



CITY COUNCIL AGENDA

MAY 6, 2008

AMENDED AGENDA

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
DAVID D CORTESE, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

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

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

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

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
 - 9:30 a.m. - Closed Session, Call to Order in Council Chambers
Adjourn to Closed Session in Council Chambers Conference Room, W133
[See Separate Agenda](#)
 - 1:30 p.m. - Regular Session, Council Chambers, City Hall
 - 3:30 p.m. - Hear Open Forum (no earlier than 3:30 p.m.)
 - 7:00 p.m. - General Plan Hearings, Council Chambers, City Hall
- Public Hearings, Council Chambers, City Hall

- **Invocation (District 5)**
 - * Yesenia Friaz from James Lick High School

- **Pledge of Allegiance**
- **Orders of the Day**

* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

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

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

* **NOTE: GENERAL PLAN PUBLIC HEARINGS WILL BE HEARD IMMEDIATELY FOLLOWING PUBLIC HEARINGS**

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a Proclamation declaring the month of May as Older Americans' Month in the City of San José. (Parks, Recreation and Neighborhood Services/Mayor/Constant)
- 1.2 Presentation of a proclamation declaring May 13 – 18 as “Affordable Housing Week” in the City of San José. (Housing/Liccardo)

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1. CEREMONIAL ITEMS

- 1.3** Presentation of a commendation to Doris Korn-Walker, Rei Estrada, and Kelly Du in honor of receiving the John Tuggle Humanitarian Award. (Chu)
TO BE HEARD IN THE EVENING
- 1.4** Presentation of a proclamation declaring the month of May as “Motorcycle Awareness Month” in the City of San José. (Constant)
TO BE HEARD IN THE EVENING
(Rules Committee referral 4/23/08)
- 1.5** Presentation of a commendation to Lisette Abad, a junior at Notre Dame High School, for earning a Top 8 Qualification spot at the US Olympic Trials in June. (Liccardo)
TO BE HEARD IN THE EVENING
- 1.6** Presentation of a commendation to members of Our City Forest’s 2007-2008 AmeriCorps Team for their efforts as environmental stewards and promoting San José’s Green Vision. (Mayor/Chirco)
* (Rules Committee referral 4/30/08)
- 1.7** Presentation of a proclamation recognizing the week of May 4-10, 2008 as “Municipal Clerks Week” in the City of San José. (Mayor/City Clerk)
* (Rules Committee referral 4/30/08)
- 1.8** Presentation of a commendation to Intacct for their groundbreaking technology and efforts to grow the local economy. (Mayor/Liccardo)
* (Rules Committee referral 4/30/08)

2. CONSENT CALENDAR

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

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of March 4, 2008
- (b) Regular Minutes of March 11, 2008
- (c) Joint City Council/San José Financing Authority Minutes of March 11, 2008
- (d) Mayor’s March Budget Message Study Session Minutes of March 13, 2008
- (e) Regular Minutes of March 18, 2008
- (f) Regular Minutes of March 25, 2008

* **RECOMMEND DEFERRAL TO 5/20/08 PER CITY CLERK**

2. CONSENT CALENDAR

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28291 – Rezoning certain real property situated at 370 North White Road (east side of White Road, approximately 400 feet northerly of McKee Avenue) from Unincorporated County to R-1-8 Single-Family Residential Zoning District. C08-013
- (b) ORD. NO. 28292 – Rezoning certain real property situated on the southeast corner of Race Street and Garland Avenue (78 Race Street) to CP Commercial Pedestrian Zoning District. C08-011
- (c) ORD. NO. 28293 – Rezoning certain real property situated on the north side of Redmond Avenue, approximately 150 feet east of Moss Oak Way (11819 Redmond Avenue) to A(PD) Planned Development Zoning District. PDC07-075
- (d) ORD. NO. 28294 – Rezoning certain real property situated at the northeast corner of Tasman Drive and Baypointe Parkway (166 Baypointe Parkway) to the A(PD) Planned Development Zoning District. PDC07-080
- * (e) ORD. NO. 28295 – Amending Section 2.08.1630 of Chapter 2.08 of Title 2 of the San José Municipal Code to (1) change the special eligibility requirement that one member of the Elections Commission be an attorney-at-law; and (2) make other technical and clarifying changes.

