

# CITY COUNCIL AGENDA

**DECEMBER 11, 2007**

**AMENDED AGENDA**

PETE CONSTANT  
FORREST WILLIAMS  
SAM LICCARDO  
KANSEN CHU  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON P. NGUYEN  
DAVID D. CORTESE, VICE MAYOR  
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 Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

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

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

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](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**
  - 9:00 a.m. - Closed Session, Call to Order in Council Chambers  
Adjourn to Closed Session in Council Chambers Conference Room, W133  
[See Separate Agenda](#)
  - 1:30 p.m. - Regular Session, Council Chambers, City Hall
  - 3:30 p.m. - Hear Open Forum and continue the RDA Board Meeting  
(no earlier than 3:30 p.m.) [See RDA Agenda](#)
  
- **Invocation (Mayor)**
  - \* Delorme McKee-Stovall, Network for a Hate Free Community
  
- **Pledge of Allegiance**
- **Orders of the Day**
  - \* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

**ITEM 9.1 IS TO BE CONSIDERED IN A JOINT CITY COUNCIL/  
REDEVELOPMENT AGENCY BOARD SESSION.**

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

- **Closed Session Report**

## **1. CEREMONIAL ITEMS**

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- 1.1 Presentation of a commendation to Silver Creek High School student, Warda Ali, winner of the 2007-2008 Smith Barney/NFTE National Youth Entrepreneurship Challenge. (Cortese)
- 1.2 Presentation of a commendation honoring the selfless men and women of the San José Fire Department that donated their time and services to aid in the California Wildfires this past October. (Cortese/Pyle)

# 1. CEREMONIAL ITEMS

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- 1.3 Presentation of a commendation marking the 40th anniversary of the Housing Authority of the County of Santa Clara. (Housing)
- 1.4 Presentation of a commendation to Kathy Muller for her years of service as Executive Director of Guadalupe River Park and Gardens. (Liccardo)
- 1.5 Presentation of a proclamation in honor of the 59<sup>th</sup> anniversary of the United Nations Declaration of Human Rights. (Chu)
- \* (Rules Committee referral 12/5/07)

# 2. CONSENT CALENDAR

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

## 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes.

- (a) Regular Minutes of October 2, 2007
- (b) Regular Minutes of October 16, 2007
- (c) Regular Minutes of October 23, 2007
- (d) Infrastructure Backlog Study Session Minutes of October 25, 2007
- (e) Regular Minutes of October 30, 2007

## 2.2 Final adoption of ordinances.

## 2.3 [Request for an excused absence for Councilmember Campos.](#)

**Recommendation:** Request for an excused absence for Councilmember Campos from the Regular Meeting of the Community and Economic Development Committee on November 26, 2007 due to illness. (Campos)  
(Rules Committee referral 11/28/07)

## 2.4 [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, through October 15, 2007.* (City Auditor)

## 2. CONSENT CALENDAR

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### 2.5 Library Grants Appropriation and Gift Trust Fund.

**Recommendation:**

- (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
  - (1) Increase the Library Grants appropriation (2431) by \$47,819; and
  - (2) Increase the estimate for Revenue from the State of California by \$47,819.
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Gift Trust Fund:
  - (1) Increase the Library General Gifts appropriation (2382) by \$21,250; and
  - (2) Increase the estimate for Earned Revenue by \$21,250.

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

### 2.6 Amendment to the Agreement for Landfill and Disposal Consulting Services.

**Recommendation:** Approval of a seventh amendment to the agreement with Camp Dresser & McKee, Inc., for landfill and disposal consulting services, extending the term of the agreement one year to December 31, 2008, at no additional cost to the City.

