



# CITY COUNCIL AGENDA

**NOVEMBER 21, 2006**

## **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](http://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**  
9:35 a.m. - Closed Session, City Hall Tower, 18<sup>th</sup> Floor, City Hall  
**Absent Council Members: Yeager. (Excused)**  
  
1:36 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: None.**
- **Invocation (District 10)**  
**Castillero Middle School Choir performed, led by Choir Director David Finch.**
- **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.**

## **1. CEREMONIAL ITEMS**

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- 1.1 Presentation of a proclamation declaring December 1, 2006 as World AIDS Day in the City of San José. (LeZotte)  
(Rules Committee referral 11/08/06)  
**Mayor Gonzales and Council Member LeZotte recognized December 1, 2006 as World AIDS Day in the City of San José.**
- 1.2 Proclamation recognizing the work of Sergeant Paul Panighetti and Lieutenant Rich Saito upon their retirement, for their many years of service particularly in relation to their work with the Weed & Seed Program. (Campos)  
(Rules Committee referral 11/01/06)  
**Mayor Gonzales and Council Member Campos recognized Sergeant Paul Panighetti and Lieutenant Rich Saito upon their retirement and commended them for their many years of public service.**

# 1. CEREMONIAL ITEMS

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- 1.3 Presentation of commendations to Janet Castaneda, Joyce Cogburn, Rosemary Gellman, and Mark Okuda in honor of their outstanding work in education and their receipt of the 2006 Teachers of the Year awards from the Santa Clara County Office of Education. (Cortese)  
(Rules Committee referral 11/08/06)  
**Mayor Gonzales and Council Member Cortese recognized Janet Castaneda, Joyce Cogburn, Rosemary Gellman, and Mark Okuda in honor of their outstanding work in education and and commended them for receiving the 2006 Teachers of the Year awards from the Santa Clara County Office of Education.**
- 1.4 Recognition of District 9 Stars: Vickie Johnson, Farnizaz Tavakoli, Breenu Sra, and the San José Elks Highway Crew. (Chirco)  
(Rules Committee referral 11/08/06)  
**Mayor Gonzales and Council Member Chirco recognized and commended this year's District 9 Stars.**
- 1.5 Presentation of a commendation recognizing various City departments for best practices in employee recognition efforts. (Human Resources)  
(Deferred from 11/14/06 – Item 1.3)  
**Dropped.**
- 1.6 Presentation of commendations to the Friends of West Valley Library and the Friends of Calabazas Library for their contributions to West San José readers and for their work as District 1 Heroes. (LeZotte)  
(Rules Committee referral 11/15/06)  
**Mayor Gonzales and Council Member LeZotte recognized and commended the Friends of West Valley Library and the Friends of Calabazas Library for their contributions to West San José readers.**
- 1.7 Presentation of commendations to Carl Shoemaker and Ivy and Armin Quiring, for their contributions to West San José residents as District 1 Heroes. (LeZotte)  
(Rules Committee referral 11/15/06)  
**Mayor Gonzales and Council Member LeZotte recognized and commended District 1 Heroes Carl Shoemaker and Ivy and Armin Quiring.**
- 1.8 Presentation of a proclamation declaring November 19 – 25, 2006 Family Week in the City of San José. (Williams)  
(Rules Committee referral 11/15/06)  
**Mayor Gonzales and Council Member Williams proclaimed November 19-25, 2006, as Family Week in the City of San José.**

## 2. CONSENT CALENDAR

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### 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes:

- (a) Regular minutes of February 7, 2006

**Approved.**

- (b) Regular minutes of February 14, 2006

- (c) Regular minutes of February 28, 2006

**Deferred To 12/5/06.**

- (d) Joint San José Financing Authority minutes of February 7, 2006.

**Approved.**

### 2.2 Final adoption of ordinances.

**Recommendation:**

- 2.2 (a) ORD. NO. 27885 – Rezoning certain real property situated on the southwesterly corner of Eberly Drive and Neilson Court to A(PD) Planned Development Zoning District. PDC04-091  
[Deferred from 10/17/06 – Item 2.2(d), et. al and 11/14/06 – Item 2.2(a)]

**Deferred to 12/5/06.**

- (b) ORD. NO. 27904 – Granting a cable franchise to Comcast of California, II LLC to construct and operate a cable system to provide cable service within a franchise area with the City of San José; establishing the terms and conditions of the franchise grant; and establishing certain remedies for the violation of the franchise.

**Dropped.**

- (c) ORD. NO. 27905 – Amending Chapter 15.28 of Title 15 of the San José Municipal Code to regulate the occupancy and use of public rights-of-way by cable systems and open video systems, to provide for establishment of customer service standards; establishing franchise and licensing requirements for operators of such systems and to prescribe minimum charges, terms, and conditions for and upon the construction, maintenance, and repair of such systems.

**Dropped.**

- (d) ORD. NO. 27906 – Approving an amendment of the terms of Ordinance No. 22128, granting a nonexclusive cable television franchise to Comcast of California, successor to Gill Industries, Inc., DBA Gillcable, renewing, amending and extending the franchise.

