

CITY COUNCIL AGENDA

AUGUST 14, 2007

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DAVID D CORTESE, VICE MAYOR DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

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

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

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

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

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

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

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

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

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

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

- **Call to Order and Roll Call**
9:31 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

7:01 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 7)**
Far East Lion Dancers presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 2.1(g)-(o) and Item 2.3 deferred to 8/21/07 and Item 3.16 deferred to 8/28/07.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Kary Houle for her outstanding commitment to educating the community and promoting Guadalupe River Park & Gardens. (Liccardo)
Mayor Reed and Council Member Liccardo recognized and commended Ms. Kary Houle for her exceptional contributions to the City of San José.

1. CEREMONIAL ITEMS

- 1.2 Presentation of commendations to Bob Mayo and Mark Snesrud for cracking the semaphore code on top of the Adobe building. (Liccardo)
Mayor Reed and Council Member Liccardo recognized and commended Mr. Bob Mayo and Mr. Mark Snesrud for their special achievement of cracking the semaphore code.
- 1.3 Proclamation declaring August 12 - August 18, 2007 as Tainan, Taiwan week in the City of San José. (Mayor/Chu/Campos)
Mayor Reed and Council Members Chu and Campos recognized August 12 through August 18, 2007 as “Tainan, Taiwan Week” in the City of San José.
- 1.4 Presentation of a commendation for the San José Beautiful Neighborhood Improvement Awards. (Mayor)
**Heard in the evening.
Mayor Reed recognized and commended the recipients of the San José Beautiful Improvement Awards.**
- 1.5 Presentation of a proclamation declaring August 12 -August 18, 2007 as Gymnastics Week in San José. (Mayor/Constant)
Mayor Reed recognized August 12 through August 18, 2007 as “Gymnastics Week” in the City of San José.
- 1.6 Presentation of a proclamation declaring September 29, 2007 as the “Day of Play” in San José. (Mayor/Pyle)
Mayor Reed and Council Member Pyle recognized September 29, 2007 as the “Day of Play” in the City of San José.
- 1.7 Presentation of a commendation to San José’s Syndicate of Sound for their achievement of the 1 millionth playing of the song “Little Girl.” (Mayor)
Mayor Reed recognized and commended the local San José band “Syndicate of Sound” for their achievements.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of Minutes.

- (a) Regular Minutes of April 3, 2007
 - (b) Regular Minutes of April 10, 2007
 - (c) Regular Minutes of April 17, 2007
 - (d) Joint City Council/Santa Clara Valley Water District Study Session Minutes on Water Quality Issues of April 20, 2007
 - (e) Regular Minutes of April 24, 2007
 - (f) Council Study Session Minutes on Evergreen East Hills Vision Strategy of April 30, 2007
- Approved. Disqualified: Chu.**

2. CONSENT CALENDAR

2.1 Approval of Minutes (Cont'd.)

- (g) Regular Minutes of May 1, 2007
 - (h) Council Study Session Minutes on the General Plan Update of May 3, 2007
 - (i) Regular Minutes of May 8, 2007
 - (j) Regular Minutes of May 15, 2007
 - (k) Regular Minutes of May 22, 2007
 - (l) 2007-2008 Operating and Capital Budget; 2008-2012 Capital Improvement Program Study Session Minutes of May 7, 2007 through May 17, 2007
 - (m) Minutes of the San José Financing Authority of May 22, 2007
 - (n) Special Closed Session Minutes of May 29, 2007
 - (o) Special Closed Session Minutes of May 30, 2007
- [Deferred from 6/26/07 – Item 2.1 and 8/7/07 – Item 2.1]

Deferred to August 21, 2007 per City Clerk under Orders of the Day.

2.2 Final adoption of ordinances.

There were none.

2.3 Approval of actions related to the Mayfair Community Center Public Art Project.

Recommendation:

- (a) Approval of an agreement with Fernanda D'Agostino to fabricate and install artwork for the Mayfair Community Center in a total amount not to exceed \$195,400.
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Parks and Recreation Bond Projects Fund (Fund 471):
 - (1) Increase appropriation to the Office of Economic Development for the Public Art-Park and Recreation Bond Projects by \$141,000.
 - (2) Increase the Beginning Fund Balance estimate by \$141,000.
- (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (Fund 450):
 - (1) Increase the appropriation to the Department of Public Works for the Mayfair Community Center Project by \$64,000;
 - (2) Increase the Beginning Fund Balance estimate by \$64,000.
- (d) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
 - (1) Establish an appropriation to the Office of Economic Development in the amount of \$10,000 for the Mayfair Community Center Public Art Project;
 - (2) Decrease the appropriation to the Office of Economic Development for the Plata Arroyo Skate Park Development Public Art Project by \$8,000; and
 - (3) Decrease the appropriation to the Office of Economic Development for the Children of the Rainbow Park Renovation Public Art Project by \$2,000.

CEQA: Exempt, File No. PP05-184. (City Manager's Office/Economic Development)
(Deferred from 8/7/07 – Item 2.4)

Deferred to 8/21/07 per Orders of the Day.

2. CONSENT CALENDAR

2.4 Approval for artwork at the South San José Police Substation.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Thomas Sayre to fabricate and install artwork for the South San José Police Substation, in a total amount not to exceed \$340,000. CEQA: Exempt, File No. PP05-184. (Economic Development)

Resolution No. 73939 adopted.

2.5 Approval of actions related to Recycled Water Service Connections at the Dr. Martin Luther King, Jr. Library.

Recommendation: Adoption of a resolution authorizing the City Manager to execute an agreement to accept easements from San José State University to the City for maintenance of recycled water service connections and meter vaults serving the Dr. Martin Luther King, Jr. Library and landscape irrigation of the University property at no cost to the City. CEQA: Resolution No. 64667, File No. PP03-350. Council District 3. SNI: University. (Environmental Services)

Resolution No. 73940 adopted.

2.6 Approval to extend a contract for the South Bay Water Recycling Program.

Recommendation: Approval of Contract Change Order No. 3 for a contract time extension of 280 calendar days with Anderson Pacific Construction, Inc., for the South Bay Water Recycling Program, SJ-14 Pump Stations 5 & 8/11 Reliability Project, at no additional cost to the City. CEQA: Exempt, File Nos. SP04-054 and PD04-068. Council Districts 3 and 8. SNI: Spartan/ Keyes. (Environmental Services)

Approved.

2.7 Approval to terminate the Commercial Solid Waste and Recyclables Collection Franchise.

Recommendation:

- (a) Approval of an ordinance repealing Ordinance No. 27743 to terminate the Commercial Solid Waste and Recyclables Collection Franchise with Redwood Services, Inc. dba Redwood Debris Box Service.

Ordinance No. 28090 passed for publication.

- (b) Adoption of a resolution authorizing the Director of the Environmental Services Department to send a notice to Redwood Services, Inc. terminating the Commercial Solid Waste and Recyclables Collection Franchise Agreement effective June 1, 2007.

CEQA: Negative Declaration, File No. PP92-11-308. (Environmental Services)

Resolution No. 73941 adopted.

