



CITY COUNCIL AGENDA

OCTOBER 16, 2007

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**
 - 9:00 a.m. - Closed Session, Call to Order in Council Chambers
Adjourn to Closed Session in Council Chambers Conference Room, W133
See Separate Agenda
 - 1:30 p.m. - Regular Session, Council Chambers, City Hall
 - 3:30 p.m. - Hear Open Forum and continue the RDA Board Meeting
(no earlier than 3:30 p.m.)
 - 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 9)**
- **Pledge of Allegiance**
- **Orders of the Day**

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

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Fiscal MIS Team (Work2future) for its exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)
(Deferred from 9/25/07 – Item 1.2)
- 1.2 Presentation of a commendation in recognition of the Branham Hills Little League Senior All Star Team. (Chirco)
TO BE HEARD IN THE EVENING
- 1.3 Presentation of a commendation to Connie L. Lurie for her community work and dedication to San José State University. (Liccardo)

1. CEREMONIAL ITEMS

- 1.4 Presentation of a commendation to the San José Giants organization for winning the California League Championship and for their continued commitment to the community. (Mayor/Cortese)
- 1.5 Presentation of a commendation to the Fairmont Hotel for 20 years of extraordinary service to the City of San José. (Mayor/Cortese)
- 1.6 Presentation of a commendation to Liliana Vera for her tireless dedication to the Tully/Senter community and for truly embodying the idea of community spirit. (Nguyen)
TO BE HEARD IN THE EVENING
- 1.7 Presentation of a proclamation celebrating Entrepreneur & Small Business Week throughout the City of San José. (Pyle)
- 1.8 Presentation of a commendation to Gerald Greenleaf for his exemplary dedication and valuable contributions to the City organization. (Redevelopment Agency/Mayor)
- 1.9 Presentation of a proclamation recognizing the week of October 15-21, 2007 as National Save for Retirement Week. (Human Resources)

2. CONSENT CALENDAR

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

2.1 Approval of Minutes.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28125 – Rezoning certain real property situated at the southeast corner of East St. John Street and North 17th Street (838 East St. John Street) to R-1-8 Single-Family Residence. C07-045
- (b) ORD. NO. 28126 – Rezoning certain real property situated northwest corner of Airport Parkway (on East Brokaw Road) and North First Street (2102 North First Street) from LI-Light Industrial Zoning District to CG-Commercial General Zoning District. C07-039

(Item continued on the next page)

2. CONSENT CALENDAR

2.2 Final adoption of ordinances. (Cont'd.)

Recommendation:

- (c) ORD. NO. 28127 – Rezoning certain real property situated at the southeast corner of McKee Road and La Pala Drive (3754 McKee Road) to A(PD) Planned Development Zoning District. PDC06-060
- (d) ORD. NO. 28128 – Rezoning certain real property situated at the north side of University Avenue approximately 240 feet westerly of The Alameda (1871 The Alameda) from R-1-8 Single-Family Residence District to CO Commercial Office Zoning District. C07-032
- (e) ORD. NO. 28129 – Rezoning certain real property situated at the northwest corner of Lincoln Avenue and Pascoe Avenue (1114 Curtner Avenue) from R-2 Two-Family Residence Zoning District to CP Commercial Pedestrian Zoning District. C07-029
- (f) ORD. NO. 28130 – Rezoning certain real property situated at the southeast corner of Senter Road and Southside Drive (3060 and 3070 Senter Road) to CN – Commercial Neighborhood Zoning District. C07-059
- (g) ORD. NO. 28131 – Rezoning certain real property situated at the south side of Olga Drive approximately 200 feet easterly of Saratoga Avenue (4170 Olga Drive) to A(PD) Planned Development Zoning District. PDC06-112
- (h) ORD. NO. 28132 – Rezoning certain real property situated at the east side of Monterey Highway, approximately 1,000 feet northerly of Skyway Drive (4280 Monterey Road) to A(PD) Planned Development Zoning District. PDC06-004
- (i) ORD. NO. 28133 – Rezoning certain real property situated at the southwest corner of North First Street and Century Center Court (1733 North First Street), from CO(PD) Commercial Office Planned Development, LI Light Industrial, and CG Commercial General Zoning Districts to A(PD) Planned Development Zoning District. PDC05-114
- (j) ORD. NO. 28134 – Rezoning certain real property situated at the northwest corner of Zanker Road and Tasman Drive (3811 Zanker Road) to A(PD) Planned Development Zoning District. PDC06-093
- (k) ORD. NO. 28135 – Rezoning certain real property situated at the northwesterly side of Baypointe Parkway, approximately 370 feet northwesterly of Tasman Drive (163 Baypointe Parkway) to A(PD) Planned Development Zoning District. PDC06-061

