

CITY COUNCIL AGENDA

DECEMBER 18, 2007

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
JUDY CHIRCO
NANCY PYLE

DAVID D CORTESE, VICE MAYOR

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. 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
Absent Council Members: Chirco. (Excused)
 - 10:01 a.m.**- Regular Session, Call to Order in Council Chambers, City Hall
Absent Council Members: Chirco. (Excused)
 - 1:33 p.m.** - Regular Session, Call to Order in Council Chambers, City Hall
Absent Council Members: Chirco. (Excused)
 - 7:01 p.m.** - General Plan Hearings, Call to Order in Council Chambers, City Hall
 - Public Hearings, Council Chambers, City Hall**Absent Council Members: Chirco. (Excused)**
- **Invocation (Mayor)**
Jeff Wenke, The Journey Church, presented a prayer for the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 1.2 deferred to 1/29/08 and Item 11.3 dropped.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Vietnamese American Heritage Project for helping to share the achievements of Vietnamese Americans and for bringing awareness about Vietnamese culture to citizens in the community. (Nguyen)

Heard in the evening.

Mayor Reed and Council Member Nguyen recognized and commended the Vietnamese American Heritage Project for sharing the achievements of Vietnamese Americans and for bringing awareness about Vietnamese culture to the citizens of San José.

- 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)

(Deferred from 12/11/07 – Item 1.2)

Deferred to 1/29/07 per Orders of the Day.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of November 6, 2007
- (b) Special Meeting Minutes of November 13, 2007
- (c) Minutes of Joint City Council/Redevelopment Agency Board/Santa Clara Valley Water District Study Session on Flood Management Issues of November 19, 2007
- (d) Regular Minutes of November 20, 2007

Deferred to January 8, 2008 per City Clerk.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28181 – Adopting a limited amnesty program under which the City will forgive up to thirty percent of certain types of delinquent accounts, including up to thirty percent of any interest and penalties associated with such accounts, upon the debtor's fully payment of seventy percent of the total amount of the delinquent account.

Ordinance No. 28181 adopted.

- (b) ORD. NO. 28185 – Amending Sections 4.04.010, and 4.04.020 of Chapter 4.04 of Title 4 of the San José Municipal Code to delegate to the City Manager the authority to execute certain agreements for the purchase or donation of real property, permanent easements and temporary construction easements with terms of two years or less, where the consideration for the real property, permanent easement or temporary construction easement does not exceed \$100,000.

