



CITY COUNCIL AGENDA

JUNE 12, 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 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**
 - 9:00 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.
Vacant: District 4.
 - 1:34 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
Vacant: District 4.

- **Invocation (District 6)**
Reverend Michael Patrick Ellard of Metropolitan Community Church of San José led the Invocation.

- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.

- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 3.1 deferred to 6/19/07, Item 3.6 deferred to 6/26/07, Item 4.4 dropped to be renoticed for 6/19/07 and Item 9.5 deferred to 6/19/07.

- **Closed Session Report**
City Attorney Doyle disclosed the following Closed Session action(s) of June 12, 2007:

A. Authority to Enter Litigation Case As Amicus Curiae:

Case Name: In re Marriage Cases

Adverse party or parties: Defendants

Substance of litigation: Challenge to the constitutionality of California's exclusion of same-sex couples from marriage.

Council Vote: Ayes: Campos, Chirco, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams.

Noes: Constant; Reed.
Disqualified: None.
Absent: None.
Vacant: District 4.

B. Authority to Pursue Appellate Review in A Litigation Case:

Case Name: City of San José v. Pacific Gas and Electric Co.

Adverse party or parties: Pacific Gas and Electric Co.

Substance of litigation: An action for collection of unpaid municipal surcharges.

Council Vote: Ayes: Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Noes: None.
Disqualified: None.
Absent: None.
Vacant: District 4.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation recognizing the 10th anniversary of the Recycle at Work Program in San José. (Mayor/Liccardo/Chirco)
Mayor Reed and Council Members Chirco and Liccardo presented a commendation to the Recycle at Work Program Staff recognizing the 10th anniversary of the Program.
- 1.2 Presentation of the Government Finance Officers Association’s “Certificate of Achievement for Excellence in Financial Reporting” and the “Award of Financial Reporting Achievement” to the San José Redevelopment Agency. (Mayor/Executive Director)
Mayor Reed and Executive Director Harry Mavrogenes presented a commendation to the San José Redevelopment Agency as recipient of the Government Finance Officers Association’s “Certificate of Achievement for Excellence in Financial Reporting” and the “Award of Financial Reporting Achievement”
- 1.3 Presentation of a commendation to Victory Outreach San José for its outstanding service to the community for over two decades. (Nguyen)
Mayor Reed and Council Member Nguyen presented a commendation to Victory Outreach San Jose for its outstanding service.
- 1.4 Presentation of a proclamation declaring June 12th Law Enforcement Support Personnel Day in recognition of the invaluable contribution of civilian support personnel to the City of San José. (Constant)
(Rules Committee referral 6/6/07)
Mayor Reed and Council Member Constant declared June 12th Law Enforcement Support Personnel Day.
- 1.5 Presentation of a proclamation declaring the week of June 11 through June 17, 2007 as United States Army Week in San José. (Mayor)
(Rules Committee referral 6/6/07)
Mayor Reed declared June 11 through June 17, 2007 as United States Army Week in San José.
- 1.6 Presentation of a commendation to the United States Olympic committee for its support of the highest ideals of sports and its long partnership with the City of San José. (Mayor)
(Rules Committee referral 6/6/07)
Mayor Reed presented a commendation to the United States Olympic Committee for its support and partnership with the City of San José.

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 6, 2007
- (b) Regular Minutes of March 13, 2007
- (c) Study Session Minutes on Mayor's Fiscal Year 2007-2008 March Budget Message of March 15, 2007
- (d) Study Session Minutes on Downtown Revitalization/First Act/Convention Center Expansion of March 19, 2007
- (e) Regular Minutes of April 20, 2007
- (f) Study Session Minutes on BART to San José/Silicon Valley of March 22, 2007
- (g) Regular Minutes of March 27, 2007
- (h) Study Session Minutes on General Plan: Economic Employment Lands of March 29, 2007

Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28063 – Rezoning certain real property situated within the area generally bounded by Kentwood Avenue, Highway 85 and South De Anza Blvd to A(PD) Planned Development Zoning District. PDC06-122
Ordinance No. 28063 will be adopted.
- (b) ORD. NO. 28065 – Rezoning certain real property situated on the west side of Dent Avenue, approximately 500 feet north of Kooser Road (5331 Dent Avenue), to A(PD) Planned Development Zoning District. PDC07-001
Ordinance No. 28065 will be adopted.

2.3 Approval to amend an agreement for Airport Environmental Analysis Services.

Recommendation: Approval of a sixth amendment to the consultant agreement with David J. Powers & Associates, Inc. for airport environmental analysis services, increasing the maximum cost of the agreement by \$250,000 from \$620,000 to \$870,000 and extending the term from July 1, 2007 to June 30, 2008. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-089. (Airport)

Approved.

