



CITY COUNCIL AGENDA

SEPTEMBER 18, 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.

1:31 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

- **Invocation (District 8)**
Reverend Ellen Grace O'Brian, Spiritual Director of the Center for Spiritual Enlightenment presented a prayer.

- **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 9/25/07.

- **Closed Session Report**
City Attorney Doyle disclosed the following Closed Session action of August 28, 2007:
 - A. **Public Official/Employee Discipline/Dismissal/Release/Removal Pursuant to Government Code Section 54957:**

Title:	City Auditor
Name:	Gerald Silva
Council Vote: Ayes:	Campos, Chirco, Chu, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

CLOSED SESSION (Cont'd.)

Noes:	None.
Disqualified:	None.
Absent:	None.

Pursuant to San José City Charter, Section 805, the Council unanimously voted to remove Gerald Silva from the position of City Auditor because of his inability or failure to perform the duties of the office and/or negligence in performance of the duties of the office based on an independent investigation and subsequent evidence and statements presented to the Council.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the City's Finance Department's Deputy Director and General Services Department Fleet Manager for incorporating exemplary pollution prevention practices into municipal operations. (Environmental Services)
Mayor Reed and Council Member Williams recognized and commended the City of San José's Finance Department Deputy Director and General Services Department Fleet Manager for incorporating exemplary pollution prevention practices into municipal operations. Director of Environmental Services John Stuffeban accepted the commendation.
- 1.2 Presentation of a commendation to the Small Business Ambassador Team for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)
Mayor Reed and City Manager Debra Figone recognized and commended the Small Business Ambassador Team for their excellent dedication and important contributions to the City of San José. Director of Planning, Building and Code Enforcement Joseph Horwedel accepted the commendation.
- 1.3 Presentation of a proclamation declaring September 21, 2007 as the "International Day of Peace". (Cortese)
(Rules Committee referral 9/5/07)
Mayor Reed, Vice Mayor Cortese and Reverend Ellen Grace O'Brian recognized September 21, 2007 as the "International Day of Peace".
- 1.4 Presentation of a proclamation declaring September 17-21, 2007 as Pollution Prevention Week and recognizing the City's continuous efforts to implement pollution prevention practices into its operations. (Mayor/Williams)
Mayor Reed, Council Member Williams and Director of Environmental Services John Stuffeban recognized the week of September 17 through September 21, 2007 as "Pollution Prevention Week" in the City of San José.

1. CEREMONIAL ITEMS

- 1.5 Presentation of a commendation to Yves Zsutty, Parks, Recreation and Neighborhood Services Trail Manager for receiving a number of awards and recognition for his commitments to the City organization. (Parks, Recreation and Neighborhood Services)
Mayor Reed and Director of Parks, Recreation and Neighborhood Services Albert Balagso recognized and commended Recreation and Neighborhood Services Trail Manager Yves Zsutty for his dedication to the City of San José.
- 1.6 Presentation of a proclamation declaring September 21, 2007 as “National POW/MIA Recognition Day” in the City of San José. (Mayor/Cortese)
(Rules Committee referral 9/12/07)
Mayor Reed and Vice Mayor Cortese recognized September 21, 2007 as “National POW/MIA Recognition Day” in the City of San José.
- 1.7 Presentation of a proclamation declaring September 18, 2007 as United Air Force Day in the City of San José. (Mayor/Cortese)
(Rules Committee referral 9/12/07)
Mayor Reed and Vice Mayor Cortese recognized September 18, 2007 as “United Air Force Day” in the City of San José.
- 1.8 Presentation of a commendation to Outlook Video for their commitment to providing quality programming focusing on the LGBT community and broader issues affecting all Bay Area residents. (Oliverio)
(Rules Committee referral 9/12/07)
Mayor Reed and Council Member Oliverio recognized and commended Outlook Video for their commitment to providing quality programming to the community.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none.
- 2.2 **Final adoption of ordinances.**
There were none.
- 2.3 **Approval to amend the Newsstand and General Merchandise Agreement and Lease at the Airport.**

Recommendation: Approval of a third amendment agreement to the Newsstand and General Merchandise Agreement and Lease with DFS Group L.P., extending the term of the Lease on a month-to-month basis for a term not to go beyond December 31, 2009. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-157. (Airport)

Approved.