CEQA: Not a Project. (Environmental Services)

### 2.7 Amendment to an Agreement for the Proposed Monterey Highway Soccer Complex Project.

**Recommendation:** Approval of a third amendment to the agreement between the City of San José and Environmental Science Associates, Inc. for environmental services related to the proposed Monterey Highway Soccer Complex project extending the term of the agreement from December 31, 2007 to December 31, 2008 at no additional cost to the City. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

### 2.8 Turnkey Agreement for the San Antonio Street Park Site.

**Recommendation:**

- (a) Approval of a Turnkey Park Agreement with DKB Homes, LLC, for Planned Development Permit PD04-082 (PT04-125) to construct park improvements on the San Antonio Street park site and to reimburse DKB Homes, LLC in an amount not to exceed \$238,900 for park and street improvements on the San Antonio park site that exceeds DKB Homes, LLC's Parkland Dedication Obligation.
- (b) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
  - (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$170,000 for the San Antonio Street Turnkey Park; and
  - (2) Decrease the Reserve: Future PDO/PIFO Projects by \$170,000.

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.8 Turnkey Agreement for the San Antonio Street Park Site. (Cont'd.)

**Recommendation:**

- (c) Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 5:
- (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$69,000 for the San Antonio Street Turnkey Park; and
  - (2) Decrease the Ending Fund Balance by \$69,000.
- CEQA: Mitigated Negative Declaration, PDC04-040. Council District 5. SNI: Gateway-East. (Parks, Recreation and Neighborhood Services/City Manager's Office)

### 2.9 [Amendment to the Parkland Agreement for Vieira Park.](#)

**Recommendation:**

- (a) Approval of the first amendment to Parkland agreement for Tentative Map PT00-11-152 with KB Home, South Bay, Inc., for Planned Development Permit PD03-022, associated with Tentative Map No. PT00-152 to add a play lot at Vieira Park, located at the corner of Adeline Ave. and Grassina Street (Communication Hill), and to reimburse KB Home, South Bay, Inc. in an amount not to exceed \$196,067.
- (b) Adoption of the following Appropriation Ordinance Amendments in the Subdivision Park Trust Fund (Fund 375):
- (1) Increase the appropriation to the Department of Public Works for the Tuscany Hills Parks and Neighborhood Trail Turnkey Project by \$22,000;
  - (2) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the KB Home Reimbursement for Tuscany Hill Parkland Fees Project by \$174,000; and
  - (3) Decrease the Reserve: Communications Hill by \$196,000.
- CEQA: Resolution No. 70194. Council District 7. (Parks, Recreation and Neighborhood Services/City Manager's Office)

### 2.10 [Amendment to the Agreement for Additional Psychological Services.](#)

**Recommendation:** Adoption of a resolution authorizing the City Manager to execute an amendment to the agreement with the Law Enforcement Psychological Services, Inc. related to providing additional psychological services to the San José Police Department, extending the term for a two month period, through January 31, 2008 and increasing compensation in an amount not to exceed \$85,000, with a total amount of compensation not to exceed \$845,142. CEQA: Not a Project. (Police)

## 2. CONSENT CALENDAR

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### 2.11 Agreement for the Joyce Ellington Branch Library Project.

**Recommendation:** Approval of a continuation agreement with Tetra Design, Inc. for Architectural Consultant Services for the Joyce Ellington Branch Library Project continuing the term retroactive for the period July 1, 2007 through December 31, 2008 at no additional cost to the City. CEQA: Exempt, PP05-167. Council District 3. SNI: 13<sup>th</sup> Street. (Public Works)

### 2.12 Redevelopment Agency Capital Projects.

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

- (a) Increase the estimate for Earned Revenue by \$767,600.
- (b) Increase the appropriation to the Department of Transportation for the Pedestrian Improvements project (PSM 431, Amendment #2) in the amount of \$83,390.
- (c) Increase the appropriation to the Department of Public Works for the Sanitary Sewer Improvements Phase II project (PSM 495, Amendment #2) in the amount of \$497,000.
- (d) Establish an appropriation to the Office of Cultural Affairs for the Edenvale Community Center Public Art project (PSM 508) in the amount of \$37,000.
- (e) Establish an appropriation to the Department of Public Works (DPW) for the DPW Real Estate Division – Third Party Services project (PSM 511) in the amount of \$50,000.
- (f) Increase the appropriation to the Office of Cultural Affairs for the Starbird Youth Center Public Art project (PSM 512) in the amount of \$28,210.
- (g) Establish an appropriation to the Department of General Services for The South Hall Convention Center – HVAC Systems project (PSM513) in the amount of \$72,000.

CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. Council Districts 1, 2, 3 and 5. SNI: Gateway East, Edenvale/Great Oaks/Blackford. (Public Works/Transportation/General Services/Economic Development/City Manager's Office)

### 2.13 Councilmember Williams' Travel to Los Angeles, CA.

**Recommendation:** Approval of travel by Councilmember Williams to Los Angeles, CA on November 28, 2007 to attend a meeting of Chairs of the various intercity rail services in the State of California at the Los Angeles County Metro Transportation Authority Office. Source of Funds: Capital Corridor Joint Powers Authority. (Williams) (Rules Committee referral 11/28/07)

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.1 Report of the Rules and Open Government Committee – [November 28, 2007](#)

##### Mayor Reed, Chair

- (a) City Council
  - (1) Review December 4, 2007 Final Agenda
  - (2) Review December 11, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
  - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
  - (1) Re-appointment to Appeals Hearing Board. (Constant)
  - (2) New Commissioner Appointments to the following Commissions: 1) Disability Advisory Commission, 2) Early Care and Education Committee, 3) Human Rights Commission, 4) Senior Citizens Commission, and 5) Small Business Development Commission.
- (g) Rules Committee Reviews, Recommendations and Approvals
- (h) Review of additions to Council Committee Agendas
  - (1) Community and Economic Development Committee
  - (2) Neighborhood Services and Education Committee
  - (3) Transportation and Environment Committee
  - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force
    - (a) Review of remaining provisions of Sunshine Reform Task Force Phase I Report and Recommendations. (Manager)  
**Continued from November 14, 2007**
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

#### 3.2 Report of the Public Safety, Finance and Strategic Support Committee Councilmember Nguyen, Chair – *No Report*

#### 3.3 [Ordinance establishing rules prohibiting nepotism and rules regarding consensual personal relationships in the workplace for the Mayor and Members of the City Council.](#)

**Recommendation:** Approval of an ordinance amending Title 12 of the San José Municipal Code by adding a new Chapter 12.20 to establish rules prohibiting nepotism and rules regarding consensual personal relationships in the workplace for the Mayor and Members of the City Council. CEQA: Not a project. (City Attorney's Office)  
(Deferred from 11/20/07 – Item 3.6)

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.4 [Ordinance updating the list of San José Municipal Code infractions.](#)

**Recommendation:** Approval of an ordinance amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code to update the list of infractions. CEQA: Not a Project. (City Attorney's Office)

#### 3.5 [Ordinance establishing procedure and uniform requirements for filing of claims with the City.](#)

**Recommendation:** Approval of an ordinance amending Title 1 of the San José Municipal Code to add a new Chapter 1.20 to establish uniform requirements and procedures applicable to the presentation and processing of claims for money or damages with the City of San José where the claim is exempt from the filing requirements of the California Government Claims Act and there are no other applicable requirements or procedures for the filing of such claim under State law or the Municipal Code, to require the filing of a claim as a prerequisite to filing suit against the City, and to establish a transition period for the presentation of claims that would be untimely under the new procedures and requirements. CEQA: Not a Project. (City Attorney's Office)

#### 3.6 [Almaden Family Apartments Project.](#)

##### [Supplemental](#)

**Recommendation:** Adoption of a resolution:

- (a) Authorizing the issuance of subordinate tax-exempt multifamily housing revenue bonds designated as “City of San José Subordinate Multifamily Housing Revenue Bonds (Almaden Family Apartments Project) Series 2007D” in an aggregate principal amount not to exceed \$7,000,000 (the "Subordinate Bonds");
- (b) Approving the Subordinate Bonds, Subordinate Trust Indenture, First Amendment to Regulatory Agreement and Declaration of Restrictive Covenants, Subordinate Bond Purchase Agreement, First Supplemental Trust Indenture and other related documents;
- (c) Approving a loan of Subordinate Bond proceeds to Almaden Family Housing Partners, L.P., a California limited partnership, for providing a portion of the permanent financing for the Almaden Family Apartments located at 1525-1541 Almaden Road; and,
- (d) Authorizing the Deputy Director of Finance and Director of Housing to execute and, as appropriate, to negotiate, execute and deliver these documents and other related documents as necessary.