2. CONSENT CALENDAR

2.3 [Approval of an exemption from Council Policy 4-3 for the Airport Terminal Area Improvement Program.](#)

Recommendation: Adoption of a resolution approving an exemption of the Airport Terminal Area Improvement Program from City Council Policy 4-3, Outdoor Lighting on Private Developments, which requires the use of low pressure sodium lighting in unroofed areas of private developments throughout San José. CEQA: Resolution Nos. 67280 and 71451, File No. PP07-163. (Public Works/Airport)
(Deferred from 10/02/07 – Item 2.11)

2.4 [Approval to amend a concession agreement for DVD and DVD Player rental/sales at the Airport.](#)

Recommendation: Approval of a second amendment to the concession agreement with Project Horizon Inc. dba In Motion Pictures, for DVD and DVD Player Rental/Sales Services to extend the term of the agreement from October 31, 2007 through October 31, 2009 and to provide a minimum annual revenue to the City in the amount of \$35,203. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-195. (Airport)

2.5 [Approval of lease agreements at the Airport.](#)

Recommendation: Adoption of a resolution granting conditional consent to an assignment from ACM Aviation, LLC to ACM Property Services, LLC of the following agreements:

- (1) FBO Lease Agreement of Parcel 9C located at 1475 Airport Boulevard.
- (2) Lease of Airport Premises for hangar space located at 1455 Airport Boulevard.
- (3) Lease of Airport Premises for employee vehicle parking located at 1455 Airport Boulevard.

CEQA: Resolution Nos. 67380 and 71451, File No. PP04-322. (Airport)

2.6 **Request for excused absences for Vice Mayor Cortese.**

Recommendation: Request for excused absences for Vice Mayor Cortese.

- (a) [Request for an excused absence from the regular meeting of the Rules and Open Government Committee of October 3, 2007 due to Authorized City Business: Participation in the ABAG Regional Planning Board Meeting at the Bort Metrocenter in Oakland, CA.](#)
- (b) [Request for an excused absence from the regular meeting of the Rules and Open Government Committee of October 10, 2007 due to Authorized City Business: Participation in the annual San José/Silicon Valley Chamber of Commerce trip to Austin, TX.](#)

(Cortese)

(Rules Committee referral 10/3/07)

2. CONSENT CALENDAR

2.7 [Approval of report on bids and award of contract for the East Primary Influent Channel Repair Project.](#)

[Supplemental](#)

Recommendation: Report on bids and award of construction contract for the project entitled, “San José/Santa Clara Water Pollution Control Plant, FY 2007/2008 Capital Improvement Program, East Primary Influent Channel Repair Project,” to the low bidder, Anderson Pacific Engineering Construction, Inc. in the amount of \$699,000, and approval of a contingency in the amount of \$70,000. CEQA: Exempt, File No. PP07-141. (Environmental Services)

2.8 [Approval of a change order for the Water Pollution Control Plant Reliability Improvement Project.](#)

[Supplemental](#)

Recommendation: Approval of a change order to the contract with Kiewit Pacific Company for the project entitled, “San José/Santa Clara Water Pollution Control Plant Reliability Improvements Project,” for a total negotiated amount of \$339,469 and with no change to the term of contract. CEQA: Emergency Basin Exempt: File No. PP03-05-183; WPCP Reliability Improvements Exempt: File No. PP04-07-217. (Environmental Services)

2.9 [Approval to amend an agreement to provide solid waste consulting and rate modeling services.](#)

Recommendation: Approval of a third amendment to the agreement between the City and R3 Consulting to provide solid waste consulting and rate modeling services to the Environmental Services Department, extending the term from December 31, 2007 through December 31, 2008, and increasing the compensation by \$200,000 for a total agreement amount not to exceed \$600,000. CEQA: Not a Project. (Environmental Services)

2.10 [Approval of actions related to the Request for Proposals to purchase Traffic Signal Controller Firmware.](#)

Recommendation: Report on Request for Proposals for the purchase of Traffic Signal Controller Firmware and adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with Fourth Dimension Traffic of San Francisco, CA, for the purchase of transit signal priority firmware for standard, bus and light rail signal synchronization, including site licenses, related professional services, five years of warranty/maintenance, for a total amount not to exceed \$744,813 including sales tax; and
 - (b) Execute change orders not to exceed a 10% contingency in the amount of \$74,500 to cover supplemental services and any unanticipated changes or requirements.
- CEQA: Not a Project. (Finance)

2. CONSENT CALENDAR

2.11 Approval of actions related to the Request for Proposals for Multi-Function Copiers.

Recommendation: Report on Request for Proposal for Multi-Function Copiers and adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an equipment rental agreement with Ricoh Business Solutions for copiers/multi-function devices including installation, maintenance, and consumables, and applicable sales taxes, for a three-year initial term, subject to annual appropriations, with a first year maximum compensation of \$837,061 including \$200,000 contingency for the renting of additional equipment, as required.
- (b) Exercise three one-year options to renew the agreement subject to annual appropriations.