2. CONSENT CALENDAR

2.4 Approval of 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):

- (1) Increase the estimate for Earned Revenue by \$750,000.
- (2) Establish an appropriation to the Department of Transportation for the Couplet Conversion – Julian & St. James Street Phase 1B project (PSM #411, Amendment 1) in the amount of \$750,000.

Ordinance No. 28066 adopted.

Resolution No. 73816 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 Couplet Conversion – Julian & St. James Street Phase 1B project as more specifically described in the memorandum from the Redevelopment Agency, dated December 16, 2006.

CEQA: Mitigated Negative Declaration, File No. PP02-112. Council District 3. SNI: Thirteenth Street. (City Manager's Office/Transportation)

Resolution No. 73817 adopted.

2.5 Request for an excused absence for Councilmember Constant.

Recommendation: Request for an excused absence for Councilmember Constant from the Special Closed Session Meeting on May 29, 2007 due to family illness. (Constant)
(Rules Committee referral 5/30/07)

Approved.

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 Transportation and Environment Committee on May 29, 2007 due to Authorized City Business: Meetings. (Cortese)
(Rules Committee referral 5/30/07)

Approved.

2.7 Request for an excused absence for Mayor Reed.

Recommendation: Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on June 6, 2007 due to Authorized City Business: Silicon Valley Leadership Group trip/schedule meetings with Federal elected officials. (Mayor)
(Rules Committee referral 5/30/07)

Approved.

2. CONSENT CALENDAR

2.8 Request for an excused absence for Councilmember Oliverio.

Recommendation: Request for an excused absence for Councilmember Oliverio from the Special Closed Session Meeting on May 29, 2007 due to Authorized City Business: Sherman Oaks & Palm Haven Neighborhood Association Leader Meetings at City Hall. (Oliverio)
(Rules Committee referral 5/30/07)

Approved.

2.9 Approval to amend an agreement for consultant services for the Highway 87 Detour II Sanitary Sewer Reconstruction Phase II Project.

Recommendation: Approval of the third amendment to the agreement with RMC Water and Environment (RMC) for consultant services for the Highway 87 Detour II Sanitary Sewer Reconstruction Phase II Project, extending the term of the agreement from June 29, 2007 to June 30, 2010, and increasing the cost of the agreement in the amount of \$275,000 from \$683,016 for a total cost of \$958,016. CEQA: Mitigated Negative Declaration, File No. PP03-12-378. Council District 3. (Public Works)

Approved.

2.10 Approval to summarily vacate a portion of Holger Way.

Recommendation: Adoption of a resolution summarily vacating Holger Way between Headquarters Drive and North First Street, recorded August 20, 1987 in Book K267, Pages 146, 156, and 162, Official Records, Office of the Recorder, County of Santa Clara, and reserving a public service easement over the entire area being vacated. CEQA: Resolution No. 67510. Council District 4. (Public Works)

Resolution No. 73818 adopted.

2.11 Approval of actions related to the Airport North Concourse Foundation and Utility Tunnel Concrete, Package 02A Project.

Recommendation: Approval of Contract Change Order Number 6 in the amount of \$378,892.50 with Gonsalves & Santucci, Inc. dba Conco for the Norman Y. Mineta San José International Airport North Concourse Foundation and Utility Tunnel Concrete (Package 02A). CEQA: Resolution Nos. 67380 and 71451, File No. PP07-093. (Public Works/Airport)

Approved.

2. CONSENT CALENDAR

2.12 Approval of actions related to the Airport North Concourse Building Structural Steel, Package 02C Project.

Recommendation:

- (a) Approval of Contract Change Order Number 1 to fund and implement structural steel changes, for zero dollar amount with Gayle Manufacturing Company for the Norman Y. Mineta San José International Airport North Concourse Building Structural Steel, Package 02C.
- (b) Approval to convert allowances for Bid Items 2, 3 and 4 to Roof Steel in the amount of \$994,326 to fund Change Order Number 1.

CEQA: Resolution Nos. 67380 and 71451, File No. PP07-098. (Public Works/Airport)
Approved.

2.13 Report on bids and award contract for the ADA Accessibility Ramps 2006-2007 Projects.

Recommendation: Report on bids and award of contract for the ADA Accessibility Ramps 2006-2007 Project to the low bidder, SpenCon Construction in the contract amount of \$751,556 plus a contingency in the amount of \$75,156, for a total contract amount of \$826,712. CEQA: Exempt, File No. PP05-212. Council Districts 1, 2, 3, 4, 6, 7, 9 and 10. (Transportation)
Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – May 23, 2007 Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to May 29, 2007 Agenda
 - (2) Review June 5, 2007 Draft Agenda
 - (a) Add New Items to final agenda
 - (1) City Manager Compensation. (Mayor)
 - (2) Elections Commission Recommendation to Change Special Eligibility Requirement that One Member of the Elections Commission Be an Attorney at Law. (City Clerk)
 - (3) Vietnamese Business District Designation. (Nguyen/ Mayor)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – May 23, 2007 (Cont'd.)