2. CONSENT CALENDAR

2.4 Approval of a ground lease with Southwest Airlines at the Airport.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a 20-year ground lease with Southwest Airlines for the construction and operation of a provisioning and ground equipment storage and maintenance facility on the southeast corner of Mineta San José International Airport, with interim rent of approximately \$8,594.50 per month until the earlier of the issuance of the certificate of occupancy or 12 months from the lease commencement date, and subsequent rent of approximately \$17,189 per month, subject to annual increases in the Consumer Price Index or 3%, whichever is lower, and adjustment by appraisal every 5 years. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-176. (Airport)

Resolution No. 73996 adopted.

Disqualified: Chirco.

2.5 Approval of actions related to explosive detection canine teams at the Airport.

Recommendation: Adoption of a Resolution:

- (a) Authorizing the City Manager to negotiate and execute Assistance Modification Number Eleven to the Cooperative Agreement with the Transportation Security Administration to partially reimburse Airport funded Police Department costs for four explosive detection canine teams starting October 1, 2007 for a total amount not to exceed \$200,000 per year at the Norman Y. Mineta San José International Airport; and,
- (b) Authorizing the City Manager to negotiate and execute Assistance Modifications to the Cooperative Agreement for future years in an annual amount not to exceed \$200,000 on the same terms and conditions as the Cooperative Agreement.

CEQA: Not a Project. (Airport)

Resolution No. 73997 adopted.

2.6 Approval of fiscal actions related to the Park Trust Fund.

Recommendation:

- (a) Adoption of the following Appropriation Ordinance Amendments in the Park Trust Fund (Fund 375):
 - (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services in the amount of \$85,000 for the TRAIL: Penitencia Creek - Viceroy Avenue Intersection project.
 - (2) Decrease Ending Fund Balance by \$85,000.

Ordinance No. 28118 adopted.

(Item continued on the next page)

2. CONSENT CALENDAR

2.6 Approval of fiscal actions related to the Park Trust Fund (Cont'd.)

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund - Parks Purposes Council District 4 (Fund 381):
- (1) Decrease the Beginning Fund Balance by \$61,000.
 - (2) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the TRAIL: Penitencia Creek - Viceroy Avenue Intersection project by \$61,000.

CEQA: Exempt, File No. PP05-067. Council District 4. (City Manager's Office/Parks, Recreation and Neighborhood Services)

Ordinance No. 28119 adopted.

Resolution No. 73998 adopted.

2.7 Report on bids and award of contract for the Installation of Potable and Non-Potable Water Services and Mains.

Recommendation: Report on bids and award of contract for Installation of Potable and Non-Potable Water Services and Mains: 2007-2008 to the lowest responsive bidder, San José Water Company, for the estimated term of December 2007 to January 2009, in an amount not to exceed \$612,527.13. CEQA: Exempt, File No. PP05-130. (Environmental Services)

Approved.

2.8 Report on bids and award of contract for the Water Pollution Control Plant TPS VFD Replacement Project.

Recommendation: Report on bids and award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, FY 2007/2008 TPS VFD Replacement Project," to the low bidder, Blocka Construction, Inc., in the amount of \$192,000; and approval of a contingency in the amount of \$19,000 for a total agreement amount not to exceed \$211,000. CEQA: Exempt, File No. PP07-154. (Environmental Services)

Approved.

2.9 Acceptance of a grant related to a compliance check program for sex offenders.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to accept the Comprehensive Approaches to Sex Offender Management grant award from the Bureau of Justice Assistance in the amount of \$250,000, and authorizing the City Manager to negotiate and execute any necessary documents.

Resolution No. 73999 adopted.