CEQA: Not a Project. (Finance)

2.12 Approval to purchase Library Books and Audio Visual Materials.

Recommendation: Report on bids for Library Books and Audio Visual Materials, including pre-processing and cataloging services, and authorize the Director of Finance to:

- (a) Execute a one-year open purchase order with:
 - (1) Baker and Taylor as the low bidder in the amount of \$1,335,000 to be used as the primary supplier of hardcover books and mass market paperbacks.
 - (2) Brodart Company as the second low bidder in the amount of \$200,000 to be used as the secondary supplier of hardcover books.
 - (3) Milligan News as the second low bidder in the amount of \$50,000 to be used as the secondary supplier for mass market paperbacks.
- (b) Adjust amounts of purchase orders among the three vendors to ensure adequate supplies within the first year for a cumulative total not to exceed \$1,585,000.
- (c) Execute two one-year options to renew each of the purchase orders at the same discount pricing, subject to annual appropriations.

CEQA: Not a Project. (Finance)

2.13 Approval of actions related to the San José State University Faculty Homebuyer Program.

Recommendation: Adoption of a resolution:

- (a) Approving the expansion of the San José State University (SJSU) Faculty Homebuyer Program to all permanent, full-time faculty and staff.
- (b) Authorizing the Director of Housing to execute all necessary documents with SJSU, or its affiliate, related to the expansion of the Faculty Homebuyer Program.

CEQA: Not a Project. (Housing)

2. CONSENT CALENDAR

2.14 [Request for an excused absence for Councilmember Liccardo.](#)

Recommendation: Request for an excused absence for Councilmember Liccardo from the Closed Session Meeting on October 2, 2007 due to Illness. (Liccardo)
(Rules Committee referral 10/3/07)

2.15 [Request for an excused absence for Councilmember Nguyen.](#)

Recommendation: Request for an excused absence for Councilmember Nguyen from the regular meeting of the Neighborhood Services and Education Committee on October 11, 2007 due to Illness. (Nguyen)
(Rules Committee referral 10/3/07)

2.16 [Approval to submit a grant application for the Guadalupe River Trail Reach 6 Project.](#)

Recommendation: Adoption of a resolution:

- (a) Authorizing the City Manager to submit an application for grant funds up to \$700,000 from the State of California Resources Agency under the California River Parkway Grant Program to be used for the Guadalupe River Trail Reach 6 project.
- (b) Authorizing the City Manager to accept any grant funds and to negotiate and execute all documents related to the grant funding agreements.

CEQA: Mitigated Negative Declaration, File No. PP04-03-102. Council District 3.
SNI: Washington/Greater Gardner. (Parks, Recreation and Neighborhood Services)

2.17 [Approval of actions related to the Historic Landmark Initiation of four properties.](#)

Recommendation: Adoption of a resolution:

- (a) To initiate proceedings to consider the residential buildings located at 201 S. 13th Street, 295 Sequoia Avenue, 523 S. 6th Street and 470 S. 3rd Street, as landmarks of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.
- (b) To refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.
- (c) To set a public hearing on Tuesday, December 4, 2007, at 1:30 p.m. for Council consideration of City Landmark designation of the structures noted above.

CEQA: Exempt, File No. HL07-163, HL07-164, HL07-165 and HL07-166. Council Districts 3 and 6. SNI: University. (Planning, Building and Code Enforcement)

2. CONSENT CALENDAR

2.18 [Approval to amend an agreement for the Environmental Monitoring Program on Story Road.](#)

Recommendation: Approval of a first amendment to the agreement with Central Coast Wilds extending the term of the agreement for the environmental monitoring program for the Story Rd. Mitigation Site Nos. 1 & 2, from December 31, 2007 through December 31, 2009 and increasing the amount of maximum fee compensation by \$127,000, for a total agreement amount of \$281,000. CEQA: Mitigated Negative Declaration, File Nos. PP96-123, PP97-150 and PP97-156. Council District 7. SNI: Spartan/Keyes. (Public Works)

2.19 [Approval of the report on the revised FY 2006/07 – 2011/12 Rule 20A Utility Undergrounding Work Plan.](#)

[Supplemental](#)

Recommendation:

- (a) Approval of the report on the revised Fiscal Year 2006/07 - 2011/12 Rule 20A Utility Undergrounding Workplan.
- (b) Acceptance of the report on the benchmarking study on the utility undergrounding program in seven major cities around the Bay Area.
- (c) Direction to staff to submit, for the City Manager's consideration for inclusion in the 2007-2008 Proposed Budget, a proposal to fund the staffing needed to implement the 3-year workplan.