2. CONSENT CALENDAR

2.8 Approval of actions related to the operation and maintenance of the Vietnamese Heritage Garden.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a second amendment to the agreement with the Viet Heritage Society for the development, maintenance and operations of the Vietnamese Heritage Garden to:
- (1) Increase the City's contribution toward the project by \$320,000, from \$1,410,000 to \$1,730,000.
 - (2) Document the additional funding and terms of use of such funds.

Resolution No. 73942 adopted.

- (b) Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5 (Fund 382):

- (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$150,000 for the Vietnamese Cultural Heritage Garden; and
- (2) Decrease the Reserve: Vietnamese Heritage Garden by \$150,000.

CEQA: Resolution No. 66098 and addendum thereto, File No. PP04-228. Council District 7. SNI: Tully/Senter. (Parks, Recreations and Neighborhood Services/City Manager's Office)

Ordinance No. 28091 adopted.

2.9 Approval of actions related to San José After School Program Agreements.

Recommendation:

- (a) Adoption of a resolution:
- (1) Authorizing the Director of Parks, Recreation and Neighborhood Services to negotiate and execute all contracts and amendments in 2007-2008 related to the provision of after school programs funded with up to \$963,969 paid by Alum Rock Union, Berryessa, San José Unified, and Santa Clara Unified School Districts.
 - (2) Authorizing the Director of Parks, Recreation and Neighborhood Services to amend these agreements in excess of the amount identified in the memo if the Director determines that the City is able to provide the services and comply with any additional requirements associated with the increased grant funds.
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:
- (1) Increase the estimate for Revenue from Local Agencies by \$963,969; and
 - (2) Establish an appropriation to PRNS in City-Wide Expenses for San José After School - District Contracts in the amount of \$963,969.

CEQA: Not a Project. Council Districts 3, 4, 5 and 7. SNI: 13th Street/Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Dropped.

2. CONSENT CALENDAR

2.10 Approval of the Master Plan for the new Nisich Park.

Recommendation: Approval of the master plan for the new Nisich Park. CEQA: Exempt, File No. PP06-164. Council District 7. SNI: Tully/Senter. (Parks, Recreation and Neighborhood Services)

Approved.

2.11 Approval of actions related to the designation of Regional Priority Conservation Areas.

Recommendation: Acceptance of Planning Staff's approach for City Staff to coordinate with other agencies to identify candidate areas, after completion of the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan, for Council to consider for future application to Association of Bay Area Governments/Metropolitan Transportation Commission's Focusing Our Vision (FOCUS) Program to designate regional Priority Conservation Areas. CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement)

Approved.

2.12 Approval of the Historic Landmark Initiation for the Brownlee House located at 754 S. Third Street.

Recommendation:

(a) Adoption of a resolution to initiate proceedings to consider the single family house located at 754 S. Third Street as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.

Resolution No. 73943 adopted.

(b) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.

Approved.

(c) Adoption of a resolution setting a public hearing on Tuesday, September 25, 2007 at 1:30 p.m. for Council consideration of City Landmark designation of the structures.

CEQA: Exempt, File No. HL07-159. Council District 3. SNI: Spartan-Keyes. (Planning, Building and Code Enforcement)

Resolution No. 73943 adopted.

2. CONSENT CALENDAR

2.13 Approval of the Historic Landmark Initiation for properties located in the Hensley Historic District.

Recommendation:

- (a) Adoption of a resolution to initiate proceedings to consider the single family homes at the following addresses, 328 N. Sixth Street (HL07-160), 336 N. Sixth Street (HL07-161) and 483 N. Fifth Street (HL07-162) as landmarks of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.

Resolution No. 73944 adopted.

- (b) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.

Approved.

- (c) Adoption of a resolution setting a public hearing on Tuesday, September 25, 2007 at 1:30 p.m. for Council consideration of City Landmark designation of the structures.

CEQA: Exempt, File Nos. HL07-160, HL07-161 and HL07-162. Council District 3. SNI: 13th Street. (Planning, Building and Code Enforcement)

Resolution No. 73944 adopted.

2.14 Approval to vacate a portion of Paula Street between Race Street and Meridian Way and to set a public hearing.

Recommendation: Adoption of a resolution of intention to vacate a portion of Paula Street between Race Street and Meridian Way at 1024, 1044 and 1050 Paula Street with reservation of a public service easement over the area proposed for vacation, and setting a public hearing on September 11, 2007 at 1:30 p.m. CEQA: Exempt. Council District 6. (Public Works)

Resolution No. 73945 adopted.

2.15 Approval to vacate a portion of a Public Service Easement on Samaritan Drive and set a public hearing.

Recommendation: Adoption of a resolution of intention to vacate a portion of a Public Service Easement behind the right of way line of Tract 7502 along Samaritan Drive and Clydelle Avenue at 2039 Samaritan Drive and a portion of Sidewalk Easement behind the right of way line of Tract 7502 along Samaritan Drive and setting a public hearing on September 11, 2007 at 1:30 p.m. CEQA: Mitigated Negative Declaration, File No. PDC05-036. Council District 9. (Public Works)

Resolution No. 73946 adopted.

2. CONSENT CALENDAR

2.16 Approval to extend a rental rate reduction in a lease agreement with Hawg's Seafood Bar and Grill.

Recommendation: Approval of a fifth amendment to the lease with Hawg's Seafood Bar and Grill for space located at 150 Paseo de San Antonio to continue in effect a reduced rental rate from May 31, 2007 to the end of the term of the lease on May 31, 2010. CEQA: Not a Project. Council District 3. (Public Works)

Approved.

2.17 Report on bids and award of contract for the replacement of a 1,000-foot section of a broken water main.

Recommendation: Report on bids and award of contract for the North First Street Emergency Main Replacement to the low bidder, Stoloski & Gonzalez, Inc, in the amount of \$188,750 and approval of a contingency of \$38,000. CEQA: Exempt, File No. PP07-150. Council District 4. (Environmental Services)
(Rules Committee referral 8/8/07)

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
None, Meeting Canceled.

(2) Review June 5, 2007 Draft Agenda

(a) Add New Items to final agenda

(1) City Manager Compensation.

Heard By Council 6/5/07, Item 3.10.

(2) Elections Commission Recommendation to Change Special Eligibility Requirement that One Member of the Elections Commission Be an Attorney at Law.

Heard By Council 6/5/07, Item 3.6.

(3) Vietnamese Business District Designation.

Heard By Council 6/5/07, Item 9.1.

The Committee approved seven additions to the June 5, 2007 Draft City Council Agenda.

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

3. STRATEGIC SUPPORT SERVICES

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

Mayor Reed, Chair

(c) Legislative Update

(1) State

(a) AB 1252 (Caballero) – Housing Related Parks Program.

(b) AB 1460 (Saldana) – Multifamily Housing Program.

(c) SB 46 (Perata) – Proposition 1C Regional Planning, Housing, and Incentive Account.

(d) SB 586 (Dutton) – Proposition 1C Innovation Fund.

The Committee approved the Support Positions.

Heard By Council 6/5/07, Item 3.8.

(2) Federal

There were none.

(d) Meeting Schedules

There were none.

(e) The Public Record

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Council Expenditures and Reimbursement Policy.

The discussion was continued from June 5, 2007

(2) Approve the revised Commission/Liaison Code of Conduct Policy.

The Committee approved the revised Commission/Liaison Code of Conduct Policy. Heard By Council 6/19/07, Item 2.5.