Mayor Reed, Chair

- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) AB 1252 (Caballero) – Housing Related Parks Program. (Housing)
 - (b) AB 1460 (Saldana) – Multifamily Housing Program. (Housing)
 - (c) SB 46 (Perata) – Proposition 1C Regional Planning, Housing, and Incentive Account. (Housing)
 - (d) SB 586 (Dutton) – Proposition 1C Innovation Fund. (Housing)
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Council Expenditures and Reimbursement Policy. (City Clerk/City Attorney/Finance)
Continued from May 16, 2007
 - (2) Approve the revised Commission/Liaison Code of Conduct Policy. (City Attorney)
 - (3) Response to the Macias Consulting Group's Report on the Finance Department's Investment Unit and the Finance Department's Response. (City Auditor)
 - (4) Discussion of Cost Neutral Opportunities for a Public Safety Memorial at New City Hall with Direction to Implement Memorial and Process for Accepting Private Sponsorship. (Constant/Pyle)
- (h) Review of Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
 - (a) Approval to Validate Selected Policies Contained in the City Council Policy Manual. (City Manager)
- (j) Open Forum
- (k) Adjournment

Deferred to 6/19/07 per City Clerk.

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

Councilmember Nguyen, Chair

No Report.

3. STRATEGIC SUPPORT SERVICES

3.3 Approval of Guiding Principles for Labor Negotiations.

Recommendation: Approval of Guiding Principles for Labor Negotiations. CEQA: Not a Project. (City Manager's Office)

Approved, with the following additions:

- (1) Use the same guidelines for management and represented employees.
- (2) Add a cost of living index for the Bay Area.
- (3) Consider a housing program to assist employees with the high cost of housing.

3.4 Approval of actions related to the purchase of Citywide Cellular and Wireless Equipment and Services.

Recommendation: Report on Request for Proposals (RFP) for the purchase of citywide cellular phone equipment and services and adoption of a resolution authorizing the Director of Finance to execute:

- (a) A Custom Service Agreement with Sprint Nextel ("Sprint") for a period of five years to purchase wireless services and equipment under the same pricing, terms and conditions obtained from a cooperative agreement with the State of California, in a cumulative amount not to exceed \$1,000,000 for the first year, and subsequent year purchases as may be required for the duration of the term, subject to appropriation of funds.
- (b) Any necessary documentation to make purchases under the pricing, terms and conditions obtained under a cooperative agreement between the State of California and Verizon or Cingular, for the next five years, in the event that Sprint as the primary provider is unable to meet the requirements of the City.

CEQA: Not a Project. (Finance)

Resolution No. 73819 adopted.

3.5 Acceptance of the report on public-private partnerships.

Recommendation: Acceptance of the report on public-private partnerships and direction to staff to proceed with implementation of the proposed framework, including monthly status reports to the Rules and Open Government Committee through December 2007 and presentation of policy recommendations to the City Council by January 2008. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Report accepted, with direction to Staff to return to Council with creative ideas and monthly reports to Rules and Open Government Committee beginning in August.

3. STRATEGIC SUPPORT SERVICES

3.6 Approval of actions related to the City's Investment Program.

Recommendation: Adoption of an appropriation ordinance and funding sources resolution amendments in the amount of \$305,000 for the purpose of implementing Phase I of an Active Portfolio Management Program for the City's Investment Program in the Finance Department. CEQA: Not a Project. (Finance)

Deferred to 6/26/07.

3.7 Approval of actions related to AB 1030 (Caballero) – Libraries: Literacy and English Acquisition Services.

Recommendation: As recommended by the Rules and Open Government Committee on June 6, 2007, approve a support position for AB 1030 (Caballero) – Libraries: Literacy and English Acquisition Services. (Library)

[Rules Committee referral 6/6/07 – Item C(1)(a)]

Approved.

3.8 Approval of actions related to Propositions 1E and 84.

Recommendation: As recommended by the Rules and Open Government Committee on June 6, 2007:

- (a) Accept the status report on Propositions 1E and 84.
- (b) Authorize staff to pursue legislation and regulations that supports the city's ability to acquire funding from Propositions 1E and 84.
- (c) Authorize support for the Santa Clara Valley Water District's (SCVWD) positions on legislation and regulations related to Propositions 1E and 84 where consistent with the City's guiding principles and legislative priorities.