(Item continued on the next page)

2. CONSENT CALENDAR

2.9 Acceptance of a grant related to a compliance check program for sex offenders (Cont'd.)

- (b) Adoption of the following 2007-2008 Appropriation Ordinance and Funding Sources resolution amendments in the General Fund:
 - (1) Establish a city-wide appropriation to the Police Department for the Comprehensive Approaches to Sex Offender Management grant in the amount of \$250,000; and
 - (2) Increase the estimate for Revenue from Federal Government by \$250,000.

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

Ordinance No. 28120 adopted.

Resolution No. 74000 adopted.

2.10 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation: Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2007-2008:

- (a) Increase the estimate for Earned Revenue by \$848,300.
- (b) Increase the appropriation to the Department of Transportation for the NBD's Banner project (PSM #378, Amendment 3) in the amount of \$30,000.
- (c) Increase the appropriation to the Department of Public Works for the University Neighborhood Phase 2 Pedestrian Streetlights project (PSM #479, Amendment 1) in the amount of \$798,300.
- (d) Increase the appropriation to the Department of Transportation for the Additional Contingency Services project (PSM #499) in the amount of \$20,000.

CEQA: Exempt, File No. PP07-160. Council District 3. SNI: University. (Public Works/Transportation/City Manager's Office)

Ordinance No. 28121 adopted.

Resolution No. 74001 adopted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – August 22, 2007 Mayor Reed, Chair

- (a) City Council
 - (1) Review August 28, 2007 City Council Agenda
 - (2) Review September 4, 2007 Draft City Council Agenda

None – Meeting Canceled.
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – August 22, 2007 (Cont'd.)

Mayor Reed, Chair

- (c) Legislative Update
 - (1) State
 - (a) SB 264 (Alquist) – Transaction and Use Taxes
Heard By Council 8/28/07 – Item 3.8.
AB 444 (Hancock) – Motor Vehicle Registration Fees.
 - (b) SB 375 (Steinberg) – Regional Preferred Growth Scenarios.
Heard By Council 8/28/07 – Item 3.9.
 - (c) 2007 League of California Cities Resolutions. (City Manager)
Heard By Council 8/28/07 – Item 3.10.
 - (2) Federal
 - (d) Meeting Schedules
 - (1) Scheduling of Council Appointee Reviews. (Mayor)
 - (2) Approve Redevelopment Agency Board Budget Study Sessions
 - (a) Redevelopment Agency Study Session on the FY 2007-08 Redevelopment Agency Capital Improvement Budget on September 6, 2007 from 9:00 a.m. – Noon;
 - (b) Redevelopment Agency Study Session on San José McEnery Convention Center Expansion on November 13, 2007 from 8:00 a.m. – Noon.
 - (e) The Public Record
 - (f) Appointments to Boards, Commissions and Committees
 - (1) Arts Commission Appointment. (Williams)
 - (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Proposal for a citywide inclusionary transit-oriented housing policy.
 - (2) Discussion of the decision to join the City of San Francisco in the Amicus Brief regarding California Supreme Court Case No. S147999 regarding the constitutionality of same sex marriages. (City Attorney)
(Continued from 6/20/07)
Deferred from August 15, 2007.
 - (3) Referral of an Audit of the Emergency Communications Center.
 - (4) Discussion of audit and follow up alternatives for maintaining service levels of History Park in compliance with Mayor's Budget Addendum #4.
 - (h) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (a) Add item entitled, "Grants Policy and an Emergency Grants Policy and Procedure" to the September 13, 2007 agenda.
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
 - (i) Open Government Initiatives
 - (j) Open Forum
 - (k) Adjournment
- Deferred to 9/25/07 per Orders of the Day.**

3. STRATEGIC SUPPORT SERVICES

- 3.2 Report of the Public Safety, Finance and Strategic Support Committee
Council Member Nguyen, Chair
No Report.**

- 3.3 Approval to implement the terms of the award resulting from the interest arbitration.**

Recommendation: Adoption of a resolution to implement the terms of the award resulting from the interest arbitration between the City and the International Association of Firefighters, Local 230, and authorizing the City Manager to execute the award. CEQA: Not a Project. (City Manager's Office)

Resolution No. 74002 adopted.