CEQA: Negative Declaration, File No. PDC-SH-98-089. Council District 7.  
(Housing/Finance)

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.7 Report of the Rules and Open Government Committee – [November 7, 2007](#)

##### Mayor Reed, Chair

- (a) City Council
  - (1) Review November 13, 2007 Final Agenda  
**None – Meeting Canceled.**
  - (2) Review November 20, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
  - (2) Federal
- (d) Meeting Schedules
  - (1) Approval of the City Council Meeting Schedule for the period January – July 2008; and Study Session Schedule for the period January – July 2008. (City Manager’s Office)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Discussion and action on an Urgency Ordinance regarding Municipal Code 17.12.445 (Additional safety requirements for multi-story and other building presenting unique firefighting challenges). (Cortese)  
**Deferred from October 17 and 31, 2007**
  - (2) Recommend staff prepare a Workplan assessment for a proposal for a citywide green building policy. (Chu/Chirco/Campos/Liccardo)
  - (3) Recommend staff develop a workload assessment for drafting an incentive-based private development green building policy. (Constant/Oliverio)
  - (4) Acceptance of the Status report on Public/Private Partnerships. (City Manager’s Office)
- (h) Review of additions to Council Committee Agendas
- (i) Open Government Initiatives
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force
    - (a) Review of remaining provisions of Sunshine Reform Task Force Phase I Report and Recommendations. (Manager)  
**Continued from October 31, 2007**
    - (b) City Attorney’s response to referral dated August 20, 2007 from Rules and Open Government Committee relating to taping of Closed Sessions. (City Attorney’s Office)  
**Deferred from October 3 and 31, 2007**
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
    - (a) Approval to validate and rescind selected policies contained in the City Council Policy Manual. (City Manager’s Office)
- (j) Open Forum
- (k) Adjournment

\* [Deferred from 11/20/07 – Item 3.4 and 12/4/07 – Item 3.1(d)]

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.8 Report of the Rules and Open Government Committee – [November 14, 2007](#)

##### Mayor Reed, Chair

- (a) City Council
    - (1) Review November 20, 2007 Final Agenda
    - (2) Review November 27, 2007 Draft Agenda

**None – Meeting Canceled.**
  - (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
  - (c) Legislative Update
    - (1) State
    - (2) Federal
  - (d) Meeting Schedules
  - (e) The Public Record
  - (f) Appointments to Boards, Commissions and Committees
  - (g) Rules Committee Reviews, Recommendations and Approvals
    - (1) (a) Preliminary Legal Issues – Internet Filters at City Libraries. (City Attorney’s Office)
    - (b) Staff Response to October 24, 2007 Rules and Open Government Committee Referral relating to Internet Filtering and Computer Use at San José Public Libraries. (Library)
    - (2) Zoning Overlay Downtown. (Liccardo)
  - (h) Review of additions to Council Committee Agendas
  - (i) Open Government Initiatives
    - (1) Reed Reforms
    - (2) Sunshine Reform Task Force
      - (a) Review of remaining provisions of Sunshine Reform Task Force Phase I Report and Recommendations. (Manager)

**Continued from November 7, 2007**

    - (b) City Attorney’s response to referral dated August 20, 2007 from Rules and Open Government Committee relating to taping of Closed Sessions. (City Attorney’s Office)

**Deferred from October 3, 31, and November 7 2007**

  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
    - (a) Approval to validate and rescind selected policies contained in the City Council Policy Manual. (City Manager’s Office)
- (j) Open Forum
- (k) Adjournment

\* [Deferred from 12/4/07 – Item 3.1(e)]

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 Report of the Community & Economic Development Committee – [November 26, 2007](#) Councilmember Pyle, Chair

- (a) Review of Committee Workplan.
- (b) Downtown High Rise Housing Update. (Redevelopment Agency/Housing)
- (c) Update on Homelessness and an Update and Submittal of the Final Report of the Blue Ribbon Committee. (Housing)
- (d) Downtown Property-Based Business Improvement District Update. (Transportation/Redevelopment Agency/Downtown Association)
- (e) HP Pavilion Improvements. (Arena Authority)
- (f) Quarterly Update on Performance Measurements. (Planning, Building and Code Enforcement/Housing/Economic Development/Redevelopment Agency)
- (g) Quarterly Update on Council Directives.
- (h) Sign Ordinance Update. (Planning, Building and Code Enforcement/Economic Development/Redevelopment Agency)