(Environmental Services/City Manager) [Rules Committee referral 6/6/07 – Item C(1)(b)]

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – May 24, 2007 Councilmember Pyle, Chair

- (a) Review of Performance Measure Reporting. (Planning, Building and Code Enforcement/Economic Development/Housing/Redevelopment Agency)

The Committee accepted the report.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – May 24, 2007 Councilmember Pyle, Chair (Cont'd.)

- (b) Modifications to Committee Workplan. (Economic Development)
No report.
- (c) Update on Efforts to Stabilize Arts Organizations. (Economic Development)
The Committee deferred the report to June 25, 2007.
- (d) Small and Local Business Contracting. (Economic Development)
The Committee deferred the report to June 25, 2007.
- (e) Catalyst Program. (Economic Development)
The Committee deferred the report to June 25, 2007.
- (f) Five-Year Housing Plan. (Housing)
- (g) Affordable Housing Investment Plan. (Housing)
- (h) Changes to the Inclusionary Housing Policy in Redevelopment Areas. (Housing/
Redevelopment Agency)
Deferred from 4/9/07
The Committee accepted the reports.
- (i) Oral Petitions
Chris Walken, Beverly Bryant, Mark Lazzarini, Bena Chang, Mike Walsh
came forward to speak on 4f, 4g and/or 4h.
- (j) Adjournment -
Meeting adjourned at 12:05 p.m.

**The Community and Economic Development Committee Report and the actions of
May 24, 2007, were accepted.**

4.2 Approval of actions related to a Professional Soccer Stadium site.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to Negotiate and Execute a Non-Binding Memorandum of Understanding with FWSH Partners, LLC Regarding Shared Aspirations to Bring a Professional, Major League Soccer Program Back to the City, to Explore the Construction of a Stadium for that Purpose and to Explore the Possible Conversion of the iStar Property, located at Highway 85 and Cottle Road from an Industrial Park General Plan Land Use Designation to a Residential Land Use Designation for the Express Purpose of Financing the Development of a Professional Soccer Stadium at an Alternate Site.

Resolution No. 73820 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Approval of actions related to a Professional Soccer Stadium site. (Cont'd.)

- (b) Adoption of a resolution authorizing the City Manager to Enter into an Exclusive Right to Negotiate (ERN) agreement with FWSH Partners, LLC for the Development of the 75-acre City owned Land Located at 1125 Coleman Avenue, for the possible Development of a Professional Soccer Stadium and Transit Oriented Office, Research and Development, Hotel and Retail Development for a period up to September 15, 2007, and if a Satisfactory agreement cannot be achieved by September 15, 2007, City staff will proceed with a Request for Proposal to the General Development Community for the 75 acres.

CEQA: Not a Project. (Economic Development)

Resolution No. 73821 adopted.

Staff directed to:

- (1) **Explore the full potential impacts of converting the iStar property, located at Hwy 85 and Cottle Road, from an industrial park General Plan land use designation to a residential land use designation. Analysis of this potential land conversion should include information about the following impacts:**
 - (a) **The impact that the development of as many as 1500 residential units on the iStar property will have on local school capacity.**
 - (b) **The Traffic impacts in the surrounding area, especially impacts to hwy 85, US 101 and freeway intersections serving the identified site.**
 - (c) **The impacts the residential development will have on local police and fire services.**
- (2) **Study the specific potential impacts associated with the addition of industrial development capacity to nearby parcels in the Edenvale area.**
- (3) **Negotiate an agreement with FWSH Partners, LLC such that all revenue generated through the conversion of the iStar property from industrial park to residential is used to either finance the construction of the proposed soccer stadium or to fund local infrastructure improvements designed to offset the impacts of both the proposed residential development and the additional industrial development and the additional industrial development capacity in the Edenvale area.**
- (4) **Explore and negotiate mechanisms to bind the potential conversion of the iStar property from industrial park to residential to the development of the proposed soccer stadium.**
- (5) **Determine if there is any nexus for a legal challenge under any section of the City Charter for actions related to this unique stadium financing proposal.**
- (6) **Prepare an outreach plan to ensure that the community has an opportunity to provide its input on the proposal.**

(Item continued on the next page.)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Approval of actions related to a Professional Soccer Stadium site. (Cont'd.)

- (b) (7) Assure that the iStar industrial square footage can be accommodated in Edenvale.
- (8) Adhere to priorities and position outlined in the joint memorandum dated June 5, 2007 from Mayor Reed and Council Member Pyle.
- (9) Return to Council on or about October 1, 2007.