2.3 [Approval of a Settlement Agreement and Release with Tadco Supply, Inc. et al.](#)

Recommendation: Adoption of a resolution authorizing the City Attorney to execute the Settlement Agreement and Release with Tadco Supply, Inc., considered by the City Council during the closed session held on April 8, 2008. (City Attorney's Office)
(Deferred from 4/29/08 – Item 2.4)

2.4 [Settlement Agreement related to Camden Multi-Service Community Center.](#)

* **Recommendation:**

- (a) Approval to pay Arntz Builders \$425,000 in additional compensation – for a total construction contract amount of \$7,747,711.28 – as part of a settlement resolving all construction claims on the Camden Multi-Service Community Center Project, as considered by the City Council during the closed session held on April 8, 2008.
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute with Arntz Builders Contract Change Order No. 65 (CCO #65), which will contain all of the settlement terms, including the \$425,000 in additional compensation, necessary to finally resolve all construction claims related to the Camden Multi-Service Community Center Project.

(Item continued on the next page)

2. CONSENT CALENDAR

2.4 Settlement Agreement related to Camden Multi-Service Community Center. (Cont'd.)

Recommendation:

- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute a continuation agreement with Steinberg Architects in the amount of \$70,000 for additional services in LEED certification of the new facilities.
- (d) Adoption of the following Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund (Fund 471):
 - (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Camden Multi-Service Community Center project by \$688,000; and
 - (2) Decrease the Ending Fund Balance by \$688,000.
- (e) Adoption of the following Appropriation Ordinance 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 \$121,000 for the Camden Multi-Service Community Center project; and
 - (2) Decrease the Reserve: Future PDI/PIIO Projects by \$121,000.

CEQA: Mitigated Negative Declaration, File No. PP01-11-208. Council District 9.
(Public Works/City Manager's Office)

2.5 [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, 2007. (City Auditor)

2.6 [Changes to the HP Pavilion at San José City and Community Events Program.](#)

Recommendation: Approval of changes to the HP Pavilion at San José City and Community Events Policy and delegating authority for approval of eligible events to the City Manager. CEQA: Not a Project. (Economic Development)

2.7 [Fiscal actions for Redevelopment Agency Capital Projects.](#)

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) for 2007-2008:
 - (1) Increase the estimate for Earned Revenue by \$170,754.
 - (2) Decrease Ending Fund Balance by \$126,874.

(Item continued on the next page)

2. CONSENT CALENDAR

2.7 Fiscal actions for Redevelopment Agency Capital Projects. (Cont'd.)

Recommendation:

- (a) (3) Establish the appropriation to the Office of Economic Development for the Public Art – One East Julian Housing Project (PSM 526) in the amount of \$110,754. CEQA: Not a Project.
- (4) Establish the appropriation to the Office of Economic Development for the Public Art – Keystone Place Housing Project (PSM 443 Amendment 1) in the amount of \$126,874. CEQA: Not a Project.
- (5) Establish the appropriation to the Department of Transportation for the Downtown Seasonal Banners Project (PSM 529) in the amount of \$60,000. CEQA: Exempt, File No. PP05-285.
- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Downtown Seasonal Banners Project as more specifically described in the memorandum from the Redevelopment Agency, dated March 21, 2008.

CEQA: Exempt, File No. PP05-285. Council District 3. SNI: Julian/Stockton.
(Economic Development/Transportation/City Manager's Office)

2.8 Open Purchase Order #9 for FY 2007-2008.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #9 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)

2.9 Initiation of the Annexation/Reorganization of Monterey Park No. 112.

Recommendation: Adoption of a resolution initiating proceedings and setting a public hearing on May 20, 2008 at 1:30 p.m. for the reorganization/annexation of the territory designated as Monterey Park No. 112, which involves the annexation to the City of San José of approximately 4.50 gross acres more or less of land located at the northeast corner of Monterey Road and Umbarger Road, and generally bounded by the City of San José Annexations Monterey No. 7, Monterey Park No. 101-A, Franklin No. 34 and detachment of the same from the appropriate special districts, including County Lighting County Service, Central Fire Protection, County Sanitation District 2-3 and Area No. 01 (Library Services) County Service. CEQA: EIR Resolution No. 65459. Council District 7. (Planning, Building and Code Enforcement)