**Ordinance No. 27906 adopted.**

## 2. CONSENT CALENDAR

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### 2.3 Approval to continue an agreement for consultant services for concession plans at the Airport.

**Recommendation:** Approval of a third amendment and continuation agreement with the Center for Airport Management (CAM) for consultant services for the development of concession plans for the Norman Y. Mineta San José International Airport, continuing and extending the term of the agreement from October 31, 2006 to December 31, 2007 with no increase in compensation. CEQA: Resolution Nos. 67380 and 71451, PP 06-179. (Airport)

**Approved.**

### 2.4 Approval to amend an agreement for elevator and escalator maintenance services.

**Recommendation:** Adoption of a resolution authorizing the Director of Finance to execute an amendment to the agreement with Schindler Elevator Corporation for elevator and escalator maintenance services, extending the term of the agreement by six months from November 1, 2006 through April 30, 2007, and increasing the total compensation by \$75,000, from \$147,370, to a not to exceed amount of \$222,370. CEQA: Not a Project. Council District 4. (Finance)

**Resolution No. 73508 adopted.**

### 2.5 Approval to award open purchase order #11 for FY 2006-2007.

**Recommendation:** Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #11 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's Memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)

**Approved.**

### 2.6 Approval of actions related to Power Washing of City-owned Parking Structures.

**Recommendation:** Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute a service agreement for power washing of City-owned parking structures with Pro-Sweep, Inc., the lowest quote, for one year, in an amount not to exceed \$145,000;
- (b) Exercise two additional one-year options to renew the agreement, subject to the appropriation of funds.

CEQA: Exempt: PP-04-284. (Finance)

**Resolution No. 73509 adopted. Staff directed to ask stakeholders, like the Police Department and the Downtown Working Group, participate in the review of contracts relating to downtown cleanliness and public safety issues when these contracts are up for renewal.**

## 2. CONSENT CALENDAR

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### 2.7 Approval of an agreement for architectural consultant services for the Fire Station No. 36 Project.

**Recommendation:** Approval of an agreement with RossDrulisCusenbery for architectural consultant services for the Fire Station No. 36 Project, from the date of execution to June 30, 2009, in an amount not to exceed \$643,505. CEQA: Exempt, PP06-009. Council District 8. (Public Works)

**Approved.**

### 2.8 Approval of report on bids and appropriate action for the Downer-Canoas Sanitary Sewer System Cleaning Project.

**Recommendation:** Report on bids and take appropriate action based on the evaluation of bids for the Downer-Canoas Sanitary Sewer System Cleaning Project. CEQA: Exempt, PP06-170. Council District 10. (Public Works)

**Dropped.**

### 2.9 Approval of actions related to a Clean Air Grant Agreement.

**Recommendation:**

(a) Adoption of a resolution authorizing the City Manager to accept a Transportation Fund for Clean Air grant in an amount not to exceed \$640,000 from the Santa Clara Valley Transportation Authority, and to negotiate and execute the grant agreement and any other documents necessary to effectuate the grant for the following two transportation projects:

- (1) Light Rail Transit Controller Upgrade Project in an amount not to exceed \$600,000.
- (2) Installation of Sidewalk Bicycle Racks in an amount not to exceed \$40,000.

**Resolution No. 73510 adopted.**

(b) Adoption of an Appropriation Ordinance and Funding Sources Resolution Amendment to the Building and Structure Construction Tax Fund as follows:

- (1) Increase the estimate for Earned Revenue by \$300,000.
- (2) Increase the appropriation for the ITS Capitol Light Rail Transit Signal Upgrade project by \$185,000.
- (3) Increase the Ending Fund Balance by \$115,000.

**Ordinance No. 27920 adopted.**

**Resolution No. 73511 adopted.**

## 2. CONSENT CALENDAR

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### 2.9 Approval of actions related to a Clean Air Grant Agreement (cont'd).

**Recommendation:**

(c) Adoption of an Appropriation Ordinance and Funding Sources Resolution Amendment to the Construction Excise Tax Fund as follows:

- (1) Increase the estimate for Earned Revenue by \$40,000.
- (2) Increase the Ending Fund Balance by \$40,000.

CEQA: Exempt, File Nos. PP06-178 and PP01-211. (Transportation/City Manager's Office)

**Ordinance No. 27921 adopted.**  
**Resolution No. 73512 adopted.**

### 2.10 Approval of a Our City Forest Operating Grant Agreement.

**Recommendation:** Approval of the Operating Grant Agreement between the City of San José and Our City Forest, awarding a grant to Our City Forest for Fiscal Year 2006-2007 in an amount not to exceed \$201,200. CEQA: Not a Project. (Transportation)

**Approved. Staff directed to work with Our City Forest between now and December 5, 2006 to address State grant prerequisite requirements, including office space needs and matching funds.**