4.3 Approval of changes to contract authority relating to Affordable Housing Development.

Recommendation:

- (a) Approval of an ordinance amending Chapter 5.06 of the San José Municipal Code to make changes to the contract authority of the City Manager and Director of Housing for development of affordable housing relating to predevelopment loans, Council-approved loans and grants, repayment of project loans, outside funding, rehabilitation and improvements to City-owned properties, accrued interest and loan workouts, and consultant agreements.

Ordinance No. 28067 passed for publication.

- (b) Adoption of a resolution revising the maximum amounts of loans and grants that the Director of Housing may approve under the Housing Rehabilitation, Homebuyer, Housing Trust Fund and Predevelopment Loan programs.

CEQA: Not a Project. (Housing)

Resolution No. 73822 adopted.

4.4 Approval of actions related to a limited pilot program for certain restaurants, bars and nightclubs.

Recommendation: Approval of a limited pilot program allowing legally operating drinking establishments, entertainment establishments and public eating establishments within a specific area in the Downtown to remain open until 3:00 a.m. CEQA: Exempt, File No. PP07-117. (Planning, Building and Code Enforcement)

Dropped, re-noticed for 6/19/07.

4.5 Report of the Community & Economic Development Committee – May 21, 2007 Councilmember Pyle, Chair

- (a) Review of Performance Measure Reporting. (Planning, Building and Code Enforcement/Economic Development/Housing/Redevelopment Agency)

The Committee accepted Staff's report.

See Item 4.6 for Council action taken.

- (b) Modifications to Committee Workplan. (Economic Development)

None reported.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Report of the Community & Economic Development Committee – May 21, 2007 Councilmember Pyle, Chair (Cont'd.)

- (c) Pilot Program: Small Shopping Strips and Districts. (Planning, Building and Code Enforcement)

The Committee accepted Staff's report.

See Item 9.5 for Council action taken.

- (d) ABAG Regional Needs Process. (Planning, Building and Code Enforcement)

The Committee accepted Staff's report.

- (e) Small Business Commission Update. (Economic Development)

The Committee accepted Staff's report.

- (f) Approval of a Work Plan for the Proposed Sales/Use Tax Strategy known as the Business Cooperation Program. (Economic Development)

The Committee accepted Staff's report.

- (g) Oral Petitions

William Garbett, on behalf of The P.U.B.L.I.C. spoke on the pilot program for small shopping strips, regarding ADA requirements, and Staff's suggested guidelines for eligibility requirements.

- (h) Adjournment

Meeting adjourned at 12:00 p.m.

The Community and Economic Development Committee Report and the actions of May 21, 2007, were accepted..

4.6 Acceptance of status report on performance measurements for Development Services.

Recommendation: Acceptance of the report of the San José Coalition for Jobs Now that includes suggested process improvements and the comments from staff for implementation priorities. CEQA: Not a Project. (Planning Building and Code Enforcement)

[Community and Economic Development Committee Referral 5/21/07 – Item 4.5 (a)]

Report accepted.

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 – May 29, 2007 Councilmember Williams, Chair

- (a) Consideration of Downtown Parking Management Issues (RDA/DOT)
 - (1) Downtown Parking Management Plan 2006-07 Update
 - (2) Enhanced Parking Security Plan

The Committee approved Staff's recommendations. Staff to provide Council a proposed method of measurement for the \$5 pilot program in order for Council to evaluate and make adjustments if needed.

See Item 9.1 for Council action taken

- (b) Oral Petitions
There were no oral petitions.
- (c) Adjournment
The Committee adjourned at 3:15 p.m.

The Transportation and Environment Committee Report and the actions of May 29, 2007, were accepted.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Approval of actions related to the Downtown Parking Management Plan, Implementation Plan, and Enhanced Parking Garage Security Plan.

Recommendation:

- (a) Approval of the Downtown Parking Management Plan 2006/07 Update, the Implementation Plan, and the Enhanced Parking Garage Security Plan.

Approved.

- (b) Approval of the reprioritization of parking development sites.

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Approval of actions related to the Downtown Parking Management Plan, Implementation Plan, and Enhanced Parking Garage Security Plan. (Cont'd.)

- (c) Adoption of a resolution authorizing the Executive Director of the Redevelopment Agency to pursue acquisition of the Greyhound site for future parking development, and to pursue the development of approximately 70 Parking Plus spaces as part of the proposed Living Tomorrow project.

Redevelopment Agency Resolution No. 5754 adopted.