- 3.4 Approval of Staff's response to the Civil Grand Jury Report regarding the City's Emergency Communications System Support Fee.**

Recommendation: Approval of Staff's response to the Civil Grand Jury Report regarding the City's Emergency Communications System Support Fee. CEQA: Not a Project. (Finance)

Approved.

- 3.5 Approval of revised Travel Policy.**

Recommendation: Adoption of a resolution approving a revised City Council Policy No. 9-5, "Travel by Elected and Appointed City Officials". (City Attorney/City Clerk) (Deferred from 9/11/07 – Item 3.7)

Resolution No. 74003 adopted, as amended, to include:

- (1) A reference to the constitutional prohibition of common carrier "freebies" and upgrades.**
- (2) Clarification regarding airline travel when point of origination of travel is not from the City of San José.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Report of the Community & Economic Development Committee
Council Member Pyle, Chair
No Report.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Administrative Hearing related to the appeal of Condition No. 15.f in PD Permit PD05-069 relating to the SE corner of Hostetter Road and Sierra Creek Way.

Recommendation: Administrative Hearing on appeal and adoption of a resolution denying the appeal and approving staff's recommendation to reduce the required reimbursement in Condition No. 15.f of Planned Development Permit No. PD05-069 which requires reimbursement to the City of its costs of traffic improvements for the construction of six single-family detached units on an 0.83 gross acre site at the SE corner of Hostetter Road and Sierra Creek Way, from \$548,268 to \$341,349 (a reduction of \$206,919). CEQA: Mitigated Negative Declaration. Council District 4. (Public Works/ Planning, Building and Code Enforcement)
(Deferred from 8/21/07 – Item 4.3)

Staff directed to work with the Applicant and return to Council with a recommendation within 6 weeks.

4.3 Approval of actions related to the Hillsdale Townhomes Project.

Recommendation:

- (a) Adoption of a resolution:
- (1) Expanding the Housing Department's existing Acquisition/Rehabilitation Policy to include those projects that include a minimum of 10% ELI (extremely low-income) units and involve a reasonable cost to the City in order to help the City meet its affordable housing goals;
 - (2) Approving the use of the Housing Department's Acquisition Loan product to projects involving the acquisition of existing residential buildings;

Resolution No. 74004 adopted.

- (b) Adoption of a resolution:
- (1) Approving a funding commitment of up to \$4,275,000 to Mid-Peninsula Housing Coalition, or its designated affiliate, for the acquisition and rehabilitation of 48 townhome units, the Hillsdale Townhomes project, that is located at the Southwest corner of Hillsdale and Meridian Avenues; and
 - (2) Finding that use of 20% Low and Moderate-Income Housing Funds for the Hillsdale Townhomes project is of benefit to the Redevelopment Project Areas in San José.

CEQA: Exempt, File No. PP07-179. Council District 9. (Housing)

Resolution No. 74005 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Approval of actions related to the San José Family Shelter Affordable Housing Project.

Recommendation:

(a) Adoption of the following Appropriation Ordinance Amendments in the Multi-Source Housing Fund for 2007-2008:

- (1) Decrease the Ending Fund Balance by \$100,000.
- (2) Establish an appropriation for Predevelopment Grants and Loans in the amount of \$100,000.

Ordinance No. 28122 adopted.

(b) Adoption of a resolution:

- (1) Converting to a grant all principal and accrued interest totaling approximately \$2,480,053 on a loan to Family Supportive Housing, Inc., formerly known as Concern For The Poor, Inc., or designee, for the acquisition, construction, and permanent financing of the existing San José Family Shelter project located at 1590 Las Plumas Avenue.
- (2) Approving an additional \$100,000 grant from the Multi-Source Housing Fund to Family Supportive Services for additional predevelopment expenses related to the New San José Family Shelter's development, and authorizing the Director of Housing to negotiate and execute all documents for this grant.