### 2.11 Approval to amend an agreement for security services.

**Recommendation:** Adoption of a resolution authorizing the Director of Finance to execute an amendment to the agreement with Silicon Valley Security and Patrol, Inc. to extend the term of the agreement by twelve months from December 1, 2006 through November 30, 2007, and increase the total compensation by \$408,000 from \$355,000, to a not to exceed amount of \$763,000 for security services performed during this period. (Finance)

**Resolution No. 73513 adopted.**

### 2.12 Approval of an amendment to the agreement with Action Vending Services for vending services at City facilities.

**Recommendation:** Adoption of a resolution authorizing the Director of Finance to negotiate and execute an amendment to the agreement with Action Vending Services for vending services at City facilities to relax the dietary fiber requirement of 2 grams to allow for dairy products. (Yeager)  
(Rules Committee referral 11/08/06)

**Resolution 73514 adopted.**

## 2. CONSENT CALENDAR

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### 2.13 Acceptance of the Office of the City Auditor's Report.

**Recommendation:** Acceptance of the Office of the City Auditor's *Report of Activities and Findings for the Period September 16, 2006 through October 15, 2006.* (City Auditor)

(Rules Committee referral 11/15/06)

**Accepted.**

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session

**Mayor Gonzales, Chair**

**No Report.**

### 3.2 Report of the Rules Committee – November 8, 2006

**Vice Mayor Chavez, Chair**

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

(b) City Council

(1) Review November 21, 2006 Draft City Council Agenda

(a) Adds to the November 21, 2006 Draft City Council Agenda

**The Committee approved the November 21, 2006 City Council Agenda with eight additions.**

(2) Add New Items to November 14, 2006 Agenda

**The Committee approved the November 14, 2006 Agenda with five new additions.**

(3) List of Reports Outstanding

**The Committee noted and filed the City Manager's Report.**

(c) Legislative Update

(1) State

**Intergovernmental Director Betsy Shotwell gave a brief update on infrastructure bond measures.**

(2) Federal

**No Report.**

(d) Meeting Schedules

**There were none.**

(e) The Public Record

**The Committee noted and filed the Public Record.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – November 8, 2006 (Cont'd)

##### Vice Mayor Chavez, Chair

- (f) Appointments to Boards, Commissions and Committees
  - (1) Third Term of Human Rights Commissioner Robert Sippel. (LeZotte)  
**The Committee approved Robert Sippels third term to a term ending December 31, 2009.**
  
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) 2006 National League of Cities Voting Delegate at the Annual Business Meeting. (City Manager)  
(Heard by Council on 11/14/06)  
**The Committee approved Council Member Campos as the voting delegate at the December 9, 2006 Annual Business Meeting for the NLC.**
  
  - (2) Accept staff reports (2) on improvements to the General Code Complaint Handling Process and the Fee Based Multi-Family Dwelling Program. (Planning, Building and Code Enforcement)  
(Deferred from October 11, 2006, October 18, 2006 and October 25, 2006)  
**The Committee approved the Reports.**
  
  - (3) Add to the Auditor's Office 2006-07 Workplan an ongoing audit of the Procurement Card Program. (City Auditor)  
**The Committee approved the Workplan.**
  
  - (4) Acceptance by the Rules Committee of the scope of work developed for the San José Police Department's (SJPD) Internal Affairs Study. (Police)  
**The Committee accepted the (SJPD) Internal Affairs Study.**
  
- (h) Review of Significant Public Records Act Requests  
**City Attorney Rick Doyle noted that the South Almaden Valley Rural Alliance filed a Public Records Act request and added that his office is working with the Department of Planning, Building and Code Enforcement in response.**
  
- (i) Review of Council Policy Updates per Sunshine Reforms (PIR #12)
  - (1) Approve rescission of the following policies as contained in the Council Policy Manual and forward to council for adoption of a resolution rescinding:  
**See Item 3.11 for Council Action Taken**
    - (a) Policy 0-4, Section H: Consolidated Board and Commission Policies (Section H: Code of Ethics for Officials and Employees of the City of San José);
    - (b) Policy 0-4, Section F: Child Care Reimbursement (Meetings and travel Expense);

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – November 8, 2006 (Cont'd)

##### Vice Mayor Chavez, Chair

- (c) Policy 0-7: Affirmative Action Plan;
- (d) Policy 0-16: Sexual Harassment;
- (e) Policy 0-25: Local Preference Policy;
- (f) Policy 1-5: Fees for Publications, Materials, Printing, and Duplicating;
- (g) Policy 1-7: Child Care Reimbursement (Meeting and Travel Expenses);
- (h) Policy 1-9: Open Market Purchase of Used Vehicles;
- (i) Policy 1-10: Private Activity Bonds;
- (j) Policy 1-13: Use of Recourse and Non-Recourse;
- (k) Policy 2-5: Temporary Use of City Equipment by Community Organizations;
- (l) Policy 5-1: Funeral Escort Services;
- (m) Policy 5-4: Alternate Traffic Mitigation Measures;
- (n) Policy 6-1: Annexation of City of San José;
- (o) Policy 6-3: Emergency Zoning;
- (p) Policy 6-6: Interim Residential Uses of Excluded in Industrial Areas;
- (q) Policy 6-12: Water Pollution Control Plan Growth Management Policy;
- (r) Policy 6-13: City-Initiated Planned Development Zoning;
- (s) Policy 6-21: Church Location Policy;
- (t) Policy 6-24: Evaluation Criteria for High Density Housing New Rail Transit;
- (u) Policy 7-9: Housing Property Acquisition Policy;
- (v) Policy 8-2: Criteria for the Installation of Through Streets;
- (w) Policy 8-9: Remedial Installation of Soundwalls (Formerly “Criteria for Installations of Sound Barriers”);
- (x) Policy 8-10: Multi-Family Housing Mortgage;
- (y) Policy 8-11: Use of Products Blown With Chlorofluorocarbon Compounds in City Building, Construction and Remodeling Projects; and
- (z) Policy 9-7: Swimming Program Policy.  
(City Manager’s Office)

