



CITY COUNCIL AGENDA

OCTOBER 18, 2005

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
MADISON P. NGUYEN
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

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

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

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

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

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales 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

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 998-5299 (TTY) at least two business days before the meeting.

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

- **Call to Order and Roll Call**
 - 9:30 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
Absent: Council Members: None.

 - 1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent: Council Members: Mayor (excused).

 - 7:00 p.m. - General Plan Hearings, Council Chambers, City Hall
Absent: Council Members: Chavez (excused).

 - 7:00 p.m. - Public Hearings, Council Chambers, City Hall
Absent: Council Members: Chavez (excused).

- **Invocation (District 9)**

Union Middle School Music Program, under the direction of Mr. Chris Kay delivered a performance from Sohyun Ahn, Simone Horne, Emily Stuart and Whitney Jones.

- **Pledge of Allegiance**

Mayor Gonzales led the Pledge of Allegiance.

- **Orders of the Day**

The Orders of the Day and the Amended Agenda were approved with a deferral of Item 11.1(e) to 11/15/05.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation honoring Leigh Weimers, columnist for the San José Mercury News, for his outstanding career in journalism and extensive community involvement. (Chavez)

(Deferred from 10/4/05 – Item 1.7)

Mayor Gonzales and Vice Mayor Chavez presented a commendation honoring Leigh Weimers, columnist for the San Jose Mercury News, for his outstanding career in journalism and extensive community involvement.

- 1.2 Presentation of a commendation to Mexicana Airlines. (Airport)

Mayor Gonzales, Council Member Reed, and Director of Economic Development Paul Krutko presented a commendation to Miguel Duarte of Mexicana Airlines.

- 1.3 Presentation of a commendation to Girl Scout Troop 1450 for generously sending 20 cartons of Girl Scout Cookies to troops serving in Baghdad, Iraq. (LeZotte)

HEARD IN THE EVENING

Mayor Gonzales and Council Member LeZotte presented a commendation to Girl Scout Troop 1450 for generously sending 20 cartons of Girl Scout Cookies to troops serving in Baghdad, Iraq.

- 1.4 Presentation of a commendation to Charlene Arvizu, Berryessa Union School District in celebration of receiving the Teach of the Year Award. (Reed)

HEARD IN THE EVENING

Mayor Gonzales and Council Member Reed presented a commendation to Charlene Arvizu, Berryessa Union School District in celebration of receiving the Teacher of the Year Award.

- 1.5 Presentation of a commendation to Symphony Silicon Valley in recognition of the organization's invaluable contributions to the cultural life of San José and to commemorate the start of the 2005-2006 symphony season. (Yeager)

Council Member Yeager joined Mayor Gonzales to present a commendation to Symphony Silicon Valley recognizing the organization's invaluable contributions to the cultural life of San Jose and to commemorate the start of the 2005-2006 symphony season.

- 1.6 Presentation of a commendation to United Shredding Services of San José for their service to the community and support of the American Heart Association. (Cortese)

Dropped.

- 1.7 Presentation of a commendation to Lenders for Community Development on the occasion of their 10th Anniversary. (Cortese)

Council Member Cortese presented a commendation to Lenders for Community Development on the occasion of their 10th Anniversary.

1. CEREMONIAL ITEMS

- 1.8 Presentation of a commendation to Meril Smith for his contributions to the community's youth through Adopt-A-College Program. (Williams)
(Rules Committee referral 10/12/05)

Mayor Gonzales and Council Member Williams presented a commendation to Meril Smith for his contributions to the Edenvale community's youth through Adopt-A-College Program.

- 1.9 Presentation of a commendation to Westmont High School for raising over \$1,000.00 and collecting over 1,000 bags of clothes, food and other items for the victims off Hurricane Katrina. (LeZotte)
(Rules Committee referral 10/12/05)

Deferred to a future date.

- 1.10 Presentation of a commendation to Viet Heritage Society, United Vietnamese Americans, and BeyondFun for their fundraising efforts for victims of Hurricanes Katrina and Rita. (Cortese)

Council Member Cortese and Council Member Nguyen presented a commendation to Viet Heritage Society, United Vietnamese Americans and BeyondFun for their fundraising efforts for victims of Hurricane Katrina and Rita.