CEQA: Not a Project. Council District 3. (Housing)

Resolution No. 74006 adopted.

4.5 Public Hearing and approval of the 2006-2007 Consolidated Annual Performance Evaluation Report.

Recommendation: Public Hearing and approval of the 2006-2007 Consolidated Annual Performance Evaluation Report. CEQA: Not a Project. (Housing)

The Public Hearing was held.

Report Accepted.

4.6 Approval of actions related to the Arts Stabilization Loan Fund.

Recommendation: Approval of the recommendations of the Arts Commission regarding the Arts Stabilization Loan Fund, as modified by the Offices of Economic Development and Cultural Affairs, and direct the City Manager to implement the revised Arts Commission recommendations. CEQA: Not a Project. (Economic Development) [Community and Economic Development Committee referral 8/27/07 – Item (h)] (Deferred from 9/11/07 – Item 4.2)

Deferred to 10/2/07 per Administration.

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 an agreement with Our City Forest for tree related services.**

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute the following grant agreements and lease agreement with Our City Forest :
- (1) An Annual Operating Grant Agreement for 2007-08, not to exceed One-Hundred Forty-Three Thousand (\$143,000) dollars;
 - (2) A Matching Grant Agreement in an amount not to exceed One-Hundred Twenty Thousand (\$120,000) dollars for Our City Forest to apply towards its local match required to secure the AmeriCorps Grant; and
 - (3) A Lease Agreement allowing Our City Forest to use office space, at below market rate, in the City-owned building at 151 W. Mission Street from October 1, 2007 to September 30, 2008, with an option for the City to extend the lease on a month-to-month basis thereafter for up to a maximum of two additional years.
- (b) Adoption of a resolution finding Our City Forest exempt from the provision in Council Policy 7-1 that requires non-profit agencies to fund repair and maintenance costs for any City-owned facility they lease from the City at a below market rate.
- (c) Direction to the Administration to incorporate future grant requests for tree-related services through the annual budget process.

CEQA: Exempt, File No. PP04-313. (City Manager's Office/Transportation)

Deferred to 9/25/07 per Administration.

6. TRANSPORTATION & AVIATION SERVICES

6.3 Residential Traffic Calming Community Hearings.

Recommendation: As recommended by the Rules and Open Government Committee of September 12, 2007:

- (a) Initiate a series of Residential Traffic Calming Community Hearings to begin immediately and end in December 2007.
- (b) The Residential Traffic Calming Community Hearings be chaired by Council Member Oliverio.
- (c) The Traffic Calming Chair will require staff support from DOT and Public Safety. This team will develop a work plan, hold community meetings, and report results to the Transportation and Environment Committee in December 2007.
- (d) The Chair will work with Council Members to optimize the number of meetings.
- (e) Amend the Transportation and Environment Committee work plan to allow Council Member Oliverio to make a report in December 2007.

(Mayor)

[Rules Committee referral 9/12/07 – Item A(1)(a)]

Approved, as amended. Staff directed to notice Community Hearings between October 8 and November 29, 2007 and return to the Transportation and Environment Committee in December.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Acceptance of the City Attorney's Response to June 21, 2007 direction from the City Council on legal issues pertaining to additional authority for the Independent Police Auditor.

Recommendation: Acceptance of the City Attorney's Office report in response to Council direction on June 21, 2007, regarding the existing review authority of the Independent Police Auditor under the Charter and the Municipal Code, and the legal issues associated with granting additional authority for in-custody deaths and critical incidents. CEQA: Not a Project. (City Attorney/Independent Police Auditor)

Items 8.1 and 8.2 were heard together. See Action under Item 8.2.