(3) Response to the Macias Consulting Group's Report on the Finance Department's Investment Unit and the Finance Department's Response.

The Committee approved the Auditor's recommendation.

(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.

Deferred to June 6, 2007.

3. STRATEGIC SUPPORT SERVICES

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

Mayor Reed, Chair

- (h) Review of Council Committee Agendas
- (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.
The Committee agreed to move the policies forward to the full Council for approval.
Heard By Council 6/19/07, Item 2.6(a)-(c).
- (j) Open Forum
None were presented.
- (k) Adjournment
(Deferred from 6/12/07 – Item 3.1, et al. and 8/7/07 – Item 3.1)
The meeting was adjourned at 3:55 p.m.

The Rules and Open Government Committee Report and the Actions of May 23, 2007, were accepted.

3.2 Report of the Public Safety, Finance and Strategic Support Committee – June 21, 2007 Council Member Nguyen, Chair

- (a) Consent Calendar
 - (1) Quarterly Legislative Update.
The Committee accepted the Consent Calendar.
- (b) Decisions on Performance Measurements and Reporting Procedures (Management Partners).
The Committee accepted the report.
- (c) Public Safety Quarterly Report.
 - (1) Police Department.
 - (2) Fire Department.
 - (a) Hiring Demographics.
 - (b) 2006-2007 Preliminary Report on Fire Department Vacancy and Absence Rates and their Impact on Overtime. (Fire)
The Committee accepted the reports.
- (d) Monthly Financial Report.
The Committee accepted the report.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Public Safety, Finance and Strategic Support Committee – June 21, 2007 (Cont'd.)

Council Member Nguyen, Chair

- (e) Monthly Financial Reports.
 - (1) Financial Statements – April 2007
 - (2) Capital Cost Report – April 2007
 - (3) Cash Flow Projections – April 2007

The Committee accepted the reports.

- (f) Report on Technology and Automation Progress.

Deferred to August.

- (g) Review of Information Technology Report on Citywide Technology Needs and WiFi Status Update.

The Committee accepted the report.

- (h) Review of Allied Waste Expenditures for the Period of April 1, 2006 through March 31, 2007.

The Committee accepted the report.

- (i) An Audit of the Bridge Repair Program.

The Committee accepted the report.

- (j) An Audit of the Traffic Calming Program.

The Committee accepted the report.

- (k) Semi-Annual Recommendation Follow-up Report on all Outstanding Audit Recommendations for the Six Months ended December 31, 2006.

The Committee accepted the report.

- (l) Oral Petitions
None were presented.

- (m) Adjournment
(Deferred from 8/7/07 – Item 3.7)
The meeting was adjourned at 3:55 p.m.

The Public Safety, Finance and Strategic Support Committee Report and the Actions of June 21, 2007, were accepted.

3. STRATEGIC SUPPORT SERVICES

3.3 Adoption of a City Council Expenditure and Reimbursement Policy.

Recommendation: Adoption of a resolution approving a City Council Expenditure and Reimbursement Policy. (City Attorney/City Clerk/Finance)

[Rules Committee referral 6/20/07 – Item G(1)]

(Deferred from 8/7/07 – Item 3.8)

Deferred to 8/28/07 per Rules and Open Government Committee.

3.4 Adoption of a City Council Policy establishing a code of conduct relating to public meetings in the Council Chambers and Committee Rooms.

Recommendation: Adoption of a resolution approving a City Council Policy establishing a code of conduct for persons attending, bringing signs or other objects to, or participating in public meetings in the Council Chambers and Committee Rooms. (City Attorney/City Clerk)

[Rules Committee referral 6/20/07 – Item G(6)]

(Deferred from 8/7/07 – Item 3.9)

Heard concurrently with Item 3.5.

Resolution No. 73947 adopted, as amended:

(1) **Amend Paragraph 1(f) to allow bottled water with a cap; and food when pre-approved.**

(2) **Amend Paragraph 3(d) to read “abusive language is inappropriate”.**

3.5 Adoption of a resolution amending the Rules Resolution for the Conduct of City Council Meetings.

Recommendation: Adoption of a resolution amending the Rules Resolution for the Conduct of City Council Meetings to make technical and conforming changes, and superseding Resolution No. 73586. (City Attorney/Mayor)

[Rules Committee referral 6/20/07 – Item G(7)]

(Deferred from 8/7/07 – Item 3.10)

Resolution No. 73948 adopted.

3.6 Approval of Memoranda of Agreements with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21.

Recommendation: Adoption of a resolution:

(a) Approving the terms of a Memorandum of Agreement with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 041 and 042, and authorizing the City Manager to execute the agreement with a term of July 1, 2007 to June 30, 2009.

(b) Approving the terms of a Memorandum of Agreement with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 043, and authorizing the City Manager to execute the agreement with a term of July 1, 2007 to June 30, 2009.

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

Resolution No. 73949 adopted.

3. STRATEGIC SUPPORT SERVICES

3.7 Acceptance of recommended next steps to reduce deferred maintenance and infrastructure backlog.

Recommendation: Acceptance of staff report and recommended next steps to reduce deferred maintenance and infrastructure backlog and direct staff to continue to analyze infrastructure conditions and funding options and bring forward recommendations to Council in the Fall of 2007. CEQA: Not a Project. (City Manager's Office/Parks, Recreation and Neighborhood Services)

Report Accepted.

Noes: Oliverio.

3.8 Approval of the City Hall Exhibits Policy.

Recommendation: Adoption of a resolution approving the City Hall Exhibits Policy. CEQA: Not a Project. (Economic Development)

[Community and Economic Development Committee Referral 6/25/07 – Item (f)]
(Deferred from 8/7/07 – Item 4.5)

Deferred to 8/21/07 per Rules and Open Government Committee.

3.9 Approval of actions related to Airport Revenue Bonds.

Recommendation:

- (a) Hold a TEFRA (Tax Equity and Fiscal Responsibility Act) Hearing for the issuance of debt pursuant to a plan of finance for Phase I of the Norman Y. Mineta San José International Airport's Master Plan, including Airport Revenue Bonds in an aggregate principal amount not to exceed \$825 million, for the purpose of financing and refinancing a portion of the costs of Phase I of the Master Plan, refinancing certain prior bonds, and funding the associated financing costs.

TEFRA Hearing was held.