- 1.11 Presentation of a proclamation celebrating the success of the Leukemia and Lymphoma Society in fighting blood cancers and encouraging residents of San José to become involved in the "Light the Night Walk" on October 22, 2005, at Cesar Chavez Plaza. (Chavez)

Mayor Gonzales and Vice Mayor Chavez presented a proclamation celebrating the success of the Delora Wiley of the Leukemia and Lymphoma Society in fighting blood cancers and encouraging residents of San Jose to become involved in the "Light the Night Walk" on October 22, 2005, at Cesar Chavez Plaza.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes:

- (a) Regular minutes of April 5, 2005.
- (b) Regular minutes of April 12, 2005.
- (c) Joint Council/Financing Authority minutes of April 12, 2005.
- (d) Regular minutes of April 19, 2005.
- (e) Regular minutes of April 26, 2005.

Approved.

2 CONSENT CALENDAR

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27554 – Amends Section 4.24.010 of Chapter 4.24 of Title 4 of the San José Municipal Code to authorize the City Attorney to compromise and settle claims related to sanitary sewer backup intrusions in which the amount to be paid by the City does not exceed twenty-five thousand dollars (\$25,000).
[Referred from 10/4/05 – Item 2.2(e)]

Ordinance No. 27554 adopted.

- (b) ORD. NO. 27562 – Establishes Combination Rule 20A/In-Lieu Fee (Rules 20B) Underground Utility District on Taylor Street from First Street to Tenth Street; Jackson Street from Seventh Street to Ninth Street; Seventh Street from Jackson Street to Taylor Street; and Sixth Street from Taylor Street to Empire Street.
[Referred from 10/4/05 – Item 2.2(f)]

Ordinance No. 27562 adopted.

- (c) ORD. NO. 27575 – Rezoning certain real property situated on the north side of Lincoln Court approximately 200 feet west of Terra Bella Avenue to A(PD) Planned Development Zoning District. PDC05-067

Ordinance No. 27575 adopted.

- (d) ORD. NO. 27576 – Rezoning certain real property situated on the north side of George Street, approximately 140 feet easterly of Guadalupe Parkway to A(PD) Planned Development Zoning District. PDC05-072 and PD05-049

Ordinance No. 27576 adopted.

- (e) ORD. NO. 27577 – Rezoning certain real property situated on the northwest corner of N. 2nd Street and Devine Street to DC Downtown Primary Commercial Rezoning. C04-067

Ordinance No. 27577 adopted.

- (f) ORD. NO. 27578 – Rezoning certain real property situated at the south side of Stevens Creek Boulevard between Ardis and South Henry Avenues to CN(PD) Planned Development Zoning District. PDC03-053

Ordinance No. 27578 adopted.

- (g) ORD. NO. 27579 – Rezoning certain real property situated at the southwest corner of Ardis Avenue and Stevens Creek Boulevard to A(PD) Planned Development Zoning District. PDC05-028

Ordinance No. 27579 adopted.

2. CONSENT CALENDAR

2.3 Approval to amend agreements for public art for the CIM Project.

Recommendation: Adoption of a resolution authorizing the City Manager to:

- (a) Negotiate and execute an agreement with Block 3 Development Partners LLC, assignee of CIM California Urban RE Fund LGP, LLC (“Developer”), in an amount not to exceed \$122,104 for the City’s Office of Cultural Affairs to administer a public art project at Block Three, Phase 1 in downtown San José; and
- (b) Negotiate and execute an amendment to the agreement between Developer and City to reflect an increase in the public art budget allocated to Phase 1 of Block Three, if the total estimated budget for the Block Three, Phase 1 Project shows an increase of more than 10% at the design development stage.

CEQA: Resolution No. 71039.1. Council District 3. (Economic Development)
(Deferred from 10/4/05 – Item 2.7)

Deferred to 11/15/05.

2.4 Approval of to amend a lease for office and storage space for Trans-Pacific Aviation Services.

Recommendation: Approval of a second amendment to the lease with Trans-Pacific Aviation Services for 701 square feet of office and storage space on the premises located at 1277 Airport Boulevard, to extend the term from November 1, 2005 through October 31, 2008, with annual revenue to the City of \$4,206. CEQA: Resolution Nos. 67380 and 71451, PP 05-178. (Airport)

Approved.