- (d) Adoption of a resolution to repeal Resolution No. 73173 and to update the Master Parking Rate Schedule to authorize the Director of Transportation to:
- (1) Extend and implement parking incentive programs that discount monthly parking rates for start up companies, participating business cluster companies, and new businesses to Downtown; and, provide long term parking leases to commercial tenants located in buildings with insufficient parking;
 - (2) Modify the Free Parking Program, effective January 1, 2008 to include a \$2 entry fee at various City-owned garages after 6 pm; and, thereafter, to increase the entry fee, on a biennial basis, up to a maximum of \$5;
 - (3) Modify the Free Parking Program, on a pilot basis, from July 1, 2007 through December 31, 2007, to charge a \$5 entry fee at various City-owned garages after 10 pm on Thursday, Friday, and Saturday evenings; and, to reduce or eliminate the \$5 entry fee during the pilot period if the Director determines that the impacts outweigh the benefits; and,
 - (4) Modify the parking validation program, effective July 1, 2007, to include Downtown social service providers as eligible organizations.

Resolution No. 73823 adopted.

Staff directed to: Refrain from imposing the pilot \$5 fee (the fee imposed at entry after 10 p.m. on Thursdays, Fridays, and Saturdays), until the following conditions are met:

- (1) **Staff to return with an informational memo:**
 - (a) **Identifying which statistical measures will be utilized for assessing impacts on downtown businesses, crime/complaints, and lot entries, and identifying the specific data which will be made available for Council's review.**
 - 1) **Ideally, data should be presented for the same period the year before the pilot study period (i.e., July-December of 2006 and 2007) to detect trends in club patronage, crime, and parking lot entries.**
 - 2) **Data concerning impacts on attendance at downtown nightclubs could consist of person counts, sales figures, tax revenues, or other suitable indicators of patronage. Longitudinal data should be club-specific, e.g., sales tax revenues at Clubs A and B for August of 2006 should be compared to Clubs A and B in August of 2007.**

(Item continued on the next page.)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Approval of actions related to the Downtown Parking Management Plan, Implementation Plan, and Enhanced Parking Garage Security Plan. (Cont'd.)

- (d) (1) Staff to return with an informational memo: (Cont'd.)
 - (b) Identifying a clear strategy for patrolling neighborhoods adjacent to the downtown core that may be impacted from “spillover” parking and related activity as a result of the imposition of the \$5 fee after 10 p.m.
 - (c) Indicating whether the Police Department and the Department of Transportation have entered into a Memorandum of Understanding that funds used for Police Department services will be focused primarily on the safety of parking garages.
 - (2) Return to Council no more than six weeks after the imposition of the fee, and again no more than twelve weeks after implementation, with a report describing the preliminary impacts of the parking plan on night club attendance, lot entries, and criminal activity. At each of those meetings, Council may modify the fee or other aspects of the pilot program as it deems appropriate.
 - (3) Between now and June 26th, preparations for implementing the fee may continue on a parallel path, so that the \$5 fee may be imposed on July 1st if the items identified in (1) (a) through (c) are properly addressed.
- (e) Approval of the creation of a secured parking capital development reserve account within the General Purpose Parking Fund, and adoption a City policy that provides that funds deposited in the reserve account will be used solely for the purpose of parking supply enhancement.

CEQA: Resolution No. 72767. (Transportation)

[Transportation and Environment Committee referral 5/29/07 – Item 6.1(a)(1)]

Approved.

9.2 Approval of actions related to a Property and Business Improvement District in downtown.

Recommendation:

- (a) Adoption of resolutions by the City Council and the Redevelopment Agency Board approving support for a petition of property owners to form a Property and Business Improvement District (PBID) in Downtown San José (Downtown).
 - Resolution No. 73824 adopted.**
 - Redevelopment Agency Resolution No. 5755 adopted.**
 - Noes: Constant.**

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 Approval of actions related to a Property and Business Improvement District in downtown. (Cont'd.)

- (b) Adoption of a resolution by the City Council:
- (1) Stating its intention to form a PBID in Downtown;
 - (2) Preliminarily approving the Downtown PBID Management Plan/Engineer's Report;
 - (3) Setting a public meeting to be held on June 19, 2007 at 7:00 p.m. and a public hearing on August 7, 2007 at 1:30 p.m.; and
 - (4) Calling an election for tabulation of the ballots for August 7, 2007 at 1:30 p.m.

Resolution No. 73825 adopted.

- (c) Adoption of a resolution by the City Council finding the San José Downtown Association (SJDA) uniquely situated to manage and provide the baseline and enhanced maintenance, safety, information and image enhancing services specified in the PBID Management Plan and authorizing the City Manager to initiate negotiations with SJDA to provide such services.

CEQA: Not a Project. Council District 3. (City Manager's Office/Redevelopment Agency)

Resolution No. 73826 adopted.