CEQA: Not a Project. (Public Works)

2.20 [Approval of actions related to the Street Surface Transportation Program.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to increase and reconcile local matching street resurfacing grant funds in an amount not to exceed \$1,091,590 for a total amount of \$2,302,590 for Surface Transportation Program grant funding. CEQA: Not a Project. (Transportation)

2.21 [Approval of actions related to a Sewer System Management Plan.](#)

Recommendation: Approval of the Development Plan and Schedule for a Sewer System Management Plan that is required by State Water Resources Control Board Order No. 2006-0003 - Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (Order). CEQA: Not a Project. (Transportation/Public Works/Environmental Services)

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – September 12, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review September 18, 2007 City Council Agenda
 - (a) Add New Items to final agenda
 - (1) Approve recommendations regarding Residential Traffic Calming Community Hearings. (Mayor)
HEARD BY COUNCIL 9/18/07 – ITEM 6.3
 - (2) Review September 25, 2007 Draft City Council Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Report of Public Hearing Regarding Smoking Ban in Public Parks. (Parks, Recreation and Neighborhood Services)
 - (2) Monthly Update on Public/Private Partnership Program. (City Manager)
HEARD BY COUNCIL 10/2/07 – ITEM 4.3
- (h) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (a) Amend Workplan to include updates from the San José Education Foundation Homework Center Program. (Chirco)
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
- (j) Open Forum
- (k) Adjournment
(Deferred from 10/2/07 – Item 3.1)

3.2 Report of the Rules and Open Government Committee – September 19, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review September 25, 2007 City Council Agenda
 - (a) Add New Items to final agenda
 - (1) Accept and Approve the Strategic Planning Retreat Report. (Mayor)
HEARD BY COUNCIL 9/25/07 – ITEM 2.6
 - (2) Review October 2, 2007 Draft City Council Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – September 19, 2007

(Cont'd.)

- (c) Legislative Update
 - (1) State
 - (2) Federal
- (d) Meeting Schedules
 - (1) (a) Approve special meeting request of the Community and Economic Development Committee on October 9, 2007, starting at 1:00 p.m. – 3:30 p.m.
 - (b) Approval to amend the start time of the October 22, 2007 Community and Economic Development Committee meeting to 1:00 p.m.
(City Manager's Office)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Approve reappointment of incumbents to the Committee for Transit Authority. (Mayor)
HEARD BY COUNCIL 9/25/07 – ITEM 2.7
 - (2) Approve appointments to the work2future Board of Directors. (Mayor)
HEARD BY COUNCIL 9/25/07 – ITEM 2.8
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Clean Air Vehicle Program:
 - (a) Consider Councilmember Constant's proposal to Expand the Program. (Constant)
 - (b) Review Department of Transportation's Workload Assessment of Expansion of the Program. (Transportation)
SEE ITEM 7.1 FOR COUNCIL ACTION TO BE TAKEN
 - (2) Proposal for a citywide inclusionary housing policy. (Housing)
Recommend deferral to September 26, 2007
 - (3) Approval of Festival in the Park Donation and use of funds. (Constant)
HEARD BY COUNCIL 9/25/07 – ITEM 2.9
 - (4) Approval of an agreement to audit the City Auditor's Office. (Mayor)
HEARD BY COUNCIL 9/25/07 – ITEM 2.10
 - (5) Receive report of Conditional Approval of Stock Transfer relating to Bay 101. (Auditor)
 - (6) Receive Report of Activities for the Period of July 16 through August 15, 2007. (Auditor)
- (h) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (a) Add the entitled report "Hispanic Heritage Baseball Museum Hall of Fame" to the October 9, 2007 committee meeting. (City Manager's Office)
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – September 19, 2007 (Cont'd.)

- (i) Open Government Initiatives
- (j) Open Forum
- (k) Adjournment

3.3 Report of the Public Safety, Finance and Strategic Support Committee Councilmember Nguyen, Chair

3.4 Acceptance of the 2006-2007 City Manager's Annual Report.

Supplemental

Recommendation:

- (a) Acceptance of the 2006-2007 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter Section 701 (F).
- (b) Adoption of Appropriation Ordinance and Funding Sources Resolution amendments in various operating and capital funds to implement the 2006-2007 Annual Report recommendations, including appropriate technical adjustments, as detailed in Section III (Appropriation/Clean-Up Adjustment Actions).
- (c) Adoption of a resolution to amend the 2007-2008 Schedule of Fees and Charges to standardize the photocopying fee at \$0.20 per page for standard copies (8 1/2"x11" and 11"x17") for each department within the City of San José. This does not apply to fees set by State or federal law or specialized services, such as blueprints and optical imaging reproduction.
- (d) Approval of the addition of 1.5 positions in the Parks, Recreation and Neighborhood Services Department to support grant-funded augmentations to the Senior Nutrition Program, including a 0.5 Food Services Coordinator position and two 0.5 Cook positions.

