplemental military pay; and
- (c) Information on pays that are included by City Council action, as well as those that have been excluded as a result of past Council actions.

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

(Deferred from 4/3/07 – Item 3.4)

Report Accepted, with Staff directed to:

- (1) **Clarify the policy for the Reservists.**
- (2) **Report back to Council in December 2007.**
- (3) **For the future: explore options to create a Veteran Ombudsman.**

3. STRATEGIC SUPPORT SERVICES

3.4 Acceptance of the 2006 Employee Survey Report.

Recommendation: Acceptance of the 2006 San José Employee Survey Report. CEQA: Not a Project. (Human Resources)

Report Accepted, with Staff directed to:

- (1) **Clarify the statement “Employees in my work group display honesty and integrity in the work place” and break it into two sections.**
- (2) **Review the questions relative to ethics and compare with measurements proposed by Michael Josephson.**

3.5 Report of the Rules and Open Government Committee – March 28, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to April 3, 2007 Agenda
 - (2) Review April 10, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Acceptance of the March 2007 State Legislative Bill Matrix. (Manager’s Office)
(Continued from 3/21/07)
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
- (h) Review of Council Committee Agendas
- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (a) Acceptance of staff’s proposed presentation on ethics to the Council in response to Reed Reform #26. (City Manager/City Attorney)
 - (2) Sunshine Reform Task Force
 - (a) Update on current proposals and outstanding issues for Phase 1 recommendations including requirements for: (1) Public meetings. (2) Closed Session. (3) Public information. (Sunshine Reform Task Force)
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment
(Deferred from 4/17/07 – Item 3.1)
Deferred to 5/1/07, per Orders of the Day.

3. STRATEGIC SUPPORT SERVICES

3.6 Adoption of a resolution in support of HR 359 (Solis).

Recommendation: Adoption of a resolution in support of HR 359 (Solis), the Cesar Estrada Chavez Study Act.

(Cortese)

[Rules Committee referral 4/18/07 – Item(C)(1)(a)]

Resolution No. 73737 adopted.

3.7 Approval of actions related to Proposition 1C – Legislative Guiding Principles.

Recommendation:

(a) Approve a general set of “guiding principles” for the creation of programs related to Proposition 1C. Implementing legislation should allow the City of San José the opportunity to successfully compete for these future funds, which will help address the city’s need for more housing, parks, and transit-oriented development; and

(b) The City Administration work closely with the California State Legislature on the development of enabling legislation for the four programs not yet defined under Proposition 1C once the guiding principles are approved.

(Housing)

[Rules Committee referral 4/18/07 – Item(C)(1)(b)]

Deferred to 5/1/07, per Orders of the Day.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – April 9, 2007 Council Member Pyle, Chair

(a) Modifications to Committee Workplan. (Economic Development)
The Committee accepted the Staff report.

(b) Update on Council Directives and Performance Measures Review.
No Report.

(c) Downtown Business Strategy. (Redevelopment Agency/Economic Development)
The Committee accepted the Staff update.

(d) International Business Strategy. (Economic Development)
The Committee accepted the Staff report, with Staff requested to amend the role for the Mayor’s International Advisor be amended to include assistance for Council Members, as well as the Mayor.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – April 9, 2007 Council Member Pyle, Chair (Cont'd.)

- (e) Changes to the Inclusionary Housing Policy in Redevelopment Areas. (Housing/ Redevelopment Agency)
Deferred.
- (f) Report to LISC Working Group Study on Housing Needs. (Housing)
The Committee accepted the Staff report.
- (g) Coyote Valley Environmental Impact Report. (Planning, Building and Code Enforcement)
The Committee accepted the Staff report.
- (h) Oral Petitions
Carrie Williams, Coyote Housing Group, thanked Staff for the hard work on the report.
- (i) Adjournment
The meeting was adjourned at 3:35 p.m.

The Community & Economic Development Committee Report and the Actions of April 9, 2007, were accepted.