2.5 Approval of amendment to consultant agreement for expert services.

Recommendation: Adoption of a resolution authorizing the City Attorney to negotiate and execute a third amendment to the agreement with Richard Avelar & Associates for expert services, increasing compensation by \$75,000, for a total amount not to exceed \$175,000, and extending the term through December 31, 2006. CEQA: Not a Project. (City Attorney’s Office)

Resolution No. 72930 adopted.

2.6 Acceptance of the Office of the City Auditor’s Report on Sales and Business Tax Audit Results for the Quarter Ended June 30, 2005.

Recommendation: Acceptance of the Office of the City Auditor’s Report on Sales and Business Tax Audit Results for the Quarter Ended June 30, 2005. (City Auditor)

The Report was accepted.

2. CONSENT CALENDAR

2.7 Approval to amend the agreement with History San Jose.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a second amendment to the Agreement with History San Jose for Phase III of the development of exhibitions for New City Hall, increasing compensation by \$20,000, from \$90,420 to a total amount not to exceed \$110,420, with no change to the term of the contract. CEQA: Resolution No. 68905. (Economic Development)

Resolution No. 72931 adopted.

2.8 Approval of an agreement for cost sharing associated with water conservation programs in FY 2005-2006.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Santa Clara Valley Water District for cost sharing associated with implementation of water conservation programs in FY 2005-2006, under which the City will receive an amount not to exceed \$280,000 from the District, and the District will be paid an amount not to exceed \$460,136 by the City, for a net cost to the City of \$180,136. CEQA: Not a Project. (Environmental Services)

Resolution No. 72932 adopted.

Staff directed to return to Council if City's portion of agreement needs to be increased.

2.9 Approval of open purchase orders for supplies, materials, equipment and services.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2005-2006 #5 and authorization for the Director of Finance to execute the purchase orders. CEQA: See memo for CEQA designation(s). (Finance)

Approved.

2.10 Approval to execute and record a corrected deed for property located at 750 Leigh Avenue.

Recommendation: Adoption of a resolution authorizing the Director of General Services to prepare, execute and record a corrected deed to Richard Andrew Saso II and Kristi Saso for property located at 750 Leigh Avenue. CEQA: Not a Project. (General Services)

Resolution No. 72933 adopted.

2.11 Approval of nominations to the San José Silicon Valley Workforce Investment Network Board of Directors.

Recommendation: Approval of nominations to the San José Silicon Valley Workforce Investment Network Board of Directors. (Mayor)

Approved.

2. CONSENT CALENDAR

2.12 Approval to submit a grant application for Proposition 50 funds for the Los Gatos Creek Trail Project.

Recommendation: Adoption of a resolution authorizing the City Manager to apply for, accept, and negotiate and execute a State of California Proposition 50 grant for an amount not to exceed \$1,200,000 for the Los Gatos Creek Trail Reach 4 (Lincoln Avenue to Auzerais Avenue) project. CEQA: Mitigated Negative Declaration, PP04-01-014. Council District 6. (Parks, Recreation and Neighborhood Services)

Resolution No. 72934 adopted.

2.13 Public Hearing and adoption of resolution ordering the reorganization of territory designated as Cambrian No. 34.

Recommendation: Adoption of a resolution ordering the reorganization of territory designated as Cambrian No. 34 which involves the annexation to the City of San José of 0.70 acres of land more or less, located on the east side of Bercaw Lane, approximately 450 feet southerly of Camden Avenue, and adjacent to the City of San José annexations Cambrian Nos. 27 and 8 and the detachment of the same from Central Fire Protection, Area No. 01 (Library Services) County Services, County Lighting County Services and West Valley Sanitation. CEQA: Resolution No. 65459, File No. C05-044. Council District 9. (Planning, Building and Code Enforcement)

Resolution No. 72935 adopted.

2.14 Approval to award a contract for the State Route 101/Bailey Avenue Interchange Riparian Mitigation Project.

Recommendation: Report on bids and award of contract for the State Route 101/Bailey Avenue Interchange Riparian Mitigation Project to the low bidder, Watkin and Bortolussi, Inc., in the amount of \$327,051, and approval of a contingency in the amount of \$33,000. CEQA: Resolution No. 68705. Council District 2. (Public Works)

Approved.