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

3.5 Final approval of the Council Expenditure and Reimbursement Policy.

Recommendation: Adoption of a resolution approving the Council Expenditure and Reimbursement Policy. CEQA: Not a Project. (City Clerk/City Attorney)

3.6 Approval of actions related to a funding strategy for History San José.

- (a) Acceptance of receipt of the History San José (HSJ) Audit completed by Macias Consulting Group, Inc that recommends a baseline annual budget of \$1.6 million with a four-year financing strategy for a City subsidy of \$840,377 in year 1, \$743,796 in year 2, \$456,009 in year 3 and \$257,009 in year 4. At the end of year 4, subsidy may continue at \$257,009, revert to \$335,000 as contained in current Agreement, or City may re-evaluate to determine future funding levels through the end of the Agreement in FY 2017-18.

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.6 Approval of actions related to a funding strategy for History San José.

Recommendation:

- (b) Direction to staff to work with HSJ to determine the rationale for their proposal for a \$1.2 million annual subsidy with an annual cost of living increase HSJ to provide details on the level of service to be and compare this with the level of service that would be provided under the financing strategy recommended in the Macias audit. Staff to bring results of discussions with HSJ by December 2007.
- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute the Fourth Amendment of the Operations Agreement between the City of San José and the History Museums of San José (now History San José) to advance the third quarter payment for the period of January through March 2008 in the amount of \$143,705.75

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

TO BE HEARD IN THE EVENING

3.7 [Approval of actions related to the use of the City Hall and Employee Garage Retail Spaces.](#)

Recommendation:

- (a) Approval of the conversion of the City Hall retail space to municipal use for the Office of Cultural Affairs and training/community meeting rooms, and to convert the current Office of Cultural Affairs space in the San José McEnery Convention Center to other uses.
- (b) Approval of the conversion of the Fourth and St. John (Employee) garage retail space to municipal use for the Transportation Incident Management Center and a technology training center.
- (c) Adoption of the following 2007-2008 Appropriation Ordinance amendments in the General Fund:
 - (1) Eliminate the City Hall Retail Space appropriation of \$800,000;
 - (2) Decrease the Reserve for City Hall Build-Out, which is proposed for establishment earlier on the October 16 Council agenda, by \$1,045,000; and,
 - (3) Establish an appropriation for City Hall Build-Out in the amount of \$1,845,000.
- (d) Adoption of the following 2007-2008 Appropriation Ordinance amendments in the Convention and Cultural Affairs Fund:
 - (1) Establish an appropriation for Convention Center Retail Space Conversion in the amount of \$380,000; and
 - (2) Reduce the Ending Fund Balance by \$380,000.

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.7 Approval of actions related to the use of the City Hall and Employee Garage Retail Spaces. (Cont'd.)

Recommendation:

- (e) Direction to staff to work with the City Attorney's Office to return with a report on potential retail or government uses of the Convention Center space recommended to be vacated by the Office of Cultural Affairs, in light of IRS restrictions on the amount of space allowed to be used for private uses.

CEQA: Resolution Nos. 68905 and 72230. Council District 3. (General Services/Economic Development/City Manager's Office)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – [September 24, 2007](#) Councilmember Pyle, Chair

- (a) Review of Committee Workplan.
- (b) Local/Small Business Contracting. (Finance/Public Works/Economic Development)
- (c) San José Bioscience and Emerging Technologies Initiative. (Economic Development/Redevelopment Agency)
- (d) Convention Center Deferred Maintenance and Expansion. (Redevelopment Agency/Team San José)
- (e) San José Retail Strategy. (Economic Development/Redevelopment Agency)
SEE ITEM 4.2 FOR COUNCIL ACTION TO BE TAKEN
- (f) North San José Vision 2030 Update. (Planning, Building, & Code Enforcement/Economic Development/Redevelopment Agency)
- (g) Quarterly Update on Performance Measurements. (Housing/Planning, Building, & Code Enforcement/Economic Development/Redevelopment Agency)
Deferred to November 26, 2007
- (h) Quarterly Update on Council Directives.
- (i) Process Report and Timeline update for Adoption of the 2007 California Building Standards, CCR Title 24, Parts 26,810, and 12. (Planning, Building & Code Enforcement)
- (j) Status Report on Secondary Units Pilot Program. (Housing)
Deferred from August 27, 2007
SEE ITEM 11.2 FOR COUNCIL ACTION TO BE TAKEN
- (k) Oral Petitions
- (l) Adjournment