8. PUBLIC SAFETY SERVICES

8.2 Acceptance of Staff's response to the Civil Grand Jury's report entitled "Police Misconduct May Be Underreported."

Recommendation: Acceptance of the City Council's formal response to the 2006-2007 Santa Clara County Civil Grand Jury's report entitled "Police Misconduct May Be Underreported". CEQA: Not a Project. (City Manager's Office/City Attorney/Independent Police Auditor)

The memorandum from Mayor Reed, Vice Mayor Cortese and Council Member Constant, dated September 14, 2007 was approved, with the following recommendations:

- (1) **The City Attorney's memorandum on the Independent Police Auditor's Authority and Legal Issues responding to Council direction on June 21, 2007. Staff was directed to amend the Municipal Code to include the April 27, 2004 Council approved IPA process.**
- (2) **The City Manager was directed to review all death cases that follow the use of force, with the strong recommendation that the Independent Police Auditor (IPA) participate in the review, to the same level of review by the IPA in officer involved shootings, within the limits of the Charter. The IPA's involvement is limited to participation in the officer involved shooting review panel, or a similar panel if created for in custody deaths, except when a complaint is filed therefore triggering an audit or a full review. This direction is subject to the meet and confer process.**
- (3) **The Civil Grand Jury report entitled "Police Misconduct May Be Underreported", as authored by the City Manager and City Attorney. Submittal of this report to the Grand Jury was authorized.**

Noes: Nguyen.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 3:18 p.m. to consider Item 9.1 in a Joint Session.

9.1 Approval to purchase certain City and Redevelopment Agency Insurance Policies.

Recommendation: Approval of purchase of insurance policies for the period October 1, 2007 to October 1, 2008 at a cost not to exceed \$2,600,000 by the Director of Human Resources with the following insurance carriers:

- (a) **Property Insurance: Property; FM Global to achieve the \$1 Billion limit desired. (City and Agency)**
- (b) **Boiler and Machinery: FM Global. (City and Agency)**
- (c) **Airport Owners and Operators Liability: ACE Property & Casualty Insurance Company and Lloyds of London. (City)**

(Continued on the next page)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Approval to purchase certain City and Redevelopment Agency Insurance Policies (Cont'd.)

- (d) Secondary Employment Law Enforcement Professional Liability: Arch Specialty Insurance Company. (City)
 - (e) Automobile Liability (Airport/WPCP) and Airport Shuttle Bus: St. Paul/Travelers. (City)
 - (f) Police Aircraft and Hull: Westchester Fire Insurance Company. (City)
- CEQA: Not a Project. (Human Resources)

Approved.

- 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>
9923	E/S Almaden Rd., 800' N of Curtner Av.	6	DHP Almaden Investors, LLC	12 Lots/ 11 Units	SFD	Approve

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9952	Area generally bounded by Cottle Rd, Monterey Hwy, Highway 85 and Manasas Rd.	2	Hitachi Global Storage	31 Lots	Residential Commercial Industrial Park

- 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 August 2007:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Falls Creek Park	8	Suarez & Munoz Construction, Inc.	\$563,949	8/13/07

- **Open Forum**

- (1) **Carl Guardino, Silicon Valley Leadership Group, invited the City Council and the Community to this year's Turkey Trot on Thanksgiving Day, November 22, 2007, benefiting the Santa Clara Family Health Foundation.**
- (2) **Ross Signorino spoke about using tap water in the City of San José.**
- (3) **Robert Apgar shared personal observations.**
- (4) **John Vierra complained about the need of a 7 foot fence near his property because of the new development.**
- (5) **Stephen Hazel presented personal viewpoints.**
- (6) **Steve Bennette spoke about the loss of the San José Grand Prix.**

- **Adjournment**

The Council of the City of San José adjourned at 5:53 p.m. in memory of Rachel Rivera, a Community Worker for Santa Clara County who was involved with the North Valley and Alum Rock Leagues; in memory of Marty Peterson, a long time San José resident and activist, who served on the City's Mobile Home Advisory Commission and the Senior Citizens Commission, and in memory of James (Jimmy) Richard Wells, son of a long time City of San José employee Diana Jamison, who passed tragically in a motorcycle accident.