2. CONSENT CALENDAR

2.10 Initiation of the Annexation/Reorganization of McKee No. 134.

- * **Recommendation:** Adoption of a resolution initiating proceedings and setting a public hearing on June 3, 2008 at 7:00 p.m. for the reorganization/annexation of the territory designated as McKee No. 134, which involves the annexation to the City of San José of approximately 1.33 gross acres of land consisting of 2 parcels located on the east side of North White Road, approximately 100 feet southerly of Kentridge Drive, and detachment of the same from the appropriate special districts, including Central Fire Protection, Area No. 01 (Library Services) County Service, County Lighting County Service and County Sanitation District 2-3 (Timothy Chen and Bruno J. Zulpo, Owners) (Related Prezonings PDC07-041 and C08-013). CEQA: EIR Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)

2.11 Amend an agreement for consultant services related to the Ryland Pool Rehabilitation Project.

- * **Recommendation:**
- (a) Approval of a first amendment to the master agreement with Arch Pac Aquatics for consultant services increasing the compensation by \$20,000, raising the maximum allowed compensation from \$100,000 to \$120,000.
 - (b) Approval of an increase in the construction contingency funding for the Ryland Pool Rehabilitation Project in the amount of \$95,000, increasing the total contingency from \$134,716 to \$229,716.
 - (c) Approval of an increase of project delivery funds in the amount of \$10,000 increasing the total project delivery allocation from \$375,000 to \$385,000.
 - (d) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
 - (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$124,000 for the Ryland Pool Repairs; and
 - (2) Decrease the Reserve: Ryland Pool by \$124,000.
- CEQA: Exempt, File No. PP07-211. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

2.12 Excused absence for Councilmember Constant.

Recommendation: Request for an excused absence for Councilmember Constant from the Budget Study Session of May 16, 2008 due to Authorized City Business: Santa Clara County LAFCO Meeting in the Santa Clara County Board of Supervisors' Chambers. (Constant)
(Rules Committee referral 4/23/08)

2. CONSENT CALENDAR

2.13 [Councilmember Williams' Travel to Sacramento, CA.](#)

Recommendation: Approval of travel by Councilmember Williams to Sacramento, CA on February 20, 2008 regarding Intercity Rail Services. Source of Funds: Capital Corridor Joint Powers Authority. (Williams)
(Rules Committee referral 4/23/08)

2.14 [City Auditor Sharon Erickson's Travel Out of State.](#)

Recommendation: Approval of travel by City Auditor Sharon Erickson to Philadelphia, PA on May 18-22, 2008 to attend the Association of Local Government Auditors Annual Conference (May 18-20, 2008) and the 17th Biennial Forum of Government Auditors (May 20-22, 2008). These conferences provide quality training and networking opportunities for local government auditors. Session include auditing grants, examining contracts, ethics and fraud, cost assessment, performance reporting, and accountability. Source of Funds: City Auditor's Office budget and Professional Development Program funds. (City Auditor)

* (Rules Committee referral 4/30/08)

3. STRATEGIC SUPPORT SERVICES

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

3.2 Report of the Rules and Open Government Committee – [April 23, 2008](#) Mayor Reed, Chair

(a) City Council

(1) Review April 29, 2008 Final City Council Agenda

(2) Review May 6, 2008 Draft City Council Agenda

(b) Redevelopment Agency items reported out at Redevelopment Agency meeting

(c) Legislative Update

(1) State

(a) Support for Foreclosure Protection Legislation: SB1137 (Perata) – Residential Mortgage Loans; AB2586 (Torrico) – Tenant Notification; and support for AB 2509 (Galgiani) – Mortgage Guarantee Program, if amended. (Housing)

(b) Support for Homeless Legislation: AB 2052; AB 2929; SB 1651 and SB 1738. (Housing)

* **SEE ITEM 3.7 FOR COUNCIL ACTION TO BE TAKEN**

(c) Support AB 2494 (Caballero) – Housing Related Parks Program under Prop 1C, with amendments. (Housing)

* **SEE ITEM 3.8 FOR COUNCIL ACTION TO BE TAKEN**

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – April 23, 2008 (Cont'd.) Mayor Reed, Chair