2.15 Approval to vacate a public service easement.

Recommendation: Adoption of a resolution summarily vacating the Public Service Easement that was reserved with the vacation of a portion of Ninth Street (Resolution No. 50932) and located along the southside of Hedding Street at Ninth Street. CEQA: Mitigated Negative Declaration, PDC04-007. Council District 3. (Public Works)

Resolution No. 72936 adopted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair

None.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 28, 2005

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review October 11, 2005 Council Agenda
MEETING CANCELLED
 - (a) Adds to the October 11, 2005 Draft Agenda
MEETING CANCELLED
 - (2) Add New Items to October 4, 2005 Agenda
The Committee recommended six additions to the October 4, 2005 Agenda.
 - (3) List of Reports Outstanding
The Committee noted and filed the City Manager’s Report.
- (c) Legislative Update
 - (1) State
 - (a) 2005 League of California Cities Resolutions
HEARD BY COUNCIL ON 10/4/05
 - (2) Federal
There was no report.
- (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) Approval of Travel by Vice Mayor Chavez to Denver, Colorado, October 12-14, 2005, to attend the San José Silicon Valley Chamber of Commerce/City of San José City to City Trip. Source of Funds: Mayor and City Council Travel Fund.
The Committee recommended approval to travel and use of the Mayor and Council Travel Fund.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 28, 2005 (Cont'd.) Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (2) Approval of request to use District 5 Special Events Account to Support the Prusch Farm Park Foundation's 10th Annual Harvest Festival.
The Committee recommended authorization of the transfer of \$1,500.00 from the District Five Special Event Account to the Prusch Farm Park Foundation to support the Tenth Annual Harvest Festival.
 - (3) Revision of Definition of Surviving Child Follow-Up.
The Committee deferred this item to the 10-5-05 Rules Committee meeting.
 - (4) Allocation Request from the Community Gift Trust Fund.
The Committee recommended authorization of the allocation of \$1,500 from District 7's portion of the Community Gift Trust Fund for payment to the Franklin McKinley Education Foundation for miscellaneous cost associated with the annual "Family Day" activities on October 2, 2005.
- (h) Open Forum
Bill Chew said that people watching the Committee may not understand what this Committee does. He also asked if there is a feedback forum for comments on the web broadcasting.
- (i) Adjournment
The meeting adjourned at 2:22 p.m.

The Rules Committee report and actions of September 28, 2005 was accepted.

3.3 Report of the Making Government Work Better Committee Council Member Reed, Chair None.

3. STRATEGIC SUPPORT SERVICES

3.4 Approval of actions regarding the 2004-2005 Annual Report.

Recommendation:

- (a) Acceptance of the 2004-2005 City Manager’s Annual Report of the Finances and Administrative Activities of the City of San José, pursuant to the City Charter Section 701(f).

The report was accepted.

- (b) Adoption of appropriation ordinance and funding sources resolution amendments in various operating and capital funds to implement 2004-2005 Annual Report recommendations and provide appropriate technical adjustments.

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

Ordinance No. 27580 adopted.

Resolution No. 72937 adopted.

Staff directed to provide a list of capital projects funded by the General Fund, ensure that land use strategies are embedded in the budget process, provide a list of General Fund Capital Projects, consider affected populations in the next budget cycle, study impacts of the 911 fees, look further into the \$205,000 needed for the Gardner Community Center, and for staff to ensure there is a follow-up on the state legislature’s “true-up” issue.

3.5 Approval to purchase vehicles for the Police Department.

Recommendation: Approval of the purchase of 78 new Ford Police Special Service vehicles, utilizing the State of California, Department of General Services, Special Service Vehicles Contract from Folsom Lake Ford, for a total amount not to exceed \$1,995,998.93, including warranty, tax, and freight, and authorize the Director of Finance to execute the purchase order. CEQA: Not a Project. (Finance)

Approved.

Staff directed to survey local auto sale dealers to get feedback on their ability to competitively bid on public safety vehicles and to report back to the Driving a Strong Economy Committee.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chirco, Chair

None.

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

None.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Approval to issue an RFP for a Fund Manager for the Economic Development Catalyst Fund.