4.2 Consideration of an ordinance of the City of San José amending Title 23, the Sign Code.

Recommendation: Consideration of an ordinance of the City of San José amending Title 23, the Sign Code, to modify Section 23.04.610 to increase the size and number of allowed temporary signs, shorten their display time, and require temporary signs to include specific information including display dates; to modify Section 23.04.030 to allow additional freestanding signage for parcels with long street frontages in specific commercial and industrial zoning districts and associated clarifying language; to modify Section 23.04.020(e)(1) to authorize small pedestrian-oriented signs for building arcades; to modify Section 23.04.020(e)(3) to allow slightly larger signs on gasoline service station canopies; to modify Section 23.04.120(k) to clarify the requirements for programmable display kiosks in the Downtown Sign Zone; and to modify Section 23.02.1010 to clarify that balloon signs are prohibited except where expressly allowed by the Sign Ordinance. CEQA: Negative Declaration, File No. PP07-043. (Planning, Building and Code Enforcement)

Ordinance No. 28022 passed for publication, with Staff directed to:

- (1) Explore options for cost effective enforcement and compliance.**
- (2) Report back to Council on the progress.**

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – April 12, 2007 Council Member Chirco, Chair

- (a) Committee Vision and Mission (Verbal Report).
The Committee accepted the Staff report.
- (b) Report on Library Cultural Crossroads Grant. (Library)
The Committee accepted the Staff report.
- (c) Report on Progress of Homeless Initiatives. (Housing)
 - (1) Performance measures used to monitor success.
The Committee accepted the Staff report.
- (d) Report on Community Development Block Grant Issues. (Housing)
The Committee accepted the Staff report, with Staff directed to include information on any unused funds in the next report.
- (e) Strong Neighborhoods Monthly Update. (CMO)
 - (1) Neighborhoods Commission Plan Update.
The Committee accepted the Staff update.
- (f) Anti-Graffiti/Anti-Litter Update. (Parks, Recreation and Neighborhood Services)
The Committee accepted the Staff update.
- (g) Update on Blight Buster. (PBCE)
The Committee accepted the Staff report with Staff directed to include the results of the three Strong Neighborhood pilot areas in the next report.
- (h) Report on ABAG Regional Needs Program. (PBCE/Housing)
The Committee accepted the Staff report, with Staff directed to return to the Committee in August 2007 with a follow up report that includes information from ABAG, criteria for transit funding and input from the Department of Transportation.
- (i) School/City Collaborative Monthly Update (Verbal Report). (CMO)
The Committee accepted the Staff report.
- (j) Monthly Updates on City Council Directives.
There were none.
- (k) Oral Petitions
There were none.
- (l) Adjournment
The meeting was adjourned at 3:30 p.m.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – April 12, 2007 Council Member Chirco, Chair (Cont'd.)

The Neighborhood Services and Education Committee Report and the Actions of April 12, 2007, were accepted.

5.2 Acceptance of the report on the status of the reconciliation of the Park Trust Fund.

Recommendation: Acceptance of the report on the status of the reconciliation of the Park Trust Fund for Fiscal Year 2005-2006, and the first half of Fiscal Year 2006-2007, ending December 31, 2006. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Report Accepted.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee Council Member Williams, Chair No Report.

6.2 Approval of various actions and agreements for the North San José transportation infrastructure improvements.

Recommendation: Approval of various agreements and actions and adoption of an ordinance, all in support of the development of transportation infrastructure improvements in North San José, as follows:

- (a) Approval of a consultant services agreement with URS Corporation for preparation of the North San José Grid Street System Master Plan, in an amount not to exceed \$421,754.
- (b) Approval of a cooperative agreement with the Santa Clara Valley Transportation Authority (VTA) for the preparation of the Route 101 Corridor Implementation Plan from Zanker Road to McKee Road, including an extension of Zanker Road over Route 101, upgrades to the Oakland Road interchange, and a new interchange at Mabury Road, in an amount not to exceed \$1,250,000.
- (c) Approval of a first amendment to the cooperative agreement with the VTA for the preparation of the preliminary engineering and environmental clearance to upgrade the Route 101 interchange at Trimble Road, increasing the original agreement amount by \$600,000 from \$100,000 to an amount not to exceed \$700,000.
- (d) Approval of a cooperative agreement with the VTA for the preparation of the preliminary engineering and environmental clearance to extend Charcot Avenue over Route 880, in an amount not to exceed \$800,000.
- (e) Approval of the Deficiency Plan for the North San José area and recommending approval of the Deficiency Plan by the VTA.

Approved.

6. TRANSPORTATION & AVIATION SERVICES

6.2 Approval of various actions and agreements for the North San José transportation infrastructure improvements (Cont'd.)

(f) Adoption of the following Appropriation Ordinance Amendments in the Building and Structure Construction Tax Fund:

(1) Establish an appropriation to the Department of Transportation for the Route 101/Oakland Road Interchange Upgrade Project, in the amount of \$522,000.

(2) Decrease Ending Fund Balance in the amount of \$522,000.

CEQA: Resolution No. 72768. Council Districts 3 and 4. (Transportation/City Manager's Office)

Ordinance No. 28023 adopted.