- (c) (1) (d) City Sponsored Bills Update: AB 2097 (Coto) – Supportive Services Funding: Permanent Housing for Homeless; AB 2466 (Laird) – Government Energy Producers; AB 2513 (Caballero) – Housing and Emergency Shelter Trust Fund Act of 2006: Allocation of Housing funds/Proposition 1C; SB 1226 (Alquist) – CalHome Program: Mobilehome Parks; SB 1357 (Padilla) – Beverage Containers: Processing Payments: Grants. (City Manager’s Office)
- (2) Federal
- (d) Meeting Schedules
 - (1) Recommend to set a special meeting for conducting interviews of applicants for the Elections, Civil Service and Planning Commissions on May 27, 2008 from 10:00 a.m. – Noon. (City Clerk)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Inclusionary Housing Status Report and Staff Work Assessment to be placed on the Council calendar in May. (Mayor/Liccardo)
- (h) Review of additions to Council Committee Agenda
 - (1) Community and Economic Development Committee
 - (a) Add the following agenda items to the CED Committee agenda for April 28, 2008 “Results of the 2007 Development Services Customer Satisfaction Survey”. (Planning, Building and Code Enforcement)
 - (b) Add “Status Report on the Auto Row Strategy Work Plan” to the May 27, 2008 CED Committee agenda. (City Manager’s Office)
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
- (j) Open Forum
- (k) Adjournment

3.3 Report of the Public Safety, Finance and Strategic Support Committee Councilmember Nguyen, Chair – *No Report.*

3. STRATEGIC SUPPORT SERVICES

3.4 [Purchase of Microsoft Software.](#)

[Supplemental – Memo from the Director of Finance](#)

Recommendation: Report on bids and rejection of all bids for Microsoft products and adoption of a resolution authorizing the Director of Finance under SJMC Section 4.12.225 to execute any necessary documentation to make purchases from PC Mall Gov (Torrance, CA) for Microsoft software licensing, under the pricing, terms, and conditions obtained under the Microsoft Select License Agreement for State and Local Governments not to exceed \$500,000 for the first year, and for two additional years, as may be required, subject to annual appropriations. CEQA: Not a Project. (Finance)
(Deferred from 3/4/08 – Item 3.8)

3.5 [Approval to implement a benefit enhancement for Fire Department members of the Police & Fire Department Retirement Plan.](#)

[Supplemental – Memo from the Director of Employee Relations](#)
[Attachment – Letter from Police and Fire Retirement Board](#)
[Attachment – Letter from San José Firefighters](#)

Recommendation: Approval of [an ordinance](#) amending Chapter 3.36 of Title 3 of the San José Municipal Code to provide increased retirement benefits for members of the Police and Fire Department Retirement Plan who are employed in the Fire Department and retire on or after July 1, 2008. CEQA: Not a Project. (City Manager's Office)

3.6 **Report of the Rules and Open Government Committee – [April 16, 2008](#)** **Mayor Reed, Chair**

- (a) City Council
 - (1) Review April 22, 2008 Final Agenda
 - (2) Review April 29, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Support for Foreclosure Protection Legislation: SB1137 (Perata) – Residential Mortgage Loans, AB2586 (Torrico) – Tenant Notification and support for AB2509 (Galgiani) – Mortgage Guarantee Program, if amended. (Housing)
 - (b) SB1577 (Florez) – Air Carrier Airport Surrendered Items Donation Program. (Airport)
 - (2) Federal
 - (a) Support for Foreclosure Protection Legislation: H.R. (Dodd and Shelby). (Housing)
- (d) Meeting Schedules
 - (1) Council Meeting Schedule August – December 2008. (City Manager)
 - (2) Add an evening session to the May 13, 2008 Council Meeting. (Mayor)
 - (3) 2008-2009 Detailed Budget Schedule. (City Manager)

- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Inclusionary Housing Status Report and Staff Work Assessment to be placed on the Council calendar in May. (Mayor/Liccardo)

**3.6 Report of the Rules and Open Government Committee – April 16, 2008 (Cont’d.)
Mayor Reed, Chair**

- (h) Review of additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (a) Add the following agenda item to the TE Committee workplan for May 5, 2008 regarding plastic carryout bag ban and reduction in single-use bags and disposable takeout food containers. (Environmental Services)
 - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
- (j) Open Forum
- (k) Adjournment