Recommendation: Direction to staff to issue an RFP to select a Fund Manager to establish and manage an Economic Development Catalyst Fund. CEQA: Not a Project. (Economic Development)

Approved.

4.4 Acceptance of the Dolce Hayes Mansion's Progress Report.

Recommendation: Acceptance of the Progress Report on the operations of the Dolce Hayes Mansion for the Fiscal Year ending June 30, 2005. CEQA: Not a Project. (Finance)

The report was accepted.

Staff directed to review option for reducing the existing debt by Hayes Mansion and to return by March 2006 or earlier with a status update on the issue, to address questions raised by Council, as follows: "How does Hayes Mansion compare to similar properties?" and "What is the average daily room rates of local hotels?", and to provide an informational memo outlining the status of where the Hayes Mansion is today versus where they were earlier.

4.5 Approval of agreements related to the Habitat Conservation Plan.

Recommendation:

(a) Approval of the Planning Agreement for the Santa Clara Valley Habitat Conservation Plan (HCP)/Natural Community Conservation Plan (NCCP) for signature at the public signing ceremony planned for October 20, if there are no substantive changes to the document made between this Council action and the signing ceremony; and

Approved.

(b) Approval of Non-Voting Partner Agreements with the City of Gilroy and the City of Morgan Hill regarding preparation of the Santa Clara Valley Habitat Conservation Plan and Related Environmental Document.

CEQA: Not a Project. (Planning, Building and Code Enforcement).

Approved.

5. NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair

None.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee – October 3, 2005 Council Member Campos, Chair

- (a) Expansion and Improvement of Transit and Transportation Systems
 - (1) Report and follow-up discussion on the Coleman 880 Interchange Landscape
SEE ITEM 6.3 FOR COUNCIL ACTION TO BE TAKEN
- (b) Traffic Relief/Safe Streets
 - (1) Presentation and discussion of Transportation Incident Management Center Proposed Relocation
- (c) Support Smart Growth
 - (1) No items.
- (d) Regional Relationships/Funding/Policy
 - (1) Status Report of the Capitol Expressway Relinquishment Agreement
- (e) Oral Petitions
- (f) Adjournment

Staff directed to expand the minutes to include more discussion on agenda items (a)(1) and (b)(1), and to return the minutes to Council on October 25, 2005, and further, to refer back to the Building Better Transportation Committee the Capitol Expressway item (d)(1), and also to involve stakeholders.

6.2 Approval to reject all bids for the Airport's USO/Parking Revenue Control Modular Offices

Recommendation: Approval to reject all bids for the Norman Y. Mineta San José International Airport- USO/Parking Revenue Control Modular Offices (Revised) contract. CEQA: Resolution Nos. 67380 and 71451, PP 05-075. (Public Works/Airport) (Deferred from 9/27/05 – Item 6.2 and 10/4/05 – Item 6.3)

Approved.

6.3 Approval to amend an agreement with the VTA related to the I-880/Coleman Avenue Interchange Project.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with the Santa Clara Valley Transportation Authority related to the I-880/Coleman Avenue Interchange Project to redesign the landscaping plans consistent with the Airport Landscape Master Plan, at a cost not to exceed \$400,000 and to be funded by cost savings within the original agreement.

(Transportation)

[Building Better Transportation Committee referral 10/3/05, Item 6.1(d)]

Deferred to 11/1/05.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Public Hearing and approval of actions related to Recycle Plus Rate Increases and Commercial Franchise Fees.

Recommendation:

- (a) Public Hearing on the Recycle Plus program rate increases effective August 1, 2005, and on potential increases for Fiscal Years 2006-07 and 2007-08.
- (b) Adoption of a resolution revising Recycle Plus rates for integrated waste management services beginning August 1, 2005, increasing single-family rates by approximately 3% and multi-family rates by approximately 2%.

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

[Continued from 6/21/05 - Item 10.1 (a) and (b) and 8/30/05 – Item 7.1]

Deferred to January 2006

7.2 Approval of the proposed Policy on Post-Construction Hydromodification Management.

Recommendation: Adoption of a resolution approving a Council Policy on Post-Construction Hydromodification Management to require the management of development-related increases in peak runoff flow, runoff volume and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams and creeks. CEQA: Exempt, File No. PP 05-175. (Planning, Building and Code Enforcement/Environmental Services/Public Works).