6.3 Approval to award the contract for the Remove and Replace Asphalt Concrete Pavement 2007 Project.

Recommendation: Report on bids and take appropriate action based on the evaluation of bids for the Remove and Replace Asphalt Concrete Pavement 2007 Project. CEQA: Exempt, File No. PP04-039. (Transportation)

Deferred to 5/1/07, per Administration.

6.4 Approval to award the contract for the Street Resurfacing 2007 Backlog Reduction Project – Phase 1.

Recommendation: Report on bids and take appropriate action based on the evaluation of bids for the Street Resurfacing 2007 Backlog Reduction Project – Phase 1. CEQA: Exempt, PP06-066. Council Districts 1, 2, 3, 4, 5, 6, 7, 8 and 9. (Transportation)

Deferred to 5/1/07, per Administration.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of the master agreement for consultant services for the City's Sanitary Sewer Master Plan (Capacity Assessment) Phase II and Updates Project.

Recommendation: Approval of the master agreement with RMC Water and Environment for consultant services for the City's Sanitary Sewer Master Plan (Capacity Assessment) Phase II and Updates Project from the date of execution to December 31, 2011, in a total amount not to exceed \$2,800,000. CEQA: Exempt, File No. PP06-195. (Public Works)

Approved.

8. PUBLIC SAFETY SERVICES

8.1 Administrative Hearing on consideration of subcontractor substitution related to Fire Station No. 34.

Recommendation:

- (a) Administrative Hearing on consideration of staff's recommendation to grant the request of Gonsalves & Stronck Construction Company (G&S), the general contractor on the new Fire Station No. 34 project, to substitute the subcontractor listed by G&S to perform the custom cabinet work, and adoption of a resolution setting forth the decision of the City Council.
- (b) If the City Council approves the request for substitution, adoption of a resolution authorizing the Director of Public Works to approve the subcontractor to be substituted for California Woodworking (CW) once Gonsalves & Stronck Construction Company identifies a new subcontractor.

CEQA: Mitigated Negative Declaration, File No. PP05-104. Council Districts 3 and 4. (Public Works)

(Deferred from 4/10/07 – Item 8.2)

Under Orders of the Day, this item was dropped, protest withdrawn.

8.2 Direction to draft an ordinance allowing nonprofit organizations to use controlled games for fundraisers.

Recommendation: Request for Council direction to the City Attorney to draft an ordinance amending Title 16 of the San Jose Municipal Code in order to allow non-profit organizations to use controlled games for fundraisers at locations in the City other than Permitted Cardrooms consistent with the provisions of The Gambling Control Act that authorize nonprofit organizations to use controlled games for fundraisers. (Constant)

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- 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 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>
9908	West side of South 10 th Street, 550 feet north of Burke Street	7	Provident Holdings & Investments, LLC	1 Lot / 12 Units	Industrial Condominiums

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

- **Open Forum**
 - (1) **Maria Cabrera expressed views on Immigration Reform.**
 - (2) **Mark Trout presented religious points of view.**
 - (3) **Robert Apgar voiced personal observations.**
 - (4) **Timothy Fitzgerald presented views on the tragedy of VA Tech, homelessness and racial profiling.**

- **Adjournment**
The Council of the City of San José adjourned the afternoon session at 4:33 p.m.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

(Heard by the City Council at 7:04 p.m.)

10.1 Tentative approval of General Plan Consent Calendar items.

Recommendations: Tentative approval of a General Plan amendment to change the Land Use/Transportation Diagram designation to add a Transit/Employment Residential (55+DU/AC) overlay on an approximately 30.4-acre site currently designated Industrial Park located on the westerly side of North First Street approximately 450 feet south of the intersection of North First Street and Rio Robles, east of the Guadalupe River, and north of the intersection of North First Street and Innovation Drive (3331 through 3475 North First Street). (WYSE Technology Investments, Inc. and Valley Transportation Authority, Owners/WYSE Technology Investments, Inc. and City of San José Staff, Applicants). The Director of Planning, Building and Code Enforcement and the Planning Commission recommended approval (7-0-0). CEQA: Resolution No. 72768, and Addenda thereto, File No. GP05-04-08.

GP05-04-08 – District 4

Staff/Planning Commission recommendation was tentatively approved.

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10. GENERAL PLAN PUBLIC HEARINGS

10.2 Overview of General Plan Amendments in Spring Hearing.

Recommendation: Acceptance of Overview of the General Plan amendments in spring Hearing. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Overview of the General Plan Amendments in Spring Hearing was heard by Council.

10.3 Amendment for property located on the north side of Ridder Park Drive, bounded by Interstate 880 and Brokaw Road, west of Coyote Creek.