**The Committee approved the rescission of the policies.**

(j) Open Forum  
**There were none.**

(k) Adjournment  
**The meeting was adjourned at 2:35 p.m.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 Report of the Making Government Work Better Committee Council Member Reed, Chair

No Report.

#### 3.4 Approval of actions related to the Procurement Reforms.

**Recommendation:**

- (a) Acceptance of the report on the implementation of approved Procurement Reforms.
- (b) Adoption of a resolution approving Council Policy titled “Procurement and Contract Process Integrity and Conflicts of Interest”.
- (c) Approval of an ordinance of the City of San José amending Chapters 4.04, 4.12, and repealing Chapters 4.06 and 4.13 of Title 4 of the San José Municipal Code to increase administrative contract authority for purchase of supplies, materials, equipment and services to \$1,000,000, to enact a protest procedure for purchases, and to amend, reorganize and consolidate various purchasing procedures.

CEQA: Not a Project. (Finance / City Attorney’s Office)

**Deferred To 12/5/06.**

#### 3.5 Discussion of a proposed ordinance to establish the grounds and procedure for the removal of members of the City Council from office.

**Recommendation:** Discussion of a proposed ordinance amending Title 12 of the San José Municipal Code to add Chapter 12.18 to establish the grounds and procedure for the removal of members of the City Council from Office. CEQA: Not a Project. (City Attorney’s Office)

**The following amendments to the proposed ordinance were approved:**

- (1) Add a provision that specifies that if there is any question about a conflict of interest by any other Member of the Council, that it be referred to the investigative committee for a decision.
- (2) Change the standard from “beyond a reasonable doubt” to “clear and convincing evidence”.
- (3) Add another provision that states that if the Rules Committee makes a finding that willful misconduct in office, as a matter of California law, then the matter will immediately be referred to the City Council. Further, if the Rules Committee cannot make that finding, then the matter goes no further.
- (4) Add that no member of the Investigation Committee may hold employment with the City, RDA or with any Council Member outside of City employment.
- (5) Clarify that the minimum of five (5) days notice to the member subject to the removal request shall be working days.
- (6) Add an additional noticing step that when the final report is issued the City Clerk should notice the public via the City of San José website 45 days before the hearing.

Noes: Nguyen; Gonzales.

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.6 Approval of a Memorandum of Agreement with the International Union of Operating Engineers, Local No. 3.

**Recommendation:**

- (a) Approval to consider the recommendation below pursuant to the Early Distribution Process Rules (2/3 vote required).

**Approved unanimously.**

- (b) Adoption of a resolution approving the terms of a Memorandum of Agreement with the International Union of Operating Engineers, Local No. 3 (OE #3), and authorizing the City Manager to execute the agreement with a term of November 9, 2006 to April 17, 2009.

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

**Resolution No. 73515 adopted.**

#### 3.7 Approval to amend an agreement with FedEx Kinko's Office and Print Services, Inc.

**Recommendation:** Adoption of a resolution authorizing the Director of Finance to execute an amendment to the agreement with Kinko's Inc., increasing compensation by \$1,000,000, from \$2,000,000, to a not to exceed amount of \$3,000,000, and extending the term of the agreement from November 30, 2006 to May 30, 2007. CEQA: Not a Project. (Finance)

**Resolution No. 73516 adopted. Staff requested to bring back in six months a case benefit analysis to determine if outsourcing these services is the most cost effective option.**

#### 3.8 Adoption of a resolution approving a City Council Policy regarding disclosure and declaration of conflicts of interest.

**Recommendation:** Adoption of a resolution approving a City Council Policy regarding disclosure and declaration of conflicts of interest by the Mayor, Council Members and members of City boards and commissions on agenda items. (City Attorney)  
(Rules Committee referral 11/08/06)

**Resolution No. 73517 adopted.**

#### 3.9 Interview candidates for one vacancy on the Elections Commission.

**Recommendation:**

- (a) Interview 2 applicants.  
(b) Appoint one applicant to serve the term on the Elections Commission ending March 1, 2009.

(City Clerk)

(Rules Committee referral 11/08/06)

**Deferred To 12/5/06.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.10 Approval of actions related to the vacancies in Districts 4 and 6.