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [Approval of actions related to the San José Retail Strategy.](#)

Recommendation:

- (a) Adoption of the list of recommended sites as suitable for retail development;
- (b) Direction to staff to initiate General Plan, CEQA, EIR and other entitlement efforts to prepare the sites for retail development; and
- (c) Direction to staff to bring forward funding proposals for Council consideration for activities identified in recommendation (b).

CEQA: Not a Project. (Economic Development)

[Community and Economic Development Committee referral 9/24/07 – Item (e)]

4.3 [Approval of fiscal actions related to the Evergreen-East Hills Development Policy.](#)

Recommendation:

- (a) Adoption of the following Appropriation Ordinance amendments in the General Fund:
 - (1) Establish a city-wide appropriation to Planning, Building and Code Enforcement for the Evergreen-East Hills Development Policy Update in the amount of \$150,000.
 - (2) Decrease the Contingency Reserve by \$150,000.
- (b) Acceptance of the status report which is attached to the Council Memorandum as Attachment 1.

CEQA: Not a Project. Council Districts 5, 7 and 8. (Planning Building and Code Enforcement/City Manager's Office)

4.4 [Approval of the proposed ordinance amending the Sign Code Ordinance.](#)

Recommendation: Approval of [the proposed ordinance](#) amending Title 23 of the San José Municipal Code to add provisions for projected light signs and the relocation of historic signs. CEQA: Exempt, File No. PP07-190. (Planning, Building and Code Enforcement).

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee Councilmember Chirco, Chair

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – October 1, 2007 Councilmember Williams, Chair

- (a) Report on Draft Water Conservation Plan for the City. (ESD)
- (b) Report on Recommendations to Adopt a Zero Waste Goal as Specified in the Urban Environmental Accords. (ESD)
TO BE HEARD BY COUNCIL ON 10/23/07
- (c) Report on PG&E Service Coordination. (RDA)
Recommended Drop by the Administration
- (d) Report on Green Building Implementation Guidelines. (CMO/PW/RDA)
- (e) Update Report on Private Development Incentives for Green Building. (OED/PBCE)
- (f) Report on Strategies to Reduce Deferred Maintenance and Infrastructure Backlog. (CMO)
- (g) Review of Relevant Legislative Guiding Principles for 2008. (CMO)
- (h) Report on Airport Parking Facilities Programs and Rates. (Airport)
- (i) Status Report on Implementation of the Taxicab Service Model. (Airport/PD/DOT)
Deferred from June
SEE ITEM 6.3 FOR COUNCIL ACTION TO BE TAKEN
- (j) Report on the Transportation Maintenance Master Plan. (DOT)
Deferred from June
Recommend Deferral to November
- (k) Report on Sewer Service & Use Charge Fund Financing Alternatives to Address Critical Infrastructure Needs. (ESD/PW/DOT)
Deferred from September
Recommend Deferral to November
- (l) Update on the City's Plan to Achieve the actions Stated in the Environmental Accords. (ESD)
Recommend Deferral to November
- (m) Quarterly Update on Council Directives. (CMO)
Deferred from September
Recommend Deferral to November
- (n) Oral Petitions
- (o) Adjournment

6.2 [Approval of actions related to the Airport Terminal Area Improvement Program.](#)

Recommendation: Adoption of a resolution:

- (a) Authorizing the City Manager to negotiate and execute Project Funding Agreements with Airport tenants for the purpose of providing them with the option of incorporating improvements above and beyond the current scope of work and budgeted costs of the Airport Terminal Area Improvement Program, in an amount to be paid by the tenant not to exceed \$2,000,000 for any one agreement; and

(Item continued on the next page)

6. TRANSPORTATION & AVIATION SERVICES

6.2 Approval of actions related to the Airport Terminal Area Improvement Program. (Cont'd.)

Recommendation:

- (b) Authorizing the City Manager to negotiate and execute Change Orders to the Design-Build Contract with Hensel Phelps Construction Co. to incorporate the cost of the improvements outlined in the Project Funding Agreements, in an amount not to exceed \$2,000,000 for any one Change Order.