#### **SEE ITEM 4.2 FOR COUNCIL ACTION TO BE TAKEN**

- (i) The 2005-06 and 2006-07 Annual Performance Audit of Team San José. (Auditor)
- (j) Oral Petitions
- (k) Adjournment

### 4.2 [Sign Ordinance Update.](#)

#### [Memo from Councilmember Pete Constant and Kansen Chu](#) [Supplemental](#)

- \* **Recommendation:** Approval of the revised draft work plan for a comprehensive update of the entire Sign Ordinance. CEQA: Not a Project. (Planning, Building and Code Enforcement)  
[Community and Economic Development Committee referral 11/26/07 – Item (h)]

### 4.3 **Rezoning the real property located on the northwest corner of Orchard Parkway and Atmel Way.**

#### [Supplemental](#)

**Recommendation:** Consideration of an ordinance rezoning the real property located on the northwest corner of Orchard Parkway and Atmel Way from the IP(PD) – Planned Development Zoning District to the IP(PD) – Planned Development Zoning District to allow office/research and development uses and modifications to the development standards to change the height and setbacks to conform to the IP – Industrial Park Zoning District on a 16.35 gross acre site (Legacy Partners Commercial, Owner). CEQA: Resolution No. 72768 and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

#### [PDC07-091 - District 4](#)

- \* [Deferred from 12/4/07 – Item 11.1(c)]

## 5. NEIGHBORHOOD SERVICES

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- 5.1 **Report of the Neighborhood Services and Education Committee**  
Councilmember Chirco, Chair – *No Report*

## 6. TRANSPORTATION & AVIATION SERVICES

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- 6.1 **Report of the Transportation and Environment Committee**  
Councilmember Williams, Chair – *No Report*

- 6.2 [Actions related to the BART Extension to San José/Silicon Valley.](#)

[Memo from Councilmember Liccardo](#)

- \* **Recommendation:** Approval of the preferred design recommendation to the Santa Clara Valley Transportation Authority (VTA) regarding the BART Extension to San José/Silicon Valley as follows:

- (a) Select the “Northern Offset” for the BART tunnel alignment in the vicinity of Santa Clara Street and Coyote Creek, for the continuation of project design work, and with the condition that a subsequent environmental review process demonstrates the option to be preferred based on environmental and cost effectiveness issues.

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

[Deferred from 10/16/07 – Item 6.4(b) and 11/20/07 – Item 6.2]

- \* **TO BE HEARD NO EARLIER THAN 3:00 P.M.**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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- 7.1 [Memorandum of Agreement for Trash Prevention and Removal.](#)

**Recommendation:** Approval of a Memorandum of Agreement with the Santa Clara Valley Water District for Trash Prevention and Removal to supersede the agreement executed in 2004 and include City support for cleanup of illegal creekside encampments within City boundaries. CEQA: Exempt, File No. PP04-248. (Environmental Services)

- \* **DROP**

- 7.2 [Policy Direction for Neighborhood Clean-Up Services.](#)

[Supplemental](#)

**Recommendation:** Approval of the following policy direction for Neighborhood Clean-Up services:

- (a) Release a Request for Proposal for Neighborhood Clean-Up Bin Services for Districts A and C in February 2008, and direction to staff to return to Council in June 2008, and with a full cost analysis of service options and recommendations for service providers.