**Recommendation:** Recommend that during the upcoming period of council vacancies in District 4 and District 6, interim office staff be appointed under the appointing authority of the Mayor, and that the Mayor's Office oversee District 4 and 6 operations, including land use, constituent services, personnel, and budget issues, until their respective council members are elected and have taken office. (Mayor/Reed/Yeager)

**Approved.**

#### 3.11 Approval to rescind policies contained in the City Council Policy Manual.

**Recommendation:** Adoption of a resolution rescinding the following policies as contained in the City Council Policy Manual:

- (a) Policy 0-4, Section H: Consolidated Board and Commission Policies (Section H: Code of Ethics for Officials and Employees of the City of San José);
- (b) Policy 0-4, Section F: Child Care Reimbursement (Meetings and travel Expense);
- (c) Policy 0-7: Affirmative Action Plan;
- (d) Policy 0-16: Sexual Harassment;
- (e) Policy 0-25: Local Preference Policy;
- (f) Policy 1-5: Fees for Publications, Materials, Printing, and Duplicating;
- (g) Policy 1-7: Child Care Reimbursement (Meeting and Travel Expenses);
- (h) Policy 1-9: Open Market Purchase of Used Vehicles;
- (i) Policy 1-10: Private Activity Bonds;
- (j) Policy 1-13: Use of Recourse and Non-Recourse;
- (k) Policy 2-5: Temporary Use of City Equipment by Community Organizations;
- (l) Policy 5-1: Funeral Escort Services;
- (m) Policy 5-4: Alternate Traffic Mitigation Measures;
- (n) Policy 6-1: Annexation of City of San José;
- (o) Policy 6-3: Emergency Zoning;
- (p) Policy 6-6: Interim Residential Uses of Excluded in Industrial Areas;
- (q) Policy 6-12: Water Pollution Control Plan Growth Management Policy;
- (r) Policy 6-13: City-Initiated Planned Development Zoning;
- (s) Policy 6-21: Church Location Policy;
- (t) Policy 6-24: Evaluation Criteria for High Density Housing New Rail Transit;
- (u) Policy 7-9: Housing Property Acquisition Policy;
- (v) Policy 8-2: Criteria for the Installation of Through Streets;
- (w) Policy 8-9: Remedial Installation of Soundwalls (Formerly "Criteria for Installations of Sound Barriers");
- (x) Policy 8-10: Multi-Family Housing Mortgage;
- (y) Policy 8-11: Use of Products Blown With Chlorofluorocarbon Compounds in City Building, Construction and Remodeling Projects; and
- (z) Policy 9-7: Swimming Program Policy.

(City Manager's Office)

[Rules Committee referral 11/8/06 – Item(I)(1)]

**Resolution No. 73518 adopted.**

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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

**No Report.**

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

**No Report.**

**4.3 Public Hearing for the vacation of a portion of Paula Street.**

**Recommendation:** Public hearing and adoption of a resolution to vacate a portion of Paula Street, between Race Street and Meridian Way. CEQA: Mitigated Negative Declaration, PDC05-106. Council District 6. (Public Works)

**Resolution No. 73519 adopted.**

## **5. NEIGHBORHOOD SERVICES**

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**5.1 Report of the All Children Achieve Committee – November 9, 2006  
Council Member Yeager, Chair**

(a) Annual Report on Library Usage  
(Deferred from October 12, 2006)  
**Report Accepted.**

(b) Update on Youth Priorities  
(Deferred from June 8, 2006)  
(Request deferral to February, 2007)  
**Deferred.**

(c) San José After School Program Annual Update  
**Report Accepted.**

(d) San José's High School Initiative Update  
(Deferred from October 12, 2006)  
**Report Accepted.**

(e) Report for the San José Education Foundation  
(Request deferral to December, 2006)  
**Deferred.**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Report of the All Children Achieve Committee – November 9, 2006 (cont'd) Council Member Yeager, Chair

- (f) Review of Relevant Legislative Priorities  
**Report Accepted, with Staff directed to do the following: (1) Return to the committee in December with more narrowed language and; (2) Review this document with other Boards and Commissions, such as the Library Commission, once finalized.**
  
- (g) Report from the Youth Commission  
(See Item 5.3 for Council action to be Taken.)  
**Report Accepted, with Senior Deputy City Attorney Barbara Jordan to check if the City Municipal Code needs to be revised to reflect these changes specific to the Youth Commission.**
  
- (h) Oral Petitions  
**Chair Yeager stated that this was his last Committee meeting after serving as Chair for four years. He will miss the December meeting as he will be sworn in as a County Supervisor on December 12, 2006. Vice Chair Chirco and Council Member Pyle both thanked Chair Yeager.**
  
- (i) Adjournment  
**The meeting was adjourned at 3:08 p.m.**

**The All Children Achieve Committee Report and Actions of November 9, 2006, were accepted.**

### 5.2 Approval of actions related to the Lake Cunningham Regional Park Project.

**Recommendation:** Approval to reject all bids for the Lake Cunningham Regional Park Perimeter Landscaping Phase 3 Project and authorization for the Director of Public Works to re-advertise and re-bid the project. CEQA: Mitigated Negative Declaration, PP05-115. Council District 8. (Public Works/Parks, Recreation and Neighborhood Services)