CEQA: Resolution Nos. 67380 and 71451, File No. PP 07-182. (Airport)

6.3 Approval of actions related to Taxicab Services.

Recommendation:

- (a) Recommendations of the T&E Committee to direct staff to bring forward to the City Council a report on the development of a Taxicab Commission.
- (b) Discussion and possible action regarding airport company taxicab permit allocations

CEQA: Not a Project. (Airport/Public Works/Police)

[Transportation and Environment Committee referral 10/01/07 – Item (j)]

TO BE HEARD IN THE EVENING

6.4 Approval of actions related to the BART Extension to San José/Silicon Valley.

Recommendation: Approval of the preferred design recommendations to the Santa Clara Valley Transportation Authority regarding the BART Extension to San José/Silicon Valley as follows:

- (a) Select the “Historic Bank of America Building Lobby” as the Downtown San José BART station portal in the Transit Mall area.
- (b) Select the “Southern Offset” for the BART tunnel alignment in the vicinity of Santa Clara Street and Coyote Creek.

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

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Clean Air Vehicle Program – Zero Emissions.

Recommendation: As recommended by the Rules and Open Government Committee on September 19, 2007:

- (a) Direct staff to expand the Clean Air Vehicle Program to include all zero emission vehicles registered in the City of San José. (Constant)

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Clean Air Vehicle Program – Zero Emissions. (Cont'd.)

Recommendation:

- (b) Accept the staff report on the workload assessment of making Zero Emissions Vehicles (ZEV) registered in the City of San José eligible to participate in the Clean Air Vehicle Parking Validation Program allowing free parking at specified City parking facilities and parking meters. (Transportation)

[Rules and Open Government Committee referral 9/19/07 – Item (G)(1)]

RECOMMEND DEFERRAL TO 10/23/07 PER ADMINISTRATION

7.2 [Approval of report on bids and award of contracts for A Stationary Fuel Cell System Project.](#)

[Supplemental](#)

Recommendation:

- (a) Report on bids and award of two contracts for the project entitled, “Fuel Cell System,” to the sole responsive bidder, Manuel Bros., Inc.:
 - (1) A design-build contract in the amount of \$7,724,100 and approval of budget contingency of 10% at \$772,400.
 - (2) A service contract with a five year term and an annual cost of \$203,932.80 commencing upon acceptance of the Fuel Cell System.
- (b) Adoption of a resolution authorizing the Director of Environmental Services to execute an option to replace the Fuel Cell System Module in the amount of \$1,200,000, subject to future appropriation of funds by the Council.
- (c) Adoption of a resolution authorizing the Director of Environmental Services to negotiate and execute a Self-Generation Incentive Program contract with Pacific Gas and Electric, to receive a rebate of up to \$4.5 million upon certification of the fuel cell system by Pacific Gas and Electric.
- (d) Adoption of the following Appropriation Ordinance amendments in the San José/Santa Clara Treatment Plant Capital Fund:
 - (1) Increase the Fuel Cell System appropriation by \$4,917,000.
 - (2) Decrease the Ending Fund Balance by \$4,917,000.

CEQA: Exempt, PP07-007. (City Manager’s Office/Environmental Services)

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Items 8.1 “Issuance of Merged Area Redevelopment Project Tax Allocation Bonds in an aggregate amount not to exceed \$225,000.00” and 8.2 “Award of a construction contract for construction of a parking lot for the Guadalupe River Park” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.

- **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>
9926	North side of Rock Avenue, 450 feet west of Oakland Road	4	Rock Avenue LLC	1 Lot/ 18 Units	Single Family Attached	Approve

- **Notice of City Engineer’s Award of Construction Projects**
- **Open Forum (To be heard no earlier than 3:30 p.m.)**
- **Continue RDA Board Meeting (immediately following Open Forum)**
- **Council will recess until 7:00 p.m.**

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

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

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

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) [Consideration of an ordinance rezoning the real property located on the south side of Blossom Hill Road, approximately 70 feet westerly of Hoffman Court \(1250 Blossom Hill Rd\) from R-1-8 Single-Family Residence Zoning District to R-M Multiple Residence District on a 0.26 gross acre site. SNI: Hoffman/Via Monte. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval \(7-0-0\). C07-027 - District 10](#)
[Continued from 9/25/07 – Item 11.1(h)]

- (b) [Consideration of an ordinance rezoning the real property located at/on the north side of Bark Lane approximately 150 feet west of Weyburn Lane \(7201 Bark Lane\) from RM Residential District to A\(PD\) Residential District to allow 45 attached single-family residential units, four stories tall over a podium garage on a 0.90 gross acre site \(Lee Lily Fu and Jason C, Owner\). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval \(7-0-0\). PDC06-005 - District 1](#)

(Item continued on the next page)

11. PUBLIC HEARINGS ON CONSENT CALENDAR

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

Recommendation:

- (c) [Consideration of an ordinance rezoning the real property located at/on the east side of South 3rd Street approximately 500 feet north of Keyes Street \(1010 S 3rd Street\) from the HI Heavy Industrial Zoning District to the A\(PD\) Planned Development Zoning District to allow up to 37 residential multiple dwelling units on a 0.713 gross acre site \(Fernando C. Guevarra and Maria Guevarra, Owner; Long Nguyen, Developer\). SNI: Spartan/Keyes. CEQA: Draft Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval \(7-0-0\).
PDC07-002 – District 3](#)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 [Consideration of an Ordinance of the City of San José amending Ordinance No. 28055 extending a limited pilot program to allow certain secondary residential units.](#)

Recommendation: Consideration of [an Ordinance](#) of the City of San José amending Ordinance No. 28055 adopted by the City Council of the City of San José on June 5, 2007 extending a limited pilot program to allow certain secondary residential units and set to expire by its own terms on October 31, 2007, in order to further extend the pilot program until April 30, 2008 or until 100 secondary units under the pilot program have been considered, whichever date first occurs; to further suspend the Park in Lieu requirements of Chapter 14.25 of Title 14 during the term of the pilot program; and to revise the pilot program development parameters. CEQA: Exempt, File No. PP07-184. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). (Planning, Building and Code Enforcement) [Community and Economic Development Committee referral 9/24/07 – Item (j)]

11.3 [Consideration of an ordinance rezoning the real property located at/on the southwest corner of Zanker Road and Devcon Drive.](#)

Recommendation: Consideration of an ordinance rezoning the real property located at/on the southwest corner of Zanker Road and Devcon Drive (1821 Zanker Road) from HI Heavy Industrial Zoning District to IP Industrial Park Zoning District to allow office uses on a 11.57 gross acre site (Amb Property, LP Tony P. Lin, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. C07-062 - District 4

11.4 [Consideration of actions related to development in the North First Street Area.](#)

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located at/on the corner of Vista Montana and the west side of North First Street (APNs: 097-52-013 and 097-53-015) from the IP Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 444 attached residential units on a 12.1 gross acre site (Novellus Systems, Inc., Owner).
PDC07-054 - District 4
- (b) Consideration of an ordinance rezoning the real property located on the northwesterly corner of Vista Montana and West Tasman Drive (APNs: 097-52-028 and 097-52-029) from the IP Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 554 attached residential units and a 1-acre park on a 8.7 gross acre site (Sobrato Development Co. and Novellus Systems Inc., Owners).
PDC07-055 - District 4

(Item continued on the next page)

11. PUBLIC HEARINGS

11.4 Consideration of actions related to development in the North First Street Area. (Cont'd.)

Recommendation:

- (c) Consideration of a Master Site Development Permit for development of up to 870,000 additional square feet of Industrial Park uses, including transfer of 290,000 square feet of floor area credits, on a 27 gross acre site, located at the southeast corner of North First Street and Headquarters Drive (APNs: 097-79-001, 097-79-002, 097-79-003, 097-79-009, 097-79-011, and 097-79-012) (Novellus Systems Inc., Owner).
H07-035 - District 4
- (d) Consideration of approval of an ordinance approving a Development Agreement with Novellus for the area within the boundaries of applications PDC07-054, PDC07-055, and H07-035, to vest for 20 years Site Development Permit, H07-035, for development of up to 870,000 square feet of Industrial Park uses, including transfer of 290,000 square feet of floor area credits; to vest for 5 years Planned Development Zonings, PDC07-054 and PDC07-055, for development of up to 998 residential units and 6 acres of parkland; and to provide maintenance, for the duration of the Development Agreement, of 5 acres of the 6 acres of parkland to be provided.
DA-Novellus - District 4

CEQA: Addendum to the Final EIR for the North San José Area Development Policies Update. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). (Planning, Building and Code Enforcement)

11.5 Consideration of an ordinance rezoning the real property located in the area generally bounded by Blossom Hill Road on the north, Gallup Drive to the west, Mesa Drive to the south, and Almaden Expressway to the east.

Recommendation: Consideration of an ordinance rezoning the real property located in the area generally bounded by Blossom Hill Road on the north, Gallup Drive to the west, Mesa Drive to the south, and Almaden Expressway to the east (1110 Blossom Hill Rd.) from the CP-Commercial Pedestrian Zoning District to the CG-Commercial General Zoning District to allow commercial uses on a 10.2 gross acres site (Pueblo Plaza Partnership, Owner). SNI: Hoffman/Via Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-069 - District 10

- Open Forum
- Adjournment

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

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

1. Public Meeting Decorum:

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

2. Signs, Objects or Symbolic Material:

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

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

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

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