* (Deferred from 4/29/08 – Item 3.2)

3.7 [Support for Homeless Legislation.](#)

Recommendation: As recommended by the Rules and Open Government Committee, adopt a position of support for AB 2929 (Hancock) – Department of Corrections and Rehabilitation Reentry Programs, SB 1651 (Steinberg) – Mentally Ill Offenders, and SB 1738 (Steinberg) – Medi-Cal Frequent Users Pilot Program, and adopt a position of support, if amended, for AB 2052 (Lieu) – Residential Tenancies: Domestic Violence.

* [Rules Committee referral 4/23/08 – Item C(1)(b)]

3.8 [AB 2494 \(Caballero\) – Housing Related Parks Program Under Prop 1C.](#)

Recommendation: As recommended by the Rules and Open Government Committee, adopt a position of support , with amendments, for AB 2494 (Caballero) – Housing Related Parks Program Under Prop 1C.

* [Rules Committee referral 4/23/08 – Item C(1)(c)]

4. COMMUNITY & ECONOMIC DEVELOPMENT

**4.1 Report of the Community & Economic Development Committee
Councilmember Pyle, Chair – *No Report.***

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [San José Japantown Historic Context and Intensive Survey Phase II.](#)

[Attachment – San José Japantown Historic Context and Intensive Survey](#)

Recommendation: Acceptance of the *San José Japantown Historic Context and Intensive Survey, Phase II* as recommended by the Historic Landmarks Commission (4-0-0). CEQA: Exempt, File No. PP05-004. Council District 3. (Planning, Building and Code Enforcement)

TO BE HEARD IN THE EVENING

- * **RECOMMEND DEFERRAL TO 6/3/08 IN THE EVENING PER THE APPLICANT'S REQUEST**

4.3 Approval to set Public Hearings on the Business Improvement Districts.

Recommendation:

- (a) [Preliminary approval of the report](#) as filed by the Japantown Business Improvement District Advisory Board or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2008-2009, and setting May 20, 2008 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 3. SNI: 13th Street. (Economic Development)
- (b) [Preliminary approval of the report](#) as filed by the Willow Glen Business Improvement District Advisory Board, or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2008-2009, and setting May 20, 2008 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 6. (Economic Development)
- (c) [Preliminary approval of the report](#) as filed by the Hotel Business Improvement District Advisory Board or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2008-2009, and setting May 20, 2008 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 3. SNI: 13th Street. (Economic Development)
- (d) [Preliminary approval of the report](#) as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2008-2009, and setting May 20, 2008 at 1:30 p.m. meeting as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 3. SNI: St. James Square, University, Josefa/Auzerais, Burbank/DelMonte. (Economic Development)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 [Approval of the 2008-2009 Annual Action Plan.](#)

[Supplemental – Memo from the Director of Housing](#)

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Recommendation:

- (a) Adoption of the 2008-2009 Annual Action Plan, including the FY 2008-2009 revised funding recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program.
- (b) Adoption of a resolution authorizing Director of Housing, as more specifically set forth in the Director of Housing's memo to Council dated April 16, 2008:
 - (1) To negotiate and execute all non-capital agreements and contracts not requiring CEQA/NEPA review, and
 - (2) To negotiate all capital project agreements and contracts, including any amendments or modifications, and after CEQA/NEPA review and City Council project approval, to execute all contracts.
- (c) The Housing Department to submit the FY 2008-2009 Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD) by the May 15, 2008 deadline, making the city eligible to receive and distribute \$15,369,363 in entitlement funds.

CEQA: Not a Project. (Housing)

4.5 [Agreement for a feasibility study for the formation of a Community Facilities District.](#)

Recommendation:

- (a) Approval of an agreement with Hitachi Global Storage Technologies, Inc., to fund a feasibility study for the formation of a Community Facilities District for the maintenance of landscaping within the public right-of-way, storm basins, and parks, at no cost to the City for a term from the date of execution to June 30, 2009.
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax Fund:
 - (1) Increase the estimate for Earned Revenue by \$30,000.
 - (2) Establish an appropriation to the Department of Public Works for the Community Facilities District No. 14 Feasibility Study Project in the amount of \$30,000.