- (b) Adoption of the Fifteenth Supplemental Resolution of the City Council:
- (1) Authorizing the issuance of City of San José Airport Revenue Bonds, Series 2007A (the "2007A Bonds"), Series 2007B (the "2007B Bonds"), Series 2007C Refunding (the "2007C Bonds"), and Series 2007D Refunding (the "2007D Bonds") (collectively, the "2007 Bonds") in the not-to-exceed aggregate principal amount of \$825 million to be sold through a negotiated sale for the purpose of financing a portion of the costs of Phase I of the Airport Master Plan; funding capitalized interest on the 2007 Bonds and for a portion of the outstanding City of San José Airport Revenue Bonds, Series 2004 (the "2004 Bonds"); funding financing fees associated with the 2004 Bonds; refinancing some or all of the tax-exempt commercial paper notes issued to fund a portion of the

3. STRATEGIC SUPPORT SERVICES

3.9 Approval of actions related to Airport Revenue Bonds (Cont'd.)

- (b) Adoption of the Fifteenth Supplemental Resolution of the City Council (Cont'd.)
- (1) Phase I projects; refinancing certain outstanding City of San José Airport Revenue Refunding Bonds, Series 1998A (the "1998A Bonds") and San José Airport Revenue Bonds, Series 2001A (the "2001A Bonds") to the extent such refinancings provide sufficient debt service savings to the City; funding a reserve fund or the cost of a reserve surety policy; funding the bond insurance premium; and paying the costs of issuance of the 2007 Bonds.
 - (2) Authorizing the negotiation and execution of certain financing documents, including the Fifth Supplemental Trust Agreement, one or more Escrow Agreements and other related documents; authorizing the negotiated sale of the 2007 Bonds and the negotiation and execution of the Bond Purchase Agreement with Lehman Brothers, as representative of the underwriters; approving in substantially final form the Preliminary Official Statement for the 2007 Bonds and authorizing the distribution of the Preliminary and Final Official Statements for the 2007 Bonds; declaring the official intent of the City to reimburse certain expenditures from the proceeds of indebtedness; and authorizing certain related actions in connection with the issuance of the 2007 Bonds.

Resolution No. 73950 adopted.

Disqualified: Chirco, Chu.

- (c) Approval of an Agreement by and among the City, Fullerton & Friar, Inc., and Public Resources Advisory Group for financial advisory services in connection with the issuance of the 2007 Bonds in an amount not to exceed \$270,000 for the term of February 27, 2007, to December 31, 2007.

Approved.

Disqualified: Chirco, Chu.

- (d) Adoption of a resolution authorizing the City Attorney to negotiate and execute an Agreement with Orrick, Herrington & Sutcliffe LLP for bond and disclosure counsel services in connection with the issuance of the 2007 Bonds in an amount not to exceed \$350,000.

CEQA: Resolution Nos. 67380 and 71451, File No. PP07-149. (Finance/Airport)

Resolution No. 73951 adopted.

Disqualified: Chirco, Chu.

- * **Staff directed to provide an information memorandum on the schedule of the total debt service.**

3. STRATEGIC SUPPORT SERVICES

3.10 Approval to amend an agreement related to the Integrated Billing System.

Recommendation:

- (a) Adoption of a resolution:
 - (1) Finding that an unusual or unique situation exists that makes the application of the requirements for competitive procurement of a service agreement contrary to the public interest.
 - (2) Authorizing the Director of Finance to negotiate and execute and agreement with BearingPoint for the development and implementation of a Business Tax License application into the Integrated Billing system for a not-to-exceed amount of \$1,900,000, including \$155,000 in contingencies and to execute change orders not-to-exceed the contingency amount for modification of scope of services.

Resolution No. 73952 adopted.

Noes: Oliverio.

Staff directed to include comparative to original assumptions in the cost/benefit analysis, returning in the Fall.

- (b) Adoption of the following Appropriation Ordinance Amendments in the General Fund for 2007-2008:
 - (1) Decrease the Information Technology Business Applications appropriation by \$500,000.
 - (2) Increase the Technology Legacy Migrations Application appropriation by \$500,000.

CEQA: Not a Project. (Information Technology/Finance/City Manager's Office)

Ordinance No. 28092 adopted.

Noes: Oliverio.

3.11 Public meeting to discuss changes to Maintenance District 18.

Recommendation:

- (a) Public meeting to receive public comment on a proposal to make changes to Maintenance District 18.

The Public Meeting was held.

- (b) Amend Resolution No. 73853 to reschedule the public hearing and tabulation of property owner ballots to October 2, 2007 at 7:00 p.m.

CEQA: Exempt, File No. PP07-020. Council District 8. (Public Works)

Resolution No. 73953 adopted.

3. STRATEGIC SUPPORT SERVICES

3.12 Report of the Rules and Open Government Committee – May 30, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to June 5, 2007 Agenda
The Committee approved two additions to the June 5, 2007 City Council Agenda
 - (2) Review June 12, 2007 Draft Agenda
The Committee approved seven additions to the June 12, 2007 Draft City Council Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) SB 966 (Simitian and Kuehl) – Pharmaceutical Drug Disposal.
The Committee approved the Staff recommendation and requested that this item be brought to the full Council. Heard By Council 6/5/07 – Item 3.12.
 - (2) Federal
There was none.
- (d) Meeting Schedules
 - (1) Council Meeting Schedule August 2007 – January 2008.
 - (2) (1) Review two proposed meeting formats as presented by the Independent Police Auditor and the Administration; (2) Approve one of the proposed formats, or a hybrid of the two proposals, for a Special Council Meeting scheduled on June 21, 2007, beginning at 6:00 p.m., in the City Council Chambers for consideration of various police related reports.
The Committee approved the meeting schedule.
- (e) The Public Record
The Committee noted and filed the Public Record.
- (f) Appointments to Boards, Commissions and Committees
 - (1) Amendment to the Residency Requirement of the News Media Member of the Sunshine Reform Task Force and Appointment of Bert Robinson to the Sunshine Task Force.
The Committee approved the amendment and requested this item be brought to the full Council. Heard By Council 6/5/07 – Item 3.13.

3. STRATEGIC SUPPORT SERVICES

3.12 Report of the Rules and Open Government Committee – May 30, 2007 (Cont'd.)

Mayor Reed, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approve Travel Request.
 - (2) Historic Freedom Shrine Display.
 - (3) Approve the use of the District 4 Special Event Fund and to acknowledge the receipt of and use of various donations in support of the Community Resource Fair to be held on Sunday, June 3, 2007 in the City Hall Civic Plaza and Rotunda.

The Committee approved the items.

- (h) Review of Council Committee Agendas
- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (a) Phase 1 Report and Open Government Recommendations.
Continued to 6/6/07, with Staff directed to return to the Sunshine Reform Task Force and obtain greater clarity around the list of policy bodies.
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
 - (a) Approval to Validate Selected Policies Contained in the City Council Policy Manual.
**The Committee approved the selected policies.
Heard By Council 6/19/07 – Item 2.6 (d) – (f).**
- (j) Open Forum
Yolanda Reynolds, Save BAREC, submitted a response to the Committee's questions and urged the Committee to put the open space land on Winchester across from Valley Fair on the City Council agenda.
- (k) Adjournment
(Deferred from 6/19/07 – Item 3.2, 6/26/07 – Item 3.10, and 8/7/07 – Item 3.2)
The meeting was adjourned at 4:16 p.m.

The Rules and Open Government Committee Report and the Actions of May 30, 2007, were accepted.

3. STRATEGIC SUPPORT SERVICES

3.13 Report of the Rules and Open Government Committee – June 6, 2007

Mayor Reed, Chair

(a) City Council

(1) Review New Add Items to June 12, 2007 Final Agenda

The Committee approved the June 12, 2007 City Council Agenda with four additions.

(2) Review June 19, 2007 Draft Agenda

The Committee approved the June 19, 2007 Draft City Council Agenda with two additions.

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

(c) Legislative Update

(1) State

(a) AB 1030 (Caballero) Libraries: Literacy and English Acquisition Services.

The Committee approved this item with a one week turnaround for City Council review.

Heard By Council 6/12/07 – Item 3.7.

(b) Propositions 1E and 84.

The Committee accepted the report with Staff directed to work with PRNS on the priority list on a one week turnaround.