Resolution No. 72938 adopted.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Closed Session Report
None.
- Notice of City Engineer's Pending Decision on Final Maps
None.
- Open Forum—
 - (1) Ray Shavazand expressed an interest in amending his restaurant's conditional use permit to increase operating hours.
 - (2) Carol Slain voiced concerns regarding homeless loitering at VTA lightrail stations.
 - (3) Daniel McCall commented on medical marijuana.
 - (4) Robert Apgar spoke on a variety of personal issues and provided personal opinions on religion and government.

10. GENERAL PLAN PUBLIC HEARINGS

10.1 Tentative approval of General Plan Consent Calendar items.

None.

10.2 Tentative approval of General Plan Amendment for property located at the south side of Berryessa Road, approximately 740 feet east of Jackson Avenue.

Recommendation: Public Hearing on Tentative approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Medium High Density Residential (12-25 DU/AC) and addition of a Floating Park designation. (Grace R. Nola Trustee & et al, Owner/City of San Jose, Applicant). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement recommends approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Medium High Density Residential (12-25 DU/AC) with no Floating Park designation on a 3.7-acre site. Planning Commission recommends approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Medium High Density Residential (12-25 DU/AC) with the addition of Floating Park designation on a 3.7-acre site (7-0-0).

GP03-04-07 - District 4

(Continued from 12/7/04 – Item 12.2)

Council approved a memorandum from Council Member Reed, dated October 17, 2005, recommending No Change to the General Plan.

10.3 Tentative approval of General Plan Amendment for property located on the northwest corner of the intersection of Old Oakland Road and Rock Avenue.

Recommendation: Public Hearing on Tentative Denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to Medium High Density Residential (12-25 DU/AC) for property located on the northwest corner of the intersection of Old Oakland Road and Rock Avenue (2059 Oakland Road) on approximately a 4.7 acre site (Ernest E. Pestana, Owner/Bob Hencken, Summerhill Homes, Applicant). CEQA: Mitigated Negative Declaration, GP05-04-01. Director of Planning, Building and Code Enforcement recommends denial of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Park with Mixed Industrial Overlay to Medium High Density Residential (12-25 DU/AC) on a 4.7-acre site. Planning Commission recommends approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Park with Mixed Industrial Overlay to Medium High Density Residential (12-25 DU/AC) on a 4.7-acre site (5-2-0; Zito and Levy opposed).

GP05-04-01 - District 4

Planning Commission recommendation was tentatively approved.

Noes: LeZotte.

10. GENERAL PLAN PUBLIC HEARINGS

10.4 Tentative approval of General Plan Amendment on the following items located on the northeast corner of Samaritan Drive (2039 Samaritan Drive) and Clydelle Avenue.

Recommendation:

- (a) Public Hearing on Tentative Approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Medium High Density Residential (12-25 DU/AC) for property located on the northeast corner of Samaritan Drive (2039 Samaritan Drive) and Clydelle Avenue on approximately 12.4-acre site and Public Park and Open Space on a minimum of one acre. (Berg & Berg Developers, Owner/Bob Hencken, Summerhill Homes, Applicant). CEQA: Mitigated Negative Declaration, GP05-09-01. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Industrial Park to Medium High Density Residential (12-25 DU/AC) on approximately 12.4 acres and Public Park and Open Space on a minimum of one acre (7-0-0).
GP05-09-01 - District 9

Staff/Planning Commission recommendation was tentatively approved.

- (b) Public Hearing on Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 226 single-family detached and attached residences and to allow a minimum one-acre public park on approximately 12.4 gross-acre site. CEQA: Mitigated Negative Declaration, PDC05-036. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 226 single family detached and attached residences and to allow a minimum one-acre public park on approximately 12.4 gross-acre site (5-2-0; Zito and Levy opposed).
PDC05-036 - District 9

ITEM 11.5 HEARD UNDER 10.4(b)

Ordinance No. 27581 passed for publication.