*(Item continued on the next page)*

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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### **7.2 Policy Direction for Neighborhood Clean-Up Services. (Cont'd.)**

#### **Recommendation:**

- (b) Implement a phased City-wide rotational approach to Neighborhood Clean-Up scheduling that would serve all City neighborhoods uniformly and efficiently:
  - (1) Phase I – Serve all San José neighborhoods once every three years, beginning July 1, 2008 through June 30, 2011. Increase the service level of each clean-up from 22 to 25 bins, at the current schedule of 50 clean-up events per year, resulting in a 14% bin capacity increase.
  - (2) Phase II – Based on proposal costs and parameters, direct staff to evaluate an optional Phase II rotation that would serve all San José neighborhoods every two years, beginning July 1, 2011. This approach would expand the number of Clean-Ups per year from 50 to 75 with 25 bins at each event, resulting in an additional 50% service level increase over the three year rotational plan.
- (c) Establish a four-and-a-half year contract term, from January 1, 2009 through June 30, 2013, with an option for a two-year extension to be consistent with the two new Recycle Plus agreements with California Waste Solutions and Garden City Sanitation.
- (d) Increase the City diversion requirement to 75% to comply with adopted Zero Waste goals.

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

## **8. PUBLIC SAFETY SERVICES**

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### **8.1 Report on bids and approval of actions related to the Police Southside Substation Project.**

#### **\* Recommendation:**

- (a) Report on bids and award of contract for the South San José Police Substation project to the low bidder, S.J. Amoroso, to include the base bid and none of the Add Alternates in the amount of \$59,997,000 and the approval of a contingency in the amount of \$2,710,000.
- (b) Adoption of the following 2007-2008 Appropriation Ordinance amendments in the Neighborhood Security Bond Fund (Fund 475):
  - (1) Increase the South San José Police Substation appropriation by \$5,416,000;
  - (2) Decrease the Reserve: East San José Community Policing Center by \$1,677,000;
  - (3) Decrease the Reserve: South San José Community Policing Center by \$1,739,000;
  - (4) Decrease the Contingency Reserve by \$500,000; and
  - (5) Decrease the Ending Fund Balance by \$1,500,000.

*(Item continued on the next page)*

## 8. PUBLIC SAFETY SERVICES

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### 8.1 Report on bids and approval of actions related to the Police Southside Substation Project. (Cont'd.)

\* **Recommendation:**

- (c) Adoption of a resolution authorizing the expenditure of Construction Tax and Property Conveyance Tax funds currently allocated for “Service Yards” purposes for the South San José Police Substation project pursuant to Municipal Code 4.55.300.
- (d) Adoption of the following 2007-2008 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Service Yards Purposes (Fund 395):
  - (1) Establish a Transfer to the General Fund for the South San José Police Substation project in the amount of \$400,000; and
  - (2) Decrease the Ending Fund Balance by \$400,000.
- (e) Adoption of the following 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund (Fund 001):
  - (1) Increase the estimate for Other Revenue by \$2,329,250;
  - (2) Increase the estimate for Transfers and Reimbursements by \$400,000;
  - (3) Establish an appropriation to the Police Department for the South San José Police Substation in the amount of \$4,996,976; and
  - (4) Decrease the Earmarked Reserve for Future Capital Projects (FF&E) by \$2,267,726.
- (f) Adoption of the following 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10 (Fund 389):
  - (1) Increase the estimate for Earned Revenue by \$70,750; and
  - (2) Increase the Ending Fund Balance by \$70,750.
- (g) Approval of an ordinance amending Chapter 22.08 of Title 22 of the San José Municipal Code to provide that the City Council at its discretion may adjust the Public Art allocation for capital projects outside the annual capital budget approval, and Direction to the City Manager to prepare a recommendation to the City Council in conjunction with the 2007-2008 Mid-Year Budget Review report, that the General Fund Future Capital Projects (FF&E) Reserve be partially replenished by reallocating, in the Neighborhood Security Bond Fund, Public Art – Police Bond Projects funding to the South San José Police Substation project in the amount of \$1,100,000.

CEQA: Mitigated Negative Declaration, File No. PP04-304. (Public Works/Police/City Manager’s Office)

**RECOMMEND DEFERRAL TO 12/18/07 PER ADMINISTRATION**

## 8. PUBLIC SAFETY SERVICES

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### 8.2 Actions related to Countywide Emergency Communications System.