Recommendation: Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to Combined Industrial/Commercial on an approximately 15.6-acre site located on the north side of Ridder Park Drive, bounded by Interstate 880 and Brokaw Road, west of Coyote Creek (Sand Hill Property Company, Owner/Metropolitan Planning Group, Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of Combined Industrial/Commercial on approximately 15.6 acres (7-0-0). CEQA: Addendum to a Negative Declaration for General Plan amendment File No. GP99-04-04/GP99-T-2.

GP07-04-01 – District 4

The Staff/Planning recommendation was tentatively approved.

10. GENERAL PLAN PUBLIC HEARINGS

10.4 Amendment for the following items located on an approximately 120.3-acre site on both sides of Berryessa Road, west of Union Pacific Railroad tracks, east of Coyote Creek and north of Mabury Road.

Recommendation:

- (a) Public Hearing on the certification of a final Environmental Impact Report (E.I.R.) for San José Flea Market prepared for General Plan amendments and Planned Development Rezoning (File Nos. GP/GPT06-04-01/PDC03-108) to change the land use designation from Combined Industrial/Commercial on 24.3 acres to Transit Corridor Residential (20+ DU/AC) with a Flexible Land Use Boundary; to increase building height limit from 120 feet to 150 feet on a portion of the site south of Berryessa Road; to add a Major Collector roadway through the project site between Mabury and Berryessa Roads; and a Planned Development Rezoning to allow up to 2,818 residential dwelling units and 365,622 square feet of commercial/industrial/office uses on a 120.3-acre site.

EIR upheld. Appeal denied. Noes: Oliverio.

- (b) Tentative approval of General Plan amendment requests to change the Land Use/Transportation Diagram designations and text of the General Plan as follows:
- (1) Redesignate 10 acres of Combined Industrial/Commercial south of Berryessa Road to Transit Corridor Residential (20+ du/ac) on 9 acres and Public Park/Open Space on 1 acre.
 - (2) Revise the General Plan Urban Design Policies to increase the maximum building height limit from 120 feet to 150 feet between Mabury/Berryessa Roads west of Coyote Creek and east of the Union Pacific Railroad tracks.
 - (3) Revise Appendix E of the General Plan to downgrade Sierra Road from a four-lane Major Collector to a two-lane Major Collector from Flickinger Avenue to Berryessa Road and to add a Major Collector on the site from Mabury to Berryessa Road. The current Medium Density Residential (8-16 DU/AC) on 8 acres and Public Park/Open Space on 22.8 acres will remain unchanged (Bumb & Associates, Owner/Applicant).

Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of:

- (a) Redesignating 10 acres of Combined Industrial/Commercial land south of Berryessa Road to Transit Corridor Residential (20+ du/ac) on 9 acres and Public Park/Open Space on 1 acre;
- (b) Increasing the maximum building height limit from 120 feet to 150 feet between Mabury and Berryessa Roads west of Coyote Creek and east of the Union Pacific Railroad tracks; and
- (c) Revising Appendix E of the General Plan to downgrade Sierra Road from a four-lane Major Collector to a two-lane Major Collector from Flickinger Avenue to Berryessa Road and to add a Major Collector on the site from Mabury to Berryessa Road. (7-0-0).

CEQA: Resolution to be adopted.

GP06-04-01/GPT06-04-01 – District 4

Staff/Planning recommendation was tentatively approved. Noes: Oliverio.

10. GENERAL PLAN PUBLIC HEARINGS

- 10.4 Amendment for the following items located on an approximately 120.3-acre site on both sides of Berryessa Road, west of Union Pacific Railroad tracks, east of Coyote Creek and north of Mabury Road (Cont'd.)**

Statement of Overriding Considerations read into the record.

CEQA Resolution No. 73738 adopted, with Staff directed to reconcile the net PDO requirements prior to coming back with the zoning, so there is no encroachment between the School District boundaries or rights to property and the PDO requirements, and vice versa.

Noes: Oliverio.

- 10.5 Amendment for property located on the south side of Murphy Avenue, 550 feet easterly of the intersection of Murphy Avenue and Oakland Road.**

Recommendation: Tentative denial of General Plan amendment request to change the Land Use/Transportation Diagram designation from Combined Industrial/Commercial on 4 acres to Neighborhood/Community Commercial on 0.8 acres and High Density Residential (25-50 DU/AC) on 3.2 acres on an approximately 4-acre site located at the south side of Murphy Avenue (1172 Murphy Avenue), approximately 550 feet easterly of the intersection of Murphy Avenue and Oakland Road (Bob Dhillon, Owner/Anthony Ho, Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommended denial of Neighborhood/Community Commercial on 0.8 acres and High Density Residential (25-50 DU/AC) on 3.2 acres (5-1-0-1, Campos opposed and Dhillon abstained). CEQA: Negative Declaration.