Council approved a memorandum from Council Member Chirco, dated October 18, 2005, recommending approval of the staff recommendation on GP05-09-01 and PDC05-036 with the following recommendations:

- (A) **Traffic Mitigation on Samaritan Drive –**
- (1) **Direct the Department of Transportation (DOT) and Department of Public Works (DPW) to work with the Applicant to design and install an enhanced pedestrian crosswalk to ensure safe passage across Samaritan Drive. Timeline for installation shall be included in the PD Permit to ensure safe passage by the earlier of park completion, or first occupancy of the Development.**

10. GENERAL PLAN PUBLIC HEARINGS

10.4 Tentative approval of General Plan Amendment on the following items located on the northeast corner of Samaritan Drive (2039 Samaritan Drive) and Clydelle Avenue. (Cont'd.)

- (A) (2) Direct DOT and DPW to explore additional ways to reduce the pre-existing speed condition on Samaritan Drive including but not limited to: on-street parking on Samaritan Drive (both the north and south side of Samaritan); reduce speed limit from 35 MPH to 25 MPH; traffic calming measures along Samaritan as appropriate; and a study for a three way stop sign at Cooper and Samaritan Drive, or elsewhere along Samaritan Drive.
- (B) Parkland Dedication –
 - (1) Direct Parks, Recreation, and Neighborhood Services (PRNS) to work with the community and the Applicant to design the 1.3 acre park with amenities.
 - (2) Build out of the park to be completed no later than completion of the residential portion of the Development.
- (C) Neighborhood Traffic Calming –
 - (1) Direct DPW and DOT to work with the community, and Santa Clara County Department of Roads and Airport, to study traffic conditions in the surrounding neighborhood and determine appropriate traffic calming measures to be implemented. Consensus-building effort shall include comprehensive neighborhood representation by all streets in the study area. The study area should include but not be limited to: Dickens, Cooper, Charlotte, Clydelle, Winton, and Carlton.
 - (2) To the extent that there are measures that can be taken immediately to address cut-through traffic, speeding problems or pedestrian safety concerns in the study area that process is to begin as soon as possible. There may be issues that are better addressed at project completion and occupancy, and should be taken up at that time.

10.5 Adoption of a resolution finally approving all General Plan amendment actions taken on October 18, 2005.

Recommendation: Adoption of a resolution finally approving all General Plan amendment actions taken on October 18, 2005, and adoption of any related CEQA resolutions. (Planning, Building and Code Enforcement)

Resolution No. 72939 adopted.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

- (a) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A(PD) Planned Development District to A(PD) Planned Development District to allow minor revisions (including rear and front setbacks and number of stories) to the development standards of a previously approved 12 unit single family attached project on a 0.54 gross acre site, located on the southeast corner of Alum Rock Avenue and McCreery Avenue (Tierra Encantada LP, Owner). SNI: Mayfair. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval, with the modification that the maximum number of allowed stories be changed from two to three (6-0-1).

PDC05-056 - District 5

[Continued from 10/4/05 – Item 11.1(c)]

Ordinance No. 27582 passed for publication.

- (b) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning to rezone from R-1-8 Single Family Residence Zoning District to A(PD) Planned Development Zoning District to allow substandard lot sizes for two existing single family residences on a 0.2 gross acre site, located on the west side of Myrtle Street, approximately 200 feet northerly of West Hedding Street (927 Myrtle Street) (Judy C. McDowell, Trustee, Nguyen Nguyen Hoang and Hang Le, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required.

PDC05-074 – District 6

[Continued from 10/4/05 – Item 11.1(d)]

Ordinance No. 27583 passed for publication.

- (c) Public Hearing on and consideration of approval of an ordinance on Conforming Rezoning from A Agriculture Zoning District and R-1-1 Residence Zoning District to District R-1-5 Residence Zoning District to allow residential uses on a 1.8 gross acre site, located at/on the northwest corner of Viewpoint Lane and Almaden Road (Asea Rose A Trustee, Ventling Ronald J Trustee, Morton Lane R, Grewal Jaspinder S and Sarbjeet K et al, Almaneih Naser Rahimi, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

C04-024 – District 10

Ordinance No. 27584 passed for publication.

11. PUBLIC HEARINGS

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

- (d) Public Hearing on and consideration of approval of an ordinance on Planning Director-Initiated Conventional Rezoning from CG Commercial General Zoning District to CP Commercial Pedestrian Zoning District to allow commercial uses on 1.23 gross acre site, located on the east side of King Road, approximately 350 feet northerly of Story Road (1733 Story Road) (Hoady Family Llc, Mr. Danny Hoady, Owner). SNI: East Valley/680 Communities. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required.