**Approved.**

### 5.3 Approval of actions related to the City's Youth Commission.

**Recommendation:** Direction to staff to initiate amendments to the City's Youth Commission by-laws as follows: changing the term of office from 3 years to 2 years and changing the start and end dates of each term of office, to better coincide with school year and to allow for a more balanced experience level on the commission, and directing the City Attorney's Office to prepare an ordinance implementing the changes to the Youth Commission. (Chirco)

[All Children Achieve Committee Referral 11/9/06 – Item 5.1(g)]

**Approved.**

## **6. TRANSPORTATION & AVIATION SERVICES**

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### **6.1 Report of the Building Better Transportation Committee – November 6, 2006 Council Member Campos, Chair**

- (a) Caltrans Director's Report  
**Report Accepted.**
- (b) Freeway Litter Removal Initiatives  
**Report Accepted.**
- (c) Report on Transportation Impact Policy Implementation  
**Report Accepted.**
- (d) Progress Report on BART to Silicon Valley Project  
**Deferred to 12/4/06**
- (e) Oral Petitions
  - (1) Bill Chew urged all residents to go out and vote on Election Day and stated that his guest this week on his television show will be candidate for Mayor, Chuck Reed.**
- (f) Adjournment -  
**The meeting was adjourned at 3:35 p.m.**

**The Building Better Transportation Committee Report and the Actions of November 6, 2006, were accepted.**

### **6.2 Approval to purchase an Aircraft Noise and Flight Track Monitoring System.**

**Recommendation:** Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with Lochard Corporation for the purchase of an Aircraft Noise and Flight Track Monitoring System, including hardware, software, installation and related professional services, a three year warranty, and shipping and taxes, for a total amount not to exceed \$1,347,705; and
- (b) Execute change orders not to exceed a 5% contingency amount of \$67,385 to cover unanticipated changes or requirements; and
- (c) Execute four additional one-year options to renew software maintenance, subject to annual appropriations.

CEQA: Resolution Nos. 673 and 71451, PP06-180. (Finance)  
**Deferred To 12/5/06.**

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.3 Approval to establish a policy for administrative citation fines collected for enforcement of the Airport Curfew.

**Recommendation:**

- (a) Adoption of a resolution establishing a policy for the use of administrative citation fines collected by the City for enforcement of the Airport Curfew.  
**Resolution No. 73520 adopted, with direction to Staff to begin looking at ways to establish and fund air quality monitors and report back to Council.**
  
- (b) Adoption of an Appropriation Ordinance and Funding Sources Resolution Amendments to the Airport Revenue Fund and the Airport Maintenance and Operation Fund to support the Airport Curfew Fund Policy as follows:
  - (1) Airport Revenue Fund (Fund 521):
    - (a) Increase the Transfer to the Airport Maintenance and Operations Fund (Fund 523) by \$302,835.
    - (b) Decrease the Curfew Reserve Ending Fund Balance in the Airport Revenue Fund (Fund 521) by \$302,835.
  - (2) Airport Maintenance and Operation Fund (Fund 523):
    - (a) Increase the Transfer from the Airport Revenue Fund (Fund 521) by \$302,835.
    - (b) Increase the Airport Non-Personal/Equipment appropriation by \$302,835.

CEQA: Resolution Nos. 67380 and 71451, PP 06-187. (Airport/City Manager's Office)

**Ordinance No. 27922 adopted.**

**Resolution No. 73521 adopted.**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 Approval of agreements for Recycling and Solid Waste Services.

**Recommendation:**

- (a) Adoption of a resolution authorizing the City Manager to execute an agreement with California Waste Solutions, Inc. for Single-Family Recycling Collection and Processing services in Service Districts A and C for a six-year term from July 1, 2007, through June 30, 2013.

**Resolution No. 73522 adopted.**

**Disqualified: Gonzales.**

- (b) Adoption of a resolution authorizing the City Manager to execute an agreement with Garden City Sanitation, Inc. for Single-Family Garbage Collection services in Service Districts A and C for a six-year term from July 1, 2007, through June 30, 2013.

**Resolution No. 73523 adopted.**

**Disqualified: Gonzales.**

- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute a Letter of Understanding with Norcal Waste Systems of San José for the temporary provision of solid waste services for up to three months in the event Garden City Sanitation and/or California Waste Solutions are not ready to start service on July 1, 2007.

CEQA: Negative Declaration, File No. PP06-119. (Finance/Environmental Services)

**Resolution No. 73524 adopted.**

**Disqualified: Gonzales.**

## 8. PUBLIC SAFETY SERVICES

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### 8.1 Acceptance of a Report on the Mayor's Gang Prevention Task Force.