CEQA: EIR Resolution No. 72772, Hitachi Mixed Use Project Fund EIR. Council District 2. (Public Works/City Manager's Office)

5. NEIGHBORHOOD SERVICES

- 5.1 Report of the Neighborhood Services and Education Committee
Councilmember Chirco, Chair – *No Report.*

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Transportation and Environment Committee
Councilmember Williams, Chair – *No Report.*

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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

- 9.1 [Acceptance of the Status Report on the Citywide Capital Improvement Program.](#)

Recommendation: Acceptance of the Status Report on the Citywide Capital Improvement Program, including Parks, Library, and Public Safety Bond projects, and Strong Neighborhoods Initiative projects funded by the City and Redevelopment Agency. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

- Open Forum (To be heard no earlier than 3:30 p.m.)
- Council will recess until 7:00 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

* (To be heard by the City Council at 7:00 p.m. immediately following Public Hearings)

* **NOTE: GENERAL PLAN PUBLIC HEARINGS TO BE HEARD IMMEDIATELY FOLLOWING PUBLIC HEARINGS.**

Notice to the public: There will be no separate discussion of General Plan Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the General Plan Consent Calendar (Item 10.1) and considered separately.

10.1 Tentative approval of General Plan Public Hearings on Consent Calendar.

No General Plan Public Hearings on Consent Calendar at this time.

10.2 [Acceptance of Overview of Spring 2008 General Plan Review and Status Report on the Framework for Preservation of Employment Lands.](#)

[Attachment – General Plan Hearing](#)

[Attachment 2 – Draft – Framework for Preservation of Employment Lands](#)

[Attachment 3 – Framework Conversion Scenario #1](#)

[Attachment 4 – Merged Proposed Framework](#)

[Attachment 5 – Letter from the Parks and Recreation Commission](#)

Recommendation: Director of Planning, Building and Code Enforcement recommends the following actions:

- (a) Accept the Overview of the Spring 2008 General Plan Review.
- (b) Accept the Status Report on the *Framework for Preservation of Employment Lands* (Framework);
- (c) Adopt a resolution to consolidate into one document: (1) the text of the Framework originally adopted by City Council on October 23, 2007, and (2) the further implementation direction for the Framework set forth by City Council on that same date, as memorialized in that certain memorandum dated October 19, 2007 from Mayor Reed and Councilmembers Nguyen, Pyle, and Williams, and also to change the term “Extraordinary Economic Benefit” to “Extraordinary Benefit” in order to make the Framework consistent with that certain memorandum dated October 19, 2007, which recognizes that extraordinary benefits should not only be limited to those that are economic in nature, none of which actions are intended to create any substantive changes to the Framework as approved by City Council on October 23, 2007.

* **RECOMMEND DEFERRAL TO FALL 2008 PER ADMINISTRATION**

- (d) Schedule a Study Session in September 2008 to discuss the Framework and implications for implementation.

10. GENERAL PLAN PUBLIC HEARINGS

- 10.3 [Amendments for the following items located on two sites:](#) GP07-04-04 is an approximately 13.68-acre site on the northeast corner of Junction Avenue and Dado Street (2256 Junction Avenue); and GP06-04-05 is an approximately 13.64-acre site on the southeasterly side of Berryessa Road, approximately 770 feet southwesterly of the intersection of Berryessa Road and North King Road (1610 Berryessa Road).

[Attachment – Staff Report](#)

[Attachment – Draft Framework for Preservation of Employment Lands](#)

Recommendation:

- (a) Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Heavy Industrial on 13.68-acres (San José V Investors, Applicant/Univar Corporation, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of Heavy Industrial on approximately 13.68 acres (7-0-0). CEQA: EIR Resolution to be adopted.
GP07-04-04 – District 4
- (b) Tentative approval of Staff Alternative of Combined Industrial/Commercial for General Plan amendment request to change the General Plan Land Use/Transportation Diagram designation from Light Industrial to Transit Corridor Residential (20+ DU/AC) on a 13.64-acre site and request for Affordability Restrictions Agreement by and between San José V Investors and the City of San José requiring that 5% of the units be affordable to those making 30% or less of the Area Median Income (ELI), 8% of the units be affordable to those making 50% of the Area Median Income (VLI), and 12% of the units be affordable to those making 60% of the Area Median Income (LI) within the residential development located at the southeasterly side of Berryessa Road, approximately 770 feet southwesterly of the intersection of Berryessa Road and North King Road, San José be offered and maintained thereafter as ELI, VLI, and LI housing units as described above and directing the City Clerk to cause these Restrictions to be recorded with the Recorder's Office of Santa Clara County after their full and complete notarization and execution (San José V Investors, Applicant/UBS Realty Investors, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of Combined Industrial/Commercial on 13.64 acres (7-0-0). CEQA: EIR Resolution to be adopted.
GP06-04-05 – District 4

- 10.4 [Amendment for property located](#) at the northwesterly corner of Coniston Way and Blossom Hill Road (1345-1349 Blossom Hill Road).

[Attachment – Staff Report](#)

[Attachment – GP08-09-01 Blossom Hill Road Plan Use Designations](#)

Recommendation: Tentative approval of a General Plan amendment request to change the General Plan Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to General Commercial on a 4.5-acre site located on the

northwesterly corner of Coniston Way and Blossom Hill Road (1345-1349 Blossom Hill Road)(Silverstone Communities, Applicant/Continental Centers, LLC. and Pamela S. and Randy A. Kelley, Owners) Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of General Commercial on 4.5 acres (7-0-0). CEQA: Mitigated Negative Declaration.
GP08-09-01 – District 9

10. GENERAL PLAN PUBLIC HEARINGS

10.5 [Amendment for property located north of I-280 and Tisch Way, west of South Monroe Street and South Baywood Avenue, and east of Dudley Avenue \(485 South Monroe Street\).](#)

[Attachment – Staff Report](#)

[Attachment – Project Timeline](#)

[Attachment – List of Private Projects Targeting LEED Certification](#)

[Attachment – Proposed Benefits](#)

Recommendation: Tentative denial of a General Plan land use and text amendment request to change the General Plan Land Use/Transportation Diagram designation from Office to Medium High Density Residential (12-25 DU/AC) on 5.15 acres of a 7.4-acre site, and to increase the maximum allowable building height from 50 feet to 90 feet between Dudley Avenue and South Baywood Road. The site is located north of I-280 and Tisch Way, west of South Monroe Street and South Baywood Avenue, and east of Dudley Avenue (485 South Monroe Street) (Silverstone Communities, Applicant/Pacific Bell, Owner) Director of Planning, Building and Code Enforcement and Planning Commission recommended denial of Medium High Density Residential (12-25 DU/AC) on 5.15 acres and denial of the request to increase the maximum allowable building height from 50 to 90 feet (4-3-0; Jensen, Kalra, and Zito Opposed). CEQA: Mitigated Negative Declaration.

GP07-06-01/GPT07-06-01 – District 6

10.6 **Continuance of all General Plan amendment actions from April 22, 2008 and May 6, 2008 to May 20, 2008.**

Recommendation: Continuance of all General Plan amendment actions from April 22, 2008 and May 6, 2008 to May 20, 2008. (Planning, Building and Code Enforcement)

11. PUBLIC HEARINGS

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

- * **NOTE: PUBLIC HEARINGS TO BE HEARD BEFORE GENERAL PLAN PUBLIC HEARINGS.**

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

11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar at this time.

11.2 Rezoning real property located at/on the southwest corner of Berryessa and Jackson Avenue.

- * **Recommendation:** Consideration of an ordinance rezoning the real property located at/on the southeast corner of Berryessa and Jackson Avenue from R-1-5(PD) Planned Development Zoning District and A-Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 379 single-family attached residences and 30,000 square feet for commercial uses, the demolition of one single-family residence and nine accessory structures, and the preservation/relocation of one single-family residence and one fruit stand on a 20.18 gross acres site (Pepper Lane Berryessa LLC, Myra Reinhard, Owners; Pulte Home Corporation, Developer). CEQA: Mitigated Negative Declaration.