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#### **Recommendation:**

- (a) Adoption of a resolution authorizing the City Manager to:
  - (1) Execute the Fourth Amendment to the Agreement with Harris Stratex Networks Operating Corporation (Harris Stratex) to furnish the equipment system and installation services for the ECOMM microwave interoperability communications project, including the first year of warranty and maintenance services; to increase the maximum compensation from \$277,365 to \$7,777,118; and to extend the term of the Agreement from December 31, 2007, to December 31, 2008,
  - (2) Execute a Notice to Proceed for additional work and to increase the compensation by \$1,282,985, upon appropriation of additional funding;
  - (3) Execute change orders in an additional contingency amount of \$700,000, upon appropriation of additional funding.
- (b) Adoption of the following amendments to the Annual Appropriation Ordinance and Funding Sources Resolution in the General Fund for Fiscal Year 2007-08:
  - (1) Increase the City-wide appropriation to the Police Department for the 2006 Super Urban Area Security Initiative (SUASI) Interoperable Communications Grant in the amount of \$3,000,000;
  - (2) Increase the Earned Revenue Estimate from the Federal Government by \$3,000,000;
  - (3) Decrease the Simulcast Sites Appropriation in the Construction Tax and Property Conveyance (C&C) Tax Fund: Communications Purposes by \$500,000; and
  - (4) Establish an appropriation in the C&C Tax Fund: Communications Purposes in the amount of \$500,000 for the COPS 2003-2004 Interoperable Communications Grant.
- (c) Adoption of a Resolution authorizing the City Manager to negotiate and execute site license agreements between the City of San José and certain other Silicon Valley Regional Interoperability Project (SVRIP) member jurisdictions, providing for the installation of ECOMM microwave equipment at each site.
- (d) Adoption of a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding between the City of San José and the State of California providing for the installation of ECOMM microwave equipment at the CAL FIRE Morgan Hill site.
- (e) Adoption of a resolution incorporating the environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA/NEPA: Mitigated Negative Declaration, File No. PP07-055. An Initial Study was prepared pursuant to CEQA and an Environmental Assessment was prepared pursuant to NEPA. Based on the Initial Study, the Director of Planning has circulated for public review and adopted a Mitigated Negative Declaration. Based on the Environmental Assessment, the United States Department of Justice has circulated for public review and adopted a Finding of No Significant Impact (FONSI). (Police/City Manager's Office)

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 9.1 IN A JOINT SESSION

#### 9.1 Downtown Zoning Overlay.

##### **Recommendation:**

- (a) Direct the City Manager and Redevelopment Agency Director to jointly develop new Entertainment Zone Planning Guidelines for the Downtown; and
- (b) Return to City Council with specific recommendations no later than June 24, 2008.
- (c) Reaffirm support for Council Policy 6-23.
- (d) Direct the City Manager to fully implement the intent of Council Policy 6-23 for both new applications and existing Conditional Use Permits (CUPs) in the Downtown.
- (e) Direct the City Manager to limit the length of time for CUPs in the Downtown to a term of two years.

(Liccardo)

(Rules Committee referral 11/14/07)

**RECOMMEND DEFERRAL TO 12/18/07 PER ADMINISTRATION**

- **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>
9961	Southwest side of Campbell Avenue, 950 feet Northwest of Newhall Street	6	Santa Clara Development	12 Lots/ 12 Units	Single Family Detached	Approve

- Notice of City Engineer’s Award of Construction Projects

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

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Traffic Signal Installation at San Salvador Street and Seventh Street	3	Pacific Electric Company	\$375,389	11/7/07
Keys Street and Greater Gardner Pedestrian Street Lighting Improvements	3	Beltramo Electric, Inc.	\$494,675	11/9/07
Guadalupe Gardens Community Gardens – Phase I	Citywide	ESR Construction ,Inc.	\$436,400	11/16/07
Roosevelt Skate Park	3	Robert A. Bothman, Inc.	\$765,343	11/21/07
Hamilton Ave Improvement Project (Meridian Ave to Hamilton Way)	6	Wattis Construction Company, Inc.	\$865,022	11/30/07

- Open Forum (To be heard no earlier than 3:30 p.m.)
- Continue RDA Board Meeting (immediately following Open Forum). [See RDA Agenda.](#)
- Adjournment

## **CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

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

### **1. Public Meeting Decorum:**

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

### **2. Signs, Objects or Symbolic Material:**

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

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

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

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