C05-090 - District 5

Ordinance No. 27585 passed for publication.

- (e) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development to allow entertainment uses, at an existing assembly hall (G.I. Forum) on a 3.4 gross acre site, located 900 feet northerly of Story Road and approximately 2,300 feet westerly of McLaughlin Avenue (765 Story Road) (The American G.I. Forum, Owner). CEQA: Addendum to a Negative Declaration. Director of Planning, Building and Code Enforcement recommend approval. Planning Commission recommended denial (5-1-1, May 25, 2005).

PDC00-030 - District 7

Deferred to 11/15/05.

11. PUBLIC HEARINGS

11.2 Approval of an ordinance to allow four single family detached residences.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning request from R-1-8 Single Family Residence District to A(PD) Planned Development to allow four single family detached residences on a 0.64 gross acre site, located on the west side of Curtiss Avenue, approximately 350 feet southerly of Willow Street (1163 Curtiss Avenue) (Willowshire LLC, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1) with modifications:

- (a) Change the maximum number of stories for the western-most house from two stories to one.
- (b) Modify the setbacks for the western-most house to require a 5-foot setback from the south property line and a 20-foot setback from the west property line for the residence and a 5-foot setback from an attached or detached single-story garage.

CEQA: Exempt.

PDC05-031 - District 6

(Continued from 10/4/05 – Item 11.5)

Ordinance No. 27586 passed for publication.

Council approved a memorandum from Council Member Yeager, dated October 18, 2005, recommending approval of the Planning Commission's recommendation to approve PDC05-031 and include the following recommendations: (1) Relocate two parking spaces (currently located nearest the hammerhead) to the front of the property nearest Curtiss, (2) Ensure that the developer is required to plant adequate screening and that the property owners are required to maintain this landscaping, with the maximum of 15 feet to grade, (3) Lower the rear roof plate eave by 48 inches, (4) Remove all upper level windows at the rear yard, (5) Obscure glass and high sills on upper level bath windows, (6) Hip roof at side elevation to lower gable eave line, (7) Add specimen (minimum 15 feet tall) trees along rear yard and rear property line, (8) Add 24 inch high lattice to top of fences at the property line.

11.3 Planned Development Rezoning from R-1-8 Single Family Residence District to A(PD) Planned Development Zoning District.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-1-8 Single Family Residence District to A(PD) Planned Development Zoning District to allow up to 19 single family detached residences on a 3.3 gross acre site, located easterly of Hervey Lane, approximately 230 feet southerly of Padres Drive (Don Clemetson, et al, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0).

CEQA: Mitigated Negative Declaration.

PDC04-112 - District 6

Ordinance No. 27587 passed for publication.

11. PUBLIC HEARINGS

11.4 Planned Development Rezoning located on the north side of Metcalf Road.

Recommendation: Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow the addition of a three-story unit plan and to increase the height limit for a previously approved project that allowed 213 single-family detached residences on 263,000 gross acres site, located on the north side of Metcalf Road, approximately 100 feet easterly of Highway 101 (Metcalf Partners, LLC, Owner/Developer). CEQA: EIR Resolution No. 71360, and addenda thereto, File No. PDC04-077. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0).

PDC04-077 - District 2

Ordinance No. 27588 passed for publication.

11.5 Planned Development Rezoning located at/on northeast corner of Samaritan Drive and Clydelle Avenue.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 226 residential (single family detached and single family attached) units and a public park of minimum one acre on a 13.4 gross acre site, located at/on the northeast corner of Samaritan Drive and Clydelle Avenue (2039 Samaritan Drive) (Berg & Berg Developers, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-2-0).

PDC05-036 - District 9

SEE ITEM 10.4(b) FOR COUNCIL ACTION TAKEN

Ordinance No. 27581 passed for publication.

- **Open Forum**

None.

- **Adjournment**

The Council of the City of San José was adjourned at 8:56 p.m. in memory of Katherine F. (Kay) Hernandez, mother of Debbi Warkentin, Secretary in Department of Retirement Services; and Brigadier General James S. Blais, USMC Retired, Father of Betsy Shotwell, Director of Intergovernmental Relations, City Manager's Office.