PDC07-033 – District 4

(Deferred from 4/8/08 – Item 11.6)

RECOMMEND CONTINUANCE TO 5/20/08 PER ADMINISTRATION

11.3 Rezoning real property located on the west side of Lincoln Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of Lincoln Avenue extending from West San Carlos Street to the south and Pacific Avenue to the north, excluding the northwest corner of West San Carlos and Lincoln Avenue to allow the demolition of existing structures and the construction of 39 single-family attached residential and 2 live/work lofts on a 0.91 gross acre site (James & Tina Jean, Owners). SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration.

PDC07-017 – District 6

(Deferred from 4/8/08 – Item 11.7 and 4/22/08 – Item 11.3)

RECOMMEND CONTINUANCE TO 5/20/08 PER ADMINISTRATION

11. PUBLIC HEARINGS

11.4 [Ordinance of the City of San José amending Chapter 20.95 and Chapter 20.100 of Title 20 of the San José Municipal Code, the Zoning Ordinance.](#)

Recommendation: Consideration of [an ordinance](#) of the City of San José amending Chapter 20.95 and Chapter 20.100 of Title 20 of the San José Municipal Code, the Zoning Ordinance, to amend Sections 20.95.020, 20.95.110 and 20.100.480(f) to change and reflect the applicability and conformance threshold requirements for this chapter from the previous one gross acre threshold to the current 10,000 square foot threshold as required by City Council Policy 6-29, Post-Construction Urban Runoff Management. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
Citywide

11.5 [Rezoning real property located at/on the southeast corner of Highway 280 and S. 11th Street.](#)

Recommendation: Consideration of an ordinance rezoning the real property located at/on the southeast corner of Highway 280 and S. 11th Street (868 S. 11th Street) from R-2 Two-Family Residence Zoning District to R-M Multiple Residence District on a 0.2 gross acre site (Alabastro Tamara, Owner; Bruce Williams, Developer). SNI: Spartan/Keyes. CEQA: EIR Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-2-1).
C07-005 – District 3

11.6 **Rezoning real property located at the southwest corner of Cinnabar Street and Stockton Avenue.**

Recommendation: Consideration of an ordinance rezoning the real property located at the southwest corner of Cinnabar Street and Stockton Avenue (345 Stockton Avenue) from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 250 single-family attached residences in three-story buildings constructed at-grade and on a podium on a 4.4 gross acre site (381 Stockton LLC, Owner; Morrison Park Homes LLC Bruce Fairty, Developer). CEQA: Draft Mitigated Negative Declaration.
PDC06-094 – District 6

RECOMMEND CONTINUANCE TO 5/20/08 PER ADMINISTRATION

11. PUBLIC HEARINGS

11.7 Rezoning real property located on the southeast corner of Stevens Creek and South Winchester Boulevard.

Recommendation: Consideration of an ordinance rezoning the real property located on the southeast corner of Stevens Creek and South Winchester Boulevard (Santana Row) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to (1) modify perimeter setbacks and (2) change allowed uses, including the elimination of previously entitled 22,500 square feet of retail uses, a 190 room hotel and 229 residential dwelling units. This proposal would allow the addition of 160,000 square feet of office/commercial uses on a 40.78 gross acre site (FRIT San José Town & Country Village LLC, c/o Randy Paul, Developer). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: EIR Resolution No. 68210 and Addendum thereto.

PDC07-095 – District 6

* [Continued from 4/22/08 - Item 11.1(d) and 4/29/08 – Item 4.3]

* **RECOMMEND CONTINUANCE TO 5/13/08 PER THE APPLICANT’S REQUEST**

- 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>
9985	East side of Boynton Avenue, 350 feet north of Williams Road	1	TEMB Development Corporation	5 Lots / 4 Units	Single Family Attached and Detached
9992	Montecito Vista Way between Esfahan Drive and Montecito Vista Drive	7	ROEM Development Corporation	4 Lots / 56 Units	Single Family Attached
9993	North side of Montecito Vista Drive, 400 feet west of Goble Lane	7	ROEM Development Corporation	1 Lot / 180 Units	Multi-Family Attached
9995	Terminus of Duckett Way, 420 feet west of South De Anza Boulevard	1	Green Valley Corporation	3 Lots / 19 Units	Single Family Attached and Detached

- Notice of City Engineer’s Award of Construction Projects

- Open Forum

- Adjournment

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
 - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
 - c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
 - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
 - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
 - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
 - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.