GP05-04-09 – District 4

Staff/Planning recommendation to deny was tentatively approved.

Noes: Cortese.

- 10.6 Amendment for the following items located on two sites generally bounded by industrial buildings on the south side of Auzerais Avenue to the north, Lincoln Avenue and Northrup Street to the east, Interstate 280 to the south, and Race Street to the west.**

Recommendation:

- (a) Public Hearing on the certification of a final Environmental Impact Report (E.I.R.) for the General Plan amendments File Nos. GP05-06-01/GP05-06-02/GPT05-06-02 and Planned Development Zoning File Nos. PDC06-024 and PDC06-025.

Dropped.

10. GENERAL PLAN PUBLIC HEARINGS

10.6 Amendment for the following items located on two sites generally bounded by industrial buildings on the south side of Auzerais Avenue to the north, Lincoln Avenue and Northrup Street to the east, Interstate 280 to the south, and Race Street to the west (Cont'd.)

- (b) Tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designations from Industrial Park and Combined Industrial/Commercial to High Density Residential (25–50 DU/AC) on approximately 21.5 acres. An amendment to the Midtown Specific Plan to reflect the land use designation change from Combined Industrial/Commercial to High Density Residential (25–50 DU/AC) on approximately 0.3 acres on APN 264-09-047 is included. (Owner/Applicant: Sobrato Development Company; Contact: Tim Steele). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of High Density Residential (25–50 DU/AC) on approximately 21.5 acres. (7-0-0). SNI: Burbank/Del Monte. CEQA: Resolution to be adopted.

GP05-06-01/GP05-06-02/GPT05-06-02 – District 6

Staff/Planning recommendation was tentatively approved.

Statement of Overriding Considerations read into the record.

CEQA Resolution No. 73729 adopted.

10.7 Amendment for property located on the east side of Senter Road, approximately 600 feet south of Wool Creek Drive.

Recommendation: Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to Combined Industrial/Commercial on an approximately 3.6-acre site located on the east side of Senter Road, approximately 600 feet south of Wool Creek Drive (2222 and 2232 Senter Road). (E L S Properties Corporation, Owner/Green Valley Corporation, Applicant). Director of Planning, Building and Code Enforcement recommended denial and Planning Commission recommended approval of Combined Industrial/Commercial on approximately 3.6 acres (7-0-0). SNI: Tully-Senter. CEQA: Negative Declaration.

GP06-07-04 – District 7

(Continued from 12/12/06 – Item 10.3)

Planning recommendation was tentatively approved.

Noes: Liccardo.

10.8 Approval of all General Plan amendment actions from April 17 and April 24, 2007.

Recommendation: Adoption of a resolution approving all General Plan amendment actions taken on April 17 and April 24, 2007 and adoption of CEQA resolutions. (Planning, Building and Code Enforcement)

Resolution No. 73740 adopted.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

No Public Hearing on Consent Calendar at this time.

11. PUBLIC HEARINGS

11.2 Rezoning the real property located on a portion of block bounded by The Alameda, Emory Street, Naglee Avenue, and Morse Street.

Recommendation: Consideration of an ordinance rezoning the real property located on a portion of block bounded by The Alameda, Emory Street, Naglee Avenue, and Morse Street; east side of Morse Street, approximately 150 feet northerly of Naglee Avenue (744 Morse St) from R-1-8 Single Family Residence Zoning District and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow relocation and rehabilitation of one historic single-family residence (Structure of Merit), two new single-family detached residences, and parking lot reconfiguration for the Central YMCA on a 4.18 gross acre site (Metropolitan YMCA & LeBaron Family Trust, Owners; Mark DeMattei, Developer). CEQA: Mitigated Negative Declaration.

PDC06-100 - District 6

Continued to 5/1/07, per Administration.

- **Open Forum**
 - (1) **Danny Garza spoke in support of preserving the Five Wounds Church against the construction of BART in the future, as it is a historical landmark.**

- **Adjournment**

The Council of the City of San José was adjourned at 10:51 p.m. in memory Najoo Junck, who served as the City's Senior Commission Secretary with the Office on Aging in Parks, Recreation and Neighborhood Services for fifteen years; and in memory of Gertrude Welch, a very active member of the San José community, interested in affordable housing issues as well as many other social issues.