Ordinance No. 28185 adopted.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (c) ORD. NO. 28188 – Rezoning certain real property situated at the south side of Hillsdale Avenue, approximately 460 feet easterly of Foxworthy Avenue and 600 feet east of Pearl Avenue (866 Hillsdale Avenue) to A(PD) Planned Development Zoning District. PDC07-022
Ordinance No. 28188 adopted.
- (d) ORD. NO. 28189 – Rezoning certain real property situated on the northeast corner of Berryessa Road and Lundy Avenue (1715 Berryessa Road) to CN Commercial Neighborhood Zoning District. C06-134
Ordinance No. 28189 adopted.
- (e) ORD. NO. 28190 – Prezoning certain real property situated at the east side of North White Road, approximately 100 feet southerly of Kentridge Drive (380 North White Road) to A(PD) Planned Development Zoning District. PDC07-041
Ordinance No. 28190 adopted.
- (f) ORD. NO. 28191 – Rezoning certain real property situated east side of South Winchester Boulevard, approximately 65 feet northerly of Williams Road (960 South Winchester Boulevard) from R-1-5 Single-Family Residence Zoning District to the CP-Commercial Pedestrian Zoning District. C07-050
Ordinance No. 28191 adopted.
- (g) ORD. NO. 28192 – Rezoning certain real property situated at the southeast corner of Ewer Drive and Ross Avenue (4232 Ross Avenue) from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District. PDC07-040
Ordinance No. 28192 adopted.
- (h) ORD. NO. 28193 – Prezoning certain real property situated on both side of Rosemar Avenue, between Juliet Park Drive and Fleming Avenue, and the north side of Fleming Avenue between Rosemar Avenue and Marchant Court to R-1-5 Single Family Residence Zoning District. C06-106
Ordinance No. 28193 adopted.
- (i) ORD. NO. 28194 – Prezoning certain real property situated at the southwest side of South White Road, 400 feet southeast of East Hills Drive, from County of Santa Clara to R-1-8 Single Family Residence Zoning District. C06-107
Ordinance No. 28194 adopted.
- (j) ORD. NO. 28195 – Prezoning certain real property situated at the southwest side of South White Road, 600 feet southeast of East Hills Drive from County of Santa Clara to R-1-8 Single Family Residence Zoning District. C06-108
Ordinance No. 28195 adopted.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (k) ORD. NO. 28196 –Prezoning certain real property situated between Pleasant Acres Drive and Ruby Avenue, west of Murillo Avenue, from County of Santa Clara to R-1-2 Single Family Residence Zoning District as to a certain portion of the real property and to R-1-RR Single Family Residence Zoning District as to a certain portion of the real property, all as described herein. C06-127
Ordinance No. 28196 adopted.
- (l) ORD. NO. 28197 – Prezoning certain real property situated at the northeast corner of Ruby Avenue and Holderman Drive to R-1-2 Single Family Residence Zoning District. C06-128
Ordinance No. 28197 adopted.
- (m) ORD. NO. 28204 – Amending Title 12 of the San José Municipal Code by adding a new Chapter 12.20 to establish rules prohibiting nepotism and to establish rules regarding consensual personal relationships in the workplace for the Mayor and members of the City Council.
Ordinance No. 28204 adopted.
- (n) ORD. NO. 28205 – Amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code which lists all infractions, to update the list of infractions.
Ordinance No. 28205 adopted.
- (o) ORD. NO. 28206 –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 excepted 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, 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.
Ordinance No. 28206 adopted.
- (p) ORD. NO. 28207 – Rezoning certain real property situated at the northwest corner of Orchard Parkway and Atmel Way to the IP(PD) Planned Development Zoning District. PDC07-091
Ordinance No. 28207 adopted.

2. CONSENT CALENDAR

2.3 Development of Concession Plan for the Airport.

Recommendation: Approval of the fifth amendment to the agreement with the Center for Airport Management, LLC for consultant services for the development of concession plans for the Norman Y. Mineta San José International Airport, extending the term of the Agreement from January 1, 2008 to December 31, 2008 with no increase in compensation. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-258. (Airport)

Approved.

2.4 Approval of agreements with the Independent Evaluator/Attorney and Independent Investigator for the San José Elections Commission.

Recommendation: Adoption of a resolution:

- (a) Authorizing the City Attorney to negotiate and execute an agreement with Hanson, Bridgett, Marcus, Vlahos, Rudy LLP to provide legal and investigative services as the Evaluator to the San José Elections Commission for a two-year term beginning on December 10, 2007 and extending through December 10, 2009, in an amount not to exceed \$100,000, subject to appropriation of funds.
- (b) Authorizing the City Clerk to negotiate and execute an agreement with Roberto A. Rivera dba Rivera & Associates to provide investigation services to the San José Elections Commission for a term beginning December 1, 2007 and extending through December 1, 2009, in an amount not to exceed \$40,000, subject to appropriation of funds.

CEQA: Not a Project. (City Attorney's Office/City Clerk)

Resolution No. 74168 adopted.

2.5 Naming of a new library and community center.

Recommendation: As recommended by the Parks and Recreation Commission and Library Commission, name a new library and community center at 1000 S. Bascom Avenue as "Bascom Library and Community Center". (City Clerk)

Approved.

2.6 Naming of a new community center and library.

Recommendation: As recommended by the Parks and Recreation Commission and Library Commission, name a new community center and library at Solari Park as "Seven Trees Community Center and Branch Library". (City Clerk)

Approved.

2. CONSENT CALENDAR

2.7 Weed and Seed Program funding for the East San José Neighborhood.

Recommendation:

- (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:
- (1) Increase the estimate for Revenue from the Federal Government by \$200,000.
 - (2) Increase the Weed and Seed – East San José appropriation to the Police Department in City-Wide Public Safety in the amount of \$102,674.
 - (3) Increase the Weed and Seed – East San José appropriation to the City Manager’s Office in City-Wide Neighborhood Services in the amount of \$97,326.