Heard By Council 6/12/07 – Item 3.8.

(2) Federal

There was none.

(d) Meeting Schedules

There was none.

(e) The Public Record

The Committee noted and filed the Public Record Items (a)-(c) and Item (d) was continued to June 13, 2007 Rules and Open Government Committee Meeting to allow the City Clerk to verify the number of signatures on the citizens petition entitled, “Please help save Down Town Hog Dogs”.

(f) Appointments to Boards, Commissions and Committees

There were none.

3. STRATEGIC SUPPORT SERVICES

3.13 Report of the Rules and Open Government Committee – June 6, 2007 (Cont'd.)

Mayor Reed, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Smoking Prohibition in City Parks.
The Committee referred this item to the Parks and Recreation Commission for recommendation to the Rules and Open Government Committee in September.
 - (2) Request for Workload Assessment.
The Committee referred this item back to Staff for a workload assessment and to return to the Rules and Open Government Committee.
 - (3) Authorization to Travel.
The Committee approved the travel request for Mayor Reed. Heard by Council 6/26/07, Item 2.25.
 - (4) Council Expenditures and Reimbursement Policy.
Deferred to June 13, 2007 per the Mayor.
- (h) Review of Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (a) Add item to the CEDC Work Plan Agenda of June 25, 2007.
The Committee amended the work plan.
- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (a) Meeting Schedule for Discussion of SRTF Phase 1 Report.
The Committee directed Staff to schedule a special Rules and Open Government Committee Study Session by the end of June.
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
 - (a) Approval to Validate Selected Policies Contained in the City Council Policy Manual.
The Committee approved the Staff recommendation.
- (j) Open Forum
Ed Rast, Sunshine Reform Task Force Chair requested to have the City Policy be placed on the City of San José web site.

3. STRATEGIC SUPPORT SERVICES

3.13 Report of the Rules and Open Government Committee – June 6, 2007 (Cont'd.) Mayor Reed, Chair

- (k) Adjournment
(Deferred from 6/26/07 – Item 3.1, and 8/7/07 – Item 3.3)
The meeting was adjourned at 4:16 p.m.

The Rules and Open Government Committee Report and the Actions of June 6, 2007, were accepted.

3.14 Report of the Rules and Open Government Committee – June 13, 2007 Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to June 19, 2007 Final Agenda
The Committee approved the June 19, 2007 City Council Agenda with one addition.
 - (2) Review June 26, 2007 Draft Agenda
The Committee approved the June 26, 2007 Draft City Council Agenda with one addition.
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Acceptance of the June 2007 State Legislative Bill Matrix.
Formal action deferral to 6/20/07.
 - (2) Federal
 - (a) Legislative Issue – Federal Aviation Administration Reauthorization Bill.
Heard by Council 6/26/07, Item 2.49.
- (d) Meeting Schedules
 - (1) Approval to set the Annual city of San José and Santa Clara County meeting on August 23, 2007.
 - (2) Approval to schedule special Joint Rules and Open Government Committee and Sunshine Reform Task Force Meeting on June 27, 2007.
The Committee approved the meeting schedules.
- (e) The Public Record
The Committee noted and filed the Public Record.

3. STRATEGIC SUPPORT SERVICES

3.14 Report of the Rules and Open Government Committee – June 13, 2007 (Cont'd.)

Mayor Reed, Chair

- (f) Appointments to Boards, Commissions and Committees
There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Council Expenditures and Reimbursement Policy.
 - (2) 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.
The Committee directed Staff to return within 90 days to the Rules and Open Government Committee with recommendations.

 - (3) Del Monte Park Master Plan.
Deferred one week.

- (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
There were none.

- (i) Open Government Initiatives
 - (3) Significant Public Records Act Requests
 - (a) Request from Paul J. Manley for information regarding Delinquent Notices/Inspection Practice from Planning, Building and Code Enforcement Department.
The City Attorney was directed to return on June 20,2007 with a determination about the release of the documents.

- (j) Open Forum
None were presented.

- (k) Adjournment
(Deferred from 8/7/07 – Item 3.4)
The meeting was adjourned at 4:25 p.m.

The Rules and Open Government Committee Report and the Actions of June 13, 2007, were accepted.

3. STRATEGIC SUPPORT SERVICES

3.15 Report of the Rules and Open Government Committee – June 20, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to June 26, 2007 Final Agenda
The Committee approved the June 26, 2007 City Council Agenda with eight additions.
 - (2) Review July 3, 2007 Draft Agenda
None, Meeting Canceled.
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) 2007-2008 State Budget: Proposition 42 Funding and the Public Transportation Account (PTA) Transit “Spillover” Funds.
The Committee accepted the report.
Heard By Council 6/26/07 – Item 2.50(a).
 - (b) SB 1021 (Padilla) Beverage Containers: Grants.
The Committee approved the support position.
Heard By Council 6/26/07 – Item 2.50(b).
 - (2) Federal
 - (a) Update on San José Federal Relations Activities.
The Committee accepted the report.
- (d) Meeting Schedules
 - (1) Rules and Open Government Committee Summer Meeting Schedule.
The Committee approved the meeting schedule.
- (e) The Public Record
The Committee noted and filed the Public Record and continued the letter from Values Advocacy Council to the August 8, 2007 Rules and Open Government Committee meeting for further discussion.
- (f) Appointments to Boards, Commissions and Committees
 - (1) Appointments to the following Commissions: (1) Airport Commission; (2) Advisory Commission; (3) Art Commission; (4) Disability Commission; (5) Early Care and Education Commission; (6) Housing and Community Development Advisory Commission; (7) Library Commission; (8) Parks and Recreation Commission; (9) Senior Citizens Commission.
The Committee approved the appointments.
Heard By Council 6/26/07 – Item 2.51.

3. STRATEGIC SUPPORT SERVICES

3.15 Report of the Rules and Open Government Committee – June 20, 2007 (Cont'd.) Mayor Reed, Chair

- (f) Appointments to Boards, Commissions and Committees (Cont'd.)
 - (2) Re-appointment to the Bay Area Water Supply and Conservation Agency.
The Committee approved the reappointment.
Heard By Council 6/26/07 – Item 2.52.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Council Expenditures and Reimbursement Policy.
The Committee approved the Staff recommendation.
See Item 3.8 for Council Action taken.

 - (2) Del Monte Park Master Plan.
The Committee referred this item to the full Council on 8/14/07 in the evening.
See Item 4.3 for Council Action taken.

 - (3) Recent Work and Status of the Parks Maintenance Funding Subcommittee.
The Committee moved this item to the 8/7/07 Council meeting as a status report from the Parks Maintenance Funding Subcommittee and recommended a study session for further discussion and consideration.

 - (4) Request for Travel.
Heard By Council 6/26/07 – Item 2.46

 - (5) Approve the following proposed Committee Work Plans:
 - (a) Transportation and Environment Committee
 - (b) Community and Economic Development Committee
 - (c) Public Safety, Finance and Strategic Support Committee
 - (d) Neighborhood Services and Education Committee
 - (e) Rules and Open Government Committee**The Committee approved the work plans.**

 - (6) Code of Conduct for Public Participation.
The Committee approved the Staff recommendation as modified.
See Item 3.9 for Council Action taken.