9.3 Review, Discussion and Approval of the Mayor's June 2007 Budget Message.

Recommendation:

- (a) Review, Discussion and Approval of the Mayor's June 2007 Budget Message. **The Mayor's June 2007 Budget Message was approved, with the following amendments:**
- (1) **Direct Staff to increase the maintenance levels at History Park back to the levels required by the City's agreement with History San José.**
 - (2) **Approve a \$257, 000 one-time appropriation from the technology hardware budget to EHC Lifebuilders for continued full operation of the homeless shelter located in the Boccardo Reception Center. Replenish the technology hardware budget with year ending fund balance. EHC Lifebuilders directed to post on the website audited financial reports. (Reed and Constant opposed.)**

(Item continued on the next page.)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.3 Review, Discussion and Approval of the Mayor's June 2007 Budget Message.

(Cont'd.)

- (3) Restore from \$4,425,000 to \$6,747,000 funding for Fire Station #2 by closing the gap of \$2,322,000 with a loan from District #5 Construction and Conveyance tax and direct staff to return to Council in 60 days with an evaluation of funding source options for repayment and discussion about the scope of the project (effects of remodel v. rebuild).
(Amended by Council on 6/19/07 – Item 3.6)
 - (4) Restore the Deputy Director position in the Office of Cultural Affairs and fund the Deputy Director position through Transient Occupancy Tax (TOT) revenues, reviewed each year during the annual budget process with the objective of returning the position to the General Fund as soon as possible.
 - (5) Increase from \$500,000 to one million the allocation from the Calpine Fund for the Albertson Parkway Trail Project (BD#20) subject to verification that the fund is an eligible source.
- (b) Adoption of a resolution by the City Council authorizing the City Manager to negotiate and execute grant agreements addressed in the Mayor's Budget Message which are for amounts that exceed the City Manager's contract authority. (Mayor)
Resolution No. 73827 adopted.

9.4 Approval of the FY 2007-2008 Operating and Capital Budgets for the City of San José and Redevelopment Agency and Schedule of Fees and Charges.

Recommendation:

- (a) Adoption of a resolution by the City Council approving the Operating Budget for Fiscal Year 2007-2008 for the City of San José, the Capital Budget for Fiscal Year 2007-2008 for the City of San José, and the Five Year Capital Improvement Program for Fiscal Year 2008-2012 for the City of San José as revised by the Mayor's Budget Message and directing the City Manager to prepare final documents for adoption.
Resolution Nos. 73828-73830, were adopted.
- (b) Adoption of a resolution by the City Council establishing the Schedule of Fees and Charges for Fiscal Year 2007-2008.
Resolution No. 73831 adopted, as amended, to set a \$75/hour charge for both Police Department public records searches and for complete subpoena searches.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.4 Approval of the FY 2007-2008 Operating and Capital Budgets for the City of San José and Redevelopment Agency and Schedule of Fees and Charges. (Cont'd.)

- (c) Adoption of a resolution by the City Council establishing fees and charges for recreational and park activities.

(City Manager's Office)

Resolution No. 73832 adopted, as amended, to reduce by 1/3 (approximately \$300,000) the ending fund balance which shall be set aside for creative park maintenance initiatives. (Amended by Council on 6/19/08 – Item 3.6)

- (d) Adoption of resolutions by the Agency Board approving:

- (1) Operating Budget for Fiscal Year 2007-2008 for the Redevelopment Agency of the City of San José.

Redevelopment Agency Resolution No. 5756 adopted.

- (2) Capital Budget for Fiscal Year 2007-2008 for the Redevelopment Agency of the City of San José. (Redevelopment Agency)

Redevelopment Agency Resolution No. 5757 adopted.

9.5 Approval of actions related to the Pilot Shopping Center Improvement Program.

Recommendation:

- (a) Adoption of a resolution:

- (1) Approving the creation of a pilot program to improve the appearance of shopping centers outside of Redevelopment Areas to increase economic vitality, encourage job growth and generate additional sales tax revenue.

- (2) Authorizing the City Manager to execute a Cooperation Agreement to allow City of San José General Funds to be used to compensate the San José Redevelopment Agency for staff time, design work, supplies and contractor services undertaken outside of Redevelopment Areas.

- (b) Adoption of Agency resolutions authorizing the Executive Director to execute a Cooperation Agreement to allow City of San José General Funds to be used to compensate the San José Redevelopment Agency for staff time, design work, supplies and contractor services undertaken outside of Redevelopment Areas.

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

[Community and Economic Development Committee referral 5/21/07 – Item 4.5 (c)]

Deferred to 6/19/07.