**Recommendation:** Acceptance of a report on the Mayor's Gang Prevention Task Force. (Mayor)

(Rules Committee referral 11/08/06)

**Accepted.**

### 8.2 Acceptance of the Independent Police Auditor's 2006-Mid-Year Report.

**Recommendation:** Acceptance of the Independent Police Auditor's 2006-Mid-Year Report. (IPA)

(Rules Committee referral 11/08/06)

**Accepted, with direction to the IPA to add to the next report how San José compares to other cities and how many complaints are filed, per capita.**

## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

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The Joint Council/Redevelopment Agency convened at 6:02 p.m. to consider Items 9.1 and 9.2 in a joint session.

### **9.1 Approval of actions related to the Green Building Policy.**

#### **Recommendation:**

- (a) Direction to staff to draft and return to the City Council for adoption by February 2007, a recommended City Council policy on Green Building that requires U.S. Green Building Council (USGBC) LEED<sup>TM</sup> (Leadership in Energy and Environmental Design) Certified level certification be used as the standard for all City and Redevelopment Agency new construction or major retrofit projects greater than 10,000 square feet (“LEED eligible projects”).
- (b) Require that effective with the Proposed 2007-08 Capital Improvement Program (CIP) budget:
  - (1) All new LEED eligible projects incorporate sufficient funding to achieve the LEED Certified level of certification.
  - (2) All new and carryover LEED eligible projects identify the level of LEED certification being pursued, and that staff pursue additional capital funding where feasible to allow carryover projects to achieve LEED Certified ratings.
  - (3) Staff identifies new and carryover projects that could exceed the required rating, such Silver and Gold ratings, and any recommended supplemental funding to meet those rating levels.
- (c) Direction to staff to prepare a report to the Council in conjunction with the proposed 2007-08 budget, with recommendations on how the City could use the LEED for Existing Buildings’ (LEED-EB) rating system to assess existing City facilities, including a proposal for pilot projects that would apply the LEED-EB rating system.
- (d) Direction to staff to establish a workplan for outreach to the private sector including exploring incentives and providing education on the use of additional LEED or other high-performance building guidelines such as those for Retail Stores, Schools, Homes, and Commercial Interiors, and specifically include all developments supported by Redevelopment Agency and Housing funds.
- (e) Prepare associated budget requests as part of the City’s FY 2007-08 budget process that would provide resources for the recommendations proposed above.

*(Item continued on the next page)*

## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

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### **9.1 Approval of actions related to the Green Building Policy (cont'd).**

#### **Recommendation:**

- (f) Direction to staff to report to the City Council on an annual basis the status of the City's Green Building Program.

CEQA: Not a Project. (Office of Environmental Services/Public Works/General Services)

#### **Approved, with Staff direction, as follows:**

- (1) **Draft and return to the City Council for adoption by February 2007, a recommended amendment to the City Council Policy on Green Building that requires U.S. Green Building Council (USGBC) LEED SILVER level certification be required for all City and Redevelopment Agency new construction or major retrofit projects, greater than 10,000 square feet ("LEED ELIGIBLE PROJECTS.")**
- (2) **Require that effective with the Proposed 2007-2008 Capital Improvement program (CIP) BUDGET:**
  - (a) **All new LEED eligible projects incorporate sufficient funding to achieve the LEED SILVER, or higher, level of certification.**
  - (b) **All new and carryover LEED eligible projects identify the level of LEED certification (SILVER or higher) being pursued, and that staff pursue additional capital funding to allow carryover projects to achieve the LEED SILVER rating.**
  - (c) **Staff to identify new and carry over projects that could exceed the required rating, such as Gold or Platinum ratings, and any recommended supplemental funding to meet those rating levels.**
- (3) **Bring to Council in February 2007, along with the amended policy language, the mechanism for reporting to the City Council on an annual basis, the status of the City's Green Building Program, including the recommendations contained in the joint memorandum from Council Members LeZotte and Chirco, dated November 21, 2006 and staff's memo dated November 1, 2006.**
- (4) **Return in February with a pipeline benchmark (i.e 50% drawings) to insure this policy pushes the envelope without delays or excessive costs to current projects.**
- (5) **Quantify operation and maintenance cost savings.**

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 9.2 Approval of actions related to City Hall Retail Space.

#### **Recommendation:**

- (a) Adoption of resolutions by the City Council and Redevelopment Agency authorizing the City Manager and Executive Director to negotiate and execute a Cooperation Agreement for the development of the City Hall Retail Space.  
**Resolution No. 73525 adopted.**  
**Redevelopment Agency Resolution No. adopted.**  
**Noes: LeZotte, Reed, Yeager.**
- (b) Adoption of the following 2006-2007 Appropriation Ordinance Amendments in the General Fund:  
(1) Increase the City Hall Retail Space appropriation in the amount of \$500,000 for tenant improvements.  
(2) Decrease the Unallocated 2005-2006 Fund Balance Reserve by \$500,000.  
**Ordinance No. 27923 adopted.**  
**Noes: LeZotte, Reed, Yeager.**
- (c) The Redevelopment Agency Board adopt a resolution amending the FY 2006-2007 Revenue Resolution to add \$800,000 to the Other/Miscellaneous revenue from the City's General Fund for City Hall Retail Space; amending the FY 2006-2007 Capital Budget to add \$800,000 to the Retail Strategy - New City Hall Retail project line in the Merged Redevelopment Area; and amending the FY 2006-2007 Agency appropriations resolution.  
CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)  
(Referred from 11/14/06 – Item 9.1)  
**Redevelopment Agency Resolution No. adopted.**  
**Noes: LeZotte, Reed, Yeager.**