 - (7) Approval of an amendment to Resolution No. 73586 (Rules of Conduct of City Council Meetings) to clarify rules governing authority to enforce disorderly conduct provisions.
The Committee approved this item.
See Item 3.10 for Council Action taken.

 - (8) Workload assessment on San José Youth Commission.
The Committee approved this item.

3. STRATEGIC SUPPORT SERVICES

3.15 Report of the Rules and Open Government Committee – June 20, 2007 (Cont'd.)

Mayor Reed, Chair

- (h) Review of Council Committee Agendas
- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (3) Significant Public Records Act Requests
 - (a) Response from City Attorney regarding request from Paul J. Manley for information regarding Delinquent Notices/Inspection Practice from Planning, Building and Code Enforcement Department.
No action taken.
- (j) Open Forum
None were presented.
- (k) Adjournment
(Deferred from 8/7/07 – Item 3.5)
The meeting was adjourned at 4:04 p.m.

The Rules and Open Government Committee Report and the Actions of June 20, 2007, were accepted.

3.16 Joint Meeting of the Rules and Open Government Committee and the Sunshine Reform Task Force – June 27, 2007

Mayor Reed, Chair

- (a) Call to Order.
- (b) Overview of the Day/Review Expected Outcomes.
- (c) Discussion and Recommendations on Section 4 – Public Information (resume discussion from 6/6/07 Rules & Open Government Committee meeting).
- (d) Discussion and Recommendation on Section 3 – Closed Session.
- (e) Discussion and Recommendations on Bodies Subject to the Sunshine Ordinance – Policy Body, Ancillary Body, Non-Governmental Body (Section 2 – Public Meetings.
- (f) Public Comments.
- (g) Continuation of Discussion.
(Deferred from 8/7/07 – Item 3.6)
Deferred to August 28, 2007 per Orders of the Day.

3. STRATEGIC SUPPORT SERVICES

3.17 Approval of actions related to AB 548 (Levine, et al), Solid waste: multifamily dwellings.

Recommendation: As recommended by the Rules and Open Government Committee on August 8, 2007 adopt a support if amended position for Assembly Bill 548, Solid Waste: Multifamily dwellings; and:

- (a) Authorize a letter of support if amended to Assemblymember Levine;
- (b) Authorize Environmental Services staff to participate as technical resources during the development of future legislation on recycling related to Multifamily dwellings.

(Environmental Services)

[Rules Committee referral 8/8/07 – Item C(1)(a)]

Position of support adopted.

3.18 Approval of actions related to SB 1020 (Padilla), Solid Waste: Diversion.

Recommendation: As recommended by the Rules and Open Government Committee on August 8, 2007, adopt a support position for California Senate Bill 1020, Solid Waste Diversion; and:

- (a) Authorize Environmental Services staff to develop support letters and actively participate as technical resources during the development of this and future legislation on changes in solid waste diversion; and
- (b) Direct Environmental Services staff to participate in the California Integrated Waste Management Board's development of policies, programs and incentives to be developed as part of implementation of SB 1020.

(Environmental Services)

[Rules Committee referral 8/8/07 – Item C(1)(d)]

Position of support adopted.

3.19 Approval of the designation of 2007 League of California Cities Voting and Alternate Voting Delegates at the Annual Business Meeting.

Recommendation: As recommended by the Rules and Open Government Committee on August 8, 2007, approve the designation of Council Member Campos as the voting delegate and Council Member Chirco as the alternate voting delegate at the September 8, 2007 Annual Business Meeting for the League of California Cities (LOCC). (City Manager's Office)

[Rules Committee referral 8/8/07 – Item G(3)]

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – June 25, 2007

Council Member Pyle, Chair

- (a) Review of Fall Committee Work Plan.
The Committee accepted the Staff report.
- (b) Review of Performance Measuring Reporting.
The Committee accepted the Staff report.
- (c) Evaluation of 2nd Unit Pilot Program.
Deferred to 8/27/07 meeting.
- (d) Proposition 1 C Housing and Emergency Shelter Trust Fund.
Deferred to the Fall 2007 work plan.
- (e) Affordable Housing Investment Plan.
Dropped.
- (f) City Hall Exhibits.
The Committee accepted the Staff report.
See Item 3.8 for Council Action taken.
- (g) Update on Efforts to Stabilize Arts Organizations.
The Committee accepted the Staff report.
- (h) Small and Local Business Contracting.
The Committee accepted the Staff report.
- (i) Catalyst Program.
Dropped.
- (j) Arts Stabilization Loan Fund.
Deferred to 8/27/07 meeting.
- (k) Oral Petitions
None were presented.
- (l) Adjournment
(Deferred from 8/7/07 – Item 4.1)
The meeting was adjourned at 2:35 p.m.

The Community and Economic Development Committee Report and the Actions of June 25, 2007, were accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Approval of actions related to the Cost-Benefit Analysis Pilot Program.

Recommendation:

- (a) Approval to incorporate the following Sunshine Reform Task Force Recommendations into Council-adopted Cost-Benefit Analysis Pilot Program: D.1.i. (Accountability), D.1.ii. (Net fiscal impact), D.1.iv.(A) (Housing Impact: Number of units constructed/ demolished), D.1.v. (Source of funds), and D.1.vi. (Neighborhood impacts); and
- (b) Approval to disaggregate ‘public subsidies’ proposals from the Sunshine Ordinance.

CEQA: Exempt. (Economic Development)

Deferred to 8/28/07 per Rules and Open Government Committee.

4.3 Approval of actions related to the Del Monte Park Master Plan.

Recommendation: As recommended by the Rules and Open Government Committee on June 20, 2007 direct staff to include a restroom and “dog run” in the site planning for Phase I of the 2.2 acre Del Monte project, subject to sufficient funding being available for those elements. CEQA: Resolution No. 72625. (Oliverio)

[Rules Committee referral 6/20/07 – Item G(2)]

Heard in the evening.

Approved, with Staff directed to:

- (1) **Implement a restroom and “dog run” in Phase 1 of the 2.2 acre Del Monte park project when sufficient funds are made available for Phase 1 and that Staff immediately adopt and include the concept for a Del Monte Park restroom and “dog run” with the outreach materials and communications with the community, residents and all other interested parties.**
- (2) **Return during the Fall Cleanup process with an appropriation action to establish a reserve towards the development of the Del Monte park site.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Public hearing to designate the Queen Anne Victorian House located on Bird Avenue as a Historic Landmark.

Recommendation:

- (a) Public hearing and adoption of a resolution designating the Queen Anne Victorian House located at 1023 Bird Avenue as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature. (City Landmark No. HL06-157)
- (b) Public hearing on the Historical Property Contract (California Mills Act No. MA07-002) between the City of San José and the owners of the Queen Anne Victorian House (City Landmark No. HL06-157) on a 0.19 acre site, located at 1023 Bird Avenue (Keith and Pamela Shukait, Owners) and adoption of a resolution approving the contract. The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten year period.

CEQA: Exempt. Council District 6. (Planning, Building and Code Enforcement)

Continued to 9/25/07 per Administration.