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

- **Notice of City Engineer’s Award of Construction Projects**

On October 25, 2005, City Council approved a one year pilot program that delegated authority to the Director of Public Works to award or reject bids on construction projects where the base contract amount is below \$1,000,000. In accordance with this policy, the following is a list of projects that were awarded or rejected by the Director of Public Works in May 2007

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Park Avenue Streetscape Improvements Project	3	Lone Star Landscape, Inc.	\$109,505	5/10/07
Alum Rock Park Water Line Relocation Project	Citywide	HSR, Inc.	\$558,050	5/15/07
Traffic Signal Modification at Bucknall Road and San Tomas Aquino Road	1	San José Signal Electric Construction, Inc.	\$209,000	5/18/07
Cheney Drive Sanitary Sewer Rehabilitation	6	Ranger Pipelines, Inc.	\$321,020.40	5/25/07
Alma Avenue Storm Pump Stations Rehabilitation Project	6	Pleasanton Engineering Contractors, Inc.	\$299,000	5/25/07
Bird Avenue Storm Pump Station Rehabilitation Project	6	Anderson Pacific Engineering Construction, Inc.	\$799,645	5/25/07

- **Open Forum**

None Present.

- **Adjournment**

The Council of the City of San José was adjourned at 11:39 p.m. in honor of Cha Chi Ming, Chizu Helen Iwanaga, and Richard Onishi, all notable leaders in Japantown; in memory of Evergreen Valley High School students Amrit Kahlon and Jasdeep Duhra, who will be deeply missed by all who their lives touched and Kim Thronson, a Firefighter with the City of San José since March 1997, promoted to Fire Engineer in June 2000, and serving as a Provisional Fire Inspector in the Fire Prevention Bureau; she was admired and respected by everyone who knew her.

8. JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 11:39 p.m. to consider Items 8.1-8.3 in a Joint Session.

8.1 Approval of an agreement with Sonoma State University for archaeological services for the Japantown Main Corporation Yard project and related budget actions.

Recommendations:

- (a) Adoption by the City Council of the following Amendments to the Appropriation Ordinance in the “Construction Tax and Property Conveyance Tax Fund: Service Yards Purpose” (Fund 395):
 - (1) Decrease Ending Fund Balance by \$410,500.
 - (2) Establish a transfer to the City of San Jose Redevelopment Agency in the amount of \$410,500 for archaeological research at the Main Corporation Yard and Parking Lot project.

Ordinance No. 28070 adopted.

- (b) Redevelopment Agency Board approval of an agreement with Sonoma State University, on behalf of the Anthropological Studies Center, in the amount of \$380,280 in services with a contingency of \$30,220 for a maximum total compensation of \$410,500, for archaeological service related to the Japantown Main Corporation Yard project, generally located at Sixth and Taylor Streets.

Approved.

- (c) Adoption of a resolution by the Redevelopment Agency Board amending the FY 2006-2007 Revenue Resolution to add \$410,500, representing a transfer from the City to fund Archaeological Research services at the Japantown Main Corporation Yard and Parking Lot site; amending the FY 2006-07 Adopted Capital Budget adding \$410,500 to the Japantown – Corporation Yard project line in the Japantown Redevelopment Area; and amending the FY 2006-2007 Agency appropriations resolution.

CEQA: Exempt. File No. PP-07-104. [JAPANTOWN]

Redevelopment Agency Resolution No. 5759 adopted.

8.2 Approval of an amendment to the loan agreement from the City of San Jose’s Parking Fund Reserve to the Redevelopment Agency.

Recommendations:

- (a) City Council and Agency Board approval of an amendment to the loan agreement from the City of San Jose’s General Purpose Parking Fund to the Redevelopment Agency, (1) deferring the repayment of the principal in the amount of \$6.8 million, to become due and payable on July 31, 2012, and (2) removing the provision for any future interest to accrue beyond June 30, 2007.

Approved.

8. JOINT REDEVELOPMENT AGENCY ITEM

8.2 Approval of an amendment to the loan agreement from the City of San Jose's Parking Fund Reserve to the Redevelopment Agency. (Cont'd.)

- (b) Adoption of a resolution by the Agency Board approving an adjustment to the FY 2006-07 Adopted Capital Budget, adding \$440,000 to the Downtown Parking Acquisition project line item in the Almaden Gateway Redevelopment Area, and amending the FY 2006-07 Agency appropriations resolution, in lieu of interest payment to the City, representing interest accrued through June 30, 2007, as estimated by Department of Transportation.

Redevelopment Agency Resolution No. 5759 adopted.

8.3 Acceptance of the disclosure of property interest by Boardmember Sam Liccardo

Recommendation:

City Council and Agency Board acceptance of the disclosure of property interest by Boardmember Sam Liccardo and direction that the disclosure be entered into the public minutes of the Redevelopment Agency Board meeting.

Dropped.

● Adjournment

The Council of the City of San José, and Redevelopment Agency Board adjourned at 11:44 p.m.