**The Redevelopment Agency Board portion of the meeting was adjourned at 6:23 p.m.**

- **Closed Session Report**  
**No Report.**

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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- **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>
9828	North side of Villa Ave, 150' East of Myrtle Street	6	LG Developers LP	5 Lots / 4 Units	SFDR	Approve
9855	West side of Curtiss Ave, 350' South of Willow Street	6	Willowshire LLC	5 Lots / 4 Units	SFDR	Approve

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9878	West side of Bird Avenue, 800' south of Willow Street	6	Santa Clara Redevelopment	1 Lot / 12 Units	Multi-Family Attached
9881	Southeast Terminus of Tierra Encantada Way	5	Tierra Encantada LP	13 Lots / 12 Units	Single Family Attached

- **Open Forum**

- (1) **George Fokos said he was pleased with the City's progress.**
- (2) **Paul J. Manley, Pase Tanquillo Homes, complained about the City's response to his project.**
- (3) **Robert K. Apgar voiced personal observations.**

- **Adjournment**

**The Council of the City of San José was adjourned at 6:29 p.m.**

## **8. JOINT REDEVELOPMENT AGENCY/COUNCIL**

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**The Joint Redevelopment Agency Board convened at 6:30 p.m. to consider Items 8.1 and 8.2 in a Joint Session.**

### **8.1 Authority to award a contract to the low bidder for the South First and Reed Streetscape Project.**

#### **Recommendations:**

- (a) Adoption of a resolution by the City Council making certain determinations required by state law for Redevelopment Agency funding of the proposed improvements to South First Street; and,  
**Resolution No. 73526 adopted.**
  
- (b) Adoption of a resolution by the Redevelopment Agency Board awarding a contract to Joseph J. Albanese, Inc., the low bidder in the amount of \$621,980 , for the First & Reed Streetscape Project, and establishing a 10% project contingency in the amount of \$62,198, for a total construction budget not to exceed \$684,178.

CEQA: Exempt. File No. PP06-105. **[MARKET GATEWAY]**  
**Redevelopment Agency Resolution No. adopted.**

## **8. JOINT REDEVELOPMENT AGENCY/COUNCIL**

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### **8.2 Authority for the issuance of Merged Area Redevelopment Project Tax Allocation Refunding Bonds in one or more series in an aggregate principal amount not to exceed \$950,000,000 and related actions.**

#### **Recommendations:**

- (a) Adoption of a resolution by the Redevelopment Agency Board:
- (1) Authorizing the issuance of Merged Area Redevelopment Project Tax Allocation Refunding Bonds in one or more series in an aggregate principal amount not to exceed \$950,000,000 (the “2006 Refunding Bonds”); and approving in substantially final form the Tenth Supplemental Indenture of Trust with Union Bank, as Trustee; and,
  - (2) Approving the negotiated sale of 2006 Refunding Bonds to J.P. Morgan Securities, Citigroup Global Markets Inc., Merrill Lynch, UBS Securities, E.J. De La Rosa & Co., Inc., and First Albany Capital; and,
  - (3) Approving in substantially final form the Preliminary Official Statement (POS) and authorizing the Underwriters to distribute the POS; and,
  - (4) Authorizing the Executive Director to negotiate and execute the Bond Purchase Agreement provided that the 2006 Refunding Bonds generate a present value savings of at least 3% of the par amount of the bonds being refunded; and,
  - (5) Authorizing all officers, agents and employees to take such actions and execute such documents necessary and desirable to accomplish issuance of the 2006 Refunding Bonds; and,
  - (6) Authorizing the Executive Director to purchase municipal bond insurance and surety bonds for the 2006 Refunding Bonds; and,
  - (7) Authorizing the Executive Director to issue additional Refunding Bonds during the remainder of FY 2006-07, so long as the refunding would generate interest savings of at least 3% and so long as the aggregate principal amount does not exceed \$950,000,000; and,
  - (8) Authorizing the General Counsel to negotiate and execute an agreement with Jones Hall, A Professional Law Corporation, in an amount not to exceed \$227,500, for Bond Counsel services; and,
  - (9) Authorizing the Executive Director to negotiate and execute an agreement with Ross Financial for financial advisory services in an amount not to exceed \$150,000.

#### **Redevelopment Agency Board Resolution No. adopted.**

- (b) Adoption of a resolution by the City Council approving the issuance of Merged Area Redevelopment Project Tax Allocation Refunding Bonds in one or more series in an aggregate principal amount not to exceed \$950,000,000.

CEQA: Not a Project. **[MERGED]**

**Resolution No. 73527 adopted.**

**The Redevelopment Agency Board portion adjourned at 6:38 p.m.**