4.5 Public hearing and adoption of a resolution related to the Sycamore Terrace Project.

Recommendation: Public hearing and adoption of a resolution:

- (a) Accepting the summary of costs and findings of the Summary 33433 Report pursuant to Health and Safety Code Section 33433 for the conveyance and disposition of the property located at the Northeast corner of Almaden Expressway and Coleman Road under the terms and conditions of the proposed Disposition and Development Agreement (“DDA”).
- (b) Approving a DDA between the City of San José and Barry Swenson Builder, or its designated affiliate, enabling the development of Sycamore Terrace, a 32-unit for-sale housing development, and authorizing the City Manager or her designee to negotiate, execute, and record all documents reasonably necessary to convey the property as provided in the DDA.
- (c) Approving a funding commitment of up to \$1,600,000 for the project to fund second mortgages for 16 moderate-income homebuyers.

CEQA: Mitigated Negative Declaration, File No. PDC 90-061. Council District 10. (Housing)

(Deferred from 8/7/07 – Item 4.2)

The Public Hearing was held.

Resolution No. 73954 adopted.

5. NEIGHBORHOOD SERVICES

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

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Transportation and Environment Committee
Council Member Williams, Chair
No Report.**
- 6.2 Approval of actions related to the Silicon Valley Intelligent Transportation Systems
West Corridor Project.**

Recommendation:

- (a) Report on bids and award of contract for the Silicon Valley Intelligent Transportation System West Corridor Project, to the sole bidder, Vellutini Corporation dba Royal Electric Company, in the amount of \$2,944,876, and approval of a contingency in the amount of \$222,000.
Approved.
- (b) Adoption of the following Appropriation Ordinance Amendments in the Building and Structure Construction Tax Fund:
- (1) Increase the ITS: Stevens Creek-West appropriation by \$920,000.
 - (2) Decrease the Reserve - Valley Transportation Plan 2030 Priorities appropriation by \$920,000.

CEQA: Exempt, File No. PP02-07-194. Council Districts 1 and 6. SNI: Burbank/Del Monte/Winchester. (Public Works/Transportation/City Manager's Office)

Ordinance No. 28093 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

- 8.1 Approval of Staff's response to the Civil Grand Jury's Report on Disaster Preparedness in the County.**

Recommendation: Approval of Staff's response to the 2006-2007 Santa Clara County Civil Grand Jury's report entitled, "Disaster Preparedness in the County: Improvements Needed" issued on May 22, 2007. CEQA: Not a Project. (Emergency Services)

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:33 p.m. to consider Item 9.1 in a Joint Session.

9.1 Approval of City Council and Redevelopment Agency Committee appointments.

Recommendation: Approval of City Council and Redevelopment Agency Committee appointments. (Mayor)

[Rules Committee referral 8/8/07 – Item f(1)]

Approved, with correction noted on Page 3, Committee Roster Attachment A, Santa Clara County Local Agency Formation (LAFCO), replace Liccardo with Chu.

- Notice of City Engineer’s Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9893	South side of Villa Avenue, 240 feet east of Myrtle Street	6	Margaret Pham	1 Lot/ 6 Units	Single Family Attached	Approve

- Notice of City Engineer’s Award of Construction Projects

In accordance with Council Resolution No. 73532, the construction Contract Process Streamlining Policy approved on December 5, 2006, the following is a list of projects that were awarded or rejected by the Director of Public Works in June and July 2007:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
San José International Airport General Mechanical/Plumbing Contract 06-07	Citywide	Ciari Plumbing and Heating, Inc.	\$18% overhead/ profit, not to exceed 130,000	6/6/07
Terminal A Elevator Modernization	Citywide	KONE, Inc.	\$346,460	6/6/07
Traffic Signal Installation at Seventh and Phelan Streets	7	Pacific Electric Company	\$184,430	6/8/07
Police Firing Range Target System Retrofit	3	George Bianchi Construction, Inc.	\$163,283	6/14/07

- Notice of City Engineer’s Award of Construction Projects

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Various Modification Projects at City Hall	Citywide	Tucker Construction, Inc.	\$874,500	6/14/07
Traffic Signal Modification at Santa Clara Street and Seventh Street	3	San José Signal Electric Construction, Inc.	\$336,369	6/26/07
Oakland Road Improvements Project – Segment 3	4	Wattis Construction Company, Inc.	\$210,060	6/29/07
Norman Y. Mineta San José International Airport: Runway 12R/30L Centerline Lights Project	Citywide	St. Francis Electric	\$256,376	7/5/07
San José Redundant Fiber Link	3	Pacific Electric Company	\$225,900	7/9/07
Norman Y. Mineta San José International Airport: Federal Inspection Services 3 rd Floor Lounge Project	Citywide	Western Construction Inc.	\$641,981	7/12/07
Union Avenue at Ross Creek Improvement Project	9	A. J. Vasconi Inc dba A.J. Vasconi General Engineering	\$587,980	7/18/07

- Open Forum

- (1) Robert Apgar voiced personal observations.
- (2) Mark Trout presented religious points of view.
- (3) Stephen Hazel voiced personal points of view.
- (4) Armando Casadio complained about not being able to procure a police report.
- (5) Ross Signorino complimented City Manager Deborah Figone and City Clerk Lee Price for their service to the City.

- Adjournment

The Council of the City of San José adjourned the afternoon session at 4:34 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located on the southeast corner of East Hedding Street and North 17th Street (890 North 17th Street) from the R-2 Two-Family Residence District to the R-2(PD) Planned Development Zoning District to allow 2 single family detached residences and 1 duplex that currently exist on the project site to facilitate future subdivision. No new construction is proposed (Louis Bini, owner). SNI: 13th Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC07-004 – District 3
(Continued from 6/19/07 – Item 11.3)
Ordinance No. 28094 passed for publication.
- (b) Consideration of an ordinance rezoning the real property located on the northwest corner of Santa Clara Street and North 24th Street (1135 East Santa Clara Street) from the CG – Commercial General Zoning District to the CP – Commercial Pedestrian Zoning District to allow commercial uses on a 0.38 gross acre site (Corpuz Deanna L Et Al, Owner; Sullivan Santos, Developer). SNI: Five Wounds/Brookwood Terrace. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-044 – District 3
Ordinance No. 28095 passed for publication.
- (c) Consideration of an ordinance zoning the real property located at/on the southeast corner of North First Street and Holger Way from the IP Industrial Park Zoning District to the CG Commercial General Zoning District to allow commercial uses on a 9.8 gross acres site (Palm Inc, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
C07-026 – District 4
Ordinance No. 28096 passed for publication.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

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

- (d) Consideration of an ordinance rezoning the real property located on the west side of Fortran Drive, approximately 850 feet southerly of Nortech Parkway (4415 Fortran Drive) from A(PD) Planned Development Zoning District to IP Industrial Park Zoning District to allow industrial park uses in a vacant building on a 4.4 gross acre site (Shia Association of Bay Area Inc, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-028 – District 4
Ordinance No. 28097 passed for publication.
- (e) Consideration of an ordinance rezoning a 1.37 acre portion of an 8.53 gross acre site of the real property located at the westerly of the Guadalupe River, at the southern terminus of Seaboard Avenue (2500 Seaboard Ave) from A – Agricultural to HI Heavy Industrial Zoning District. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
C07-034 – District 4
Ordinance No. 28098 passed for publication.
- (f) Consideration of an ordinance rezoning the real property located on the south side of Alum Rock Avenue, approximately 160 feet westerly of McCreery Avenue (1866 and 1870 Alum Rock Avenue: APN: 481-18-012) from the CG – Commercial General Zoning District to the CP – Commercial Pedestrian District to allow commercial uses on a 0.20 gross acre site (Manuel Matos, Owner/ Developer). SNI: Mayfair. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-038 – District 5
Continued to 8/28/07 per Council District 5.
- (g) Consideration of an ordinance rezoning the real property located on the north side of Story Road, approximately 200 feet easterly of South King Road (1705 Story Road) from the CN – Commercial Neighborhood Zoning District to the CP – Commercial Pedestrian Zoning District to allow commercial uses on a 0.41 gross acre site (Disco Bay LLC Et Al, Owner). SNI: East Valley/680 Communities. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-051 – District 5
Ordinance No. 28099 passed for publication.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

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

- (h) Consideration of an ordinance rezoning the real property located on the east side of North Bascom Avenue approximately 250 feet north of Olive Avenue (166 North Bascom Avenue) from Unincorporated County to the CG – Commercial General Zoning District to allow commercial uses on a 0.13 gross acre site (Tessa Properties, LLC Rick Dunham, Owner). SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-036 – District 6

Ordinance No. 28100 passed for publication.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Consideration of a conservation area designation request.

Recommendation: Consideration of a resolution designating as a Conservation Area the area generally bounded on the north by Interstate 280, on the east generally by the rear property lines of the lots on the east side of South Third Street, on the west by the alley between South First and Second Streets, and on the south by Martha Street (Various Owners/City of San José, Applicant). SNI: Spartan Keyes. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).

CA07-001 – District 3

(Continued from 6/5/07 – Item 11.5)

Resolution No. 73955 adopted, as amended, with Staff directed to remove non contributing structures that are currently in the conservation area: Parcels APN472-17-094, APN472-17-095 and APN472-17-034 .

11.3 Consideration of an ordinance rezoning the real property located on the southeast corner of Zanker Road and River Oaks Drive.

Recommendation: Consideration of an ordinance rezoning the real property located on the southeast corner of Zanker Road and River Oaks Drive (3300 Zanker Road) from (IP) Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 1,900 single-family attached residences and 31,360 square feet for retail commercial, leasing office, and clubhouse uses on a 38.25 gross acre site (Irvine Apartment Communities, property owner and developer). CEQA: Resolution No. 72768 and addendum thereto. Director of Planning, Building and Code Enforcement recommends approval of the proposed zoning and Planning Commission recommended that the City Council defer consideration of the proposed project until the completion of a Master Plan for the North San José area (5-1-1)

PDC06-038 – District 4

(Continued from 6/5/07 – Item 11.6 and 6/19/07 – Item 11.2)

Continued to 8/28/07.

Noes: Constant, Oliverio, Pyle; Reed.

11.4 Consideration of an ordinance rezoning the real property located on the southeast corner of Highway 280 and South 11th Street.

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

C07-005 – District 3

[Continued from 6/19/07 – Item 11.1(b)]

Deferred two months.

11. PUBLIC HEARINGS

11.5 Consideration of an ordinance rezoning the real property located on both sides of Berryessa Road between the Union Pacific Railroad Right of Way to the east, the Coyote Creek to the west and north of Mabury Road.

Recommendation: Consideration of an ordinance rezoning the real property located on both sides of Berryessa Road, between the Union Pacific Railroad Right of Way to the east and the Coyote Creek to the west, north of Mabury Road (1590 Berryessa Road) from A(PD) Planned Development Zoning District on 101-acres, IP-Industrial Park Zoning District on 19-acres and A-Agriculture Zoning District on .76-acres to A(PD) Planned Development Zoning District to allow up to 2,818 residential units and up to 365,622 square feet of commercial/industrial uses on an approximately 120 gross acre site (The Flea Market Inc, Owner/Developer). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-2-1) PDC03-108 – District 4

(Continued from 6/19/07 – Item 11.4)

Ordinance No. 28101 passed for publication.

CEQA Resolution No. 73956 adopted.

The memorandum from Mayor Reed and Council Member Chu, dated August 10, 2007, was approved with the following conditions:

- (1) The Flea Market is to continue to operate for another 2-1/2 years from approval of this project.**
- (2) The applicant is advised to continue to pursue an appropriate site for relocation of the Flea Market, including working with City Staff regarding sites and transition services for vendors.**
- (3) At least 80% of the net residential acres north of Berryessa Road will be required to be under construction prior to construction of any residential units south of Berryessa Road.**
- (4) The Director of Planning, Building and Code Enforcement should include conditions to ensure the development of single family homes in the area north of Berryessa Road at the earliest phases of the proposed development.**
- (5) The project will be fully responsible for funding and constructing all of its traffic mitigations, including improvements to Highway 101/Oakland Road Interchange and contributing an amount not to exceed \$150,000 for improvements associated with Commercial Street between Berryessa Road and Oakland Road.**
- (6) The school site shall not be located directly adjacent to or across from the proposed commercial/retail site.**
- (7) The applicant shall provide regular updates to the City and vendors about the status of the proposed development on the Flea Market site.**
- (8) The applicant is encouraged to pursue the development of affordable housing.**
- (9) The applicant is required to use Leadership in Energy and Environmental Design (LEED) practices to achieve credits sufficient for a LEED Silver certification.**
- (10) The applicant is required to use recycled water for public landscaping purposes.**

(Item continued on the next page)

11. PUBLIC HEARINGS

11.5 Consideration of an ordinance rezoning the real property located on both sides of Berryessa Road between the Union Pacific Railroad Right of Way to the east, the Coyote Creek to the west and north of Mabury Road (Cont'd.)

- (11) With regard to the future of the vendors at the Flea Market, refer the relocation strategy to the Community and Economic Development Committee. Noes: Constant.**
- (12) Mandate that the affordable housing requirements in place at the time of the approval of the site development permit apply to this development at this site.**

Noes: Constant, Oliverio, Williams; Reed.

11.6 Consideration of an ordinance rezoning the real property located on the southwest corner of North 1st Street and Century Center.

Recommendation: Consideration of an ordinance rezoning the real property located on the southwest corner of North 1st Street and Century Center (1733 N 1st Street) from CO(PD) Commercial Office Planned Development, LI light Industrial, and CG Commercial General Zoning district to A(PD) Planned Development Zoning District to allow up to 460 single-family attached residences and 20,000 square feet for retail commercial uses on a 2.4 gross acres site (James Schmidt Et Al, Owner). CEQA: Resolution No. 72768 and Addenda thereto.

PDC05-114 - District 3

Continued to 8/28/07 per Administration.

11.7 Consideration of an ordinance rezoning the real property located on the east side of Radio Avenue, approximately 160 feet north of Lincoln Court.

Recommendation: Consideration of an ordinance rezoning the real property located on the east side of Radio Avenue, approximately 160 feet north of Lincoln Court (2102 Radio Avenue) from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow one single-family detached residence and up to 13 single-family attached residences on a 0.74 gross acre site (Willow Village Square, LLC, Paul Majoulet, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1)

PDC05-122 - District 6

Deferred to 8/28/07 with Staff directed to work with the Applicant.

- **Open Forum**
None were presented.

- **Adjournment**
The Council of the City of San José adjourned at 12:57 p.m.