Ordinance No. 28209 adopted.

Resolution No. 74169 adopted.

- (b) Adoption of a resolution authorizing the City Manager to apply to the United States Department of Justice for fourth year Weed and Seed Program funding for the East San José neighborhood in an amount not to exceed \$200,000 for the period of January 1, 2009 through December 31, 2009, to accept the grant awarded, and to execute all related documents.

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

Resolution No. 74170 adopted.

2.8 Non Profit Recycler Reimbursement Program.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute agreements for Non Profit Recycler Reuse and Recycling Agreements as follows for 2007-2008:

- (a) Goodwill of Silicon Valley in the amount of \$356,176
- (b) The Salvation Army in the amount of \$125,870
- (c) HOPE Services in the amount of \$6,201

CEQA: Not a Project. (Environmental Services)

Resolution No. 74171 adopted.

2.9 Report on bids for the Fire Main Replacement Project at the Plant.

Recommendation: Report on bids and award of construction contract for Fire Main Replacement Project – Phase I to the low bidder, D&D Pipelines Inc., in the amount of \$292,550, and approval of a contingency in the amount of \$30,000. CEQA: Exempt, File No. PP07-144. (Environmental Services)

Deferred to 1/15/08 per Administration.

2. CONSENT CALENDAR

2.10 Status Report on activities related to the Municipal Climate Action Plan.

Recommendation:

- (a) Acceptance of update on the city's greenhouse gas emissions inventory from 1990 and Municipal Climate Action Plan.
- (b) Adoption of the existing Sustainable Silicon Valley regional greenhouse gas emission goal for 2010 (205 below 1990 levels by 2010) as the City's community greenhouse gas emission goal.

CEQA: Not a Project. (Environmental Services)

[Transportation and Environment Committee referral 12/03-07 – Item (g)]

Approved.

2.11 Amendment to Custodial Services Agreement.

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

- (a) Execute an amendment to the agreement with Acme Building Maintenance for custodial services for citywide buildings for the period of January 10, 2007 to January 9, 2008 adding various City buildings, increasing services to designated buildings, and increasing compensation by \$136,000 for these additional services from \$1,427,102 to a total not-to-exceed amount of \$1,563,102.
- (b) Add or delete custodial services for city buildings as required subject to annual appropriations.

CEQA: Not a Project. (Finance)

Resolution No. 74172 adopted.

2.12 Report on bids for Sun Servers.

Recommendation: Report on bids for three SUN SPARC Enterprise M5000 servers and peripheral equipment, to include sales tax, delivery, installation, and authorize the Director of Finance to:

- (a) Execute a purchase order with Helio Solutions, the sole bidder, for a total amount not to exceed \$464,275.31.
- (b) Adjust amount of purchase order to purchase additional quantities to annual appropriations.

CEQA: Not a Project. (Finance)

Approved, with Staff requested to continue to look for ways to save money, i.e. web based solutions.

2.13 Language Access Plan to Improve Access to Housing Services.

Recommendation: Adoption of a resolution approving the Language Access Plan (LAP) to improve access to housing services for limited English proficient persons in the City of San José. CEQA: Not a Project. (Housing)

Resolution No. 74173 adopted.

2. CONSENT CALENDAR

2.14 Amend the salary range for the Assistant to the City Manager classification for Intergovernmental Relations.

Recommendation: Adoption of a resolution amending the City of San José Pay Plan effective December 23, 2007 to change the salary range and title for the classification of:

- (a) Director of Intergovernmental Relations U (1664) (formerly Assistant to the City Manager for Intergovernmental Relations) from the current salary range of \$93,745.60 - \$145,932.80 annually to a salary range of \$ 124,482.92 to 194,283.54 (Unit 99), which will not result in any automatic salary increase for employees in this classification.

CEQA: Not a Project. (Human Resources)

Resolution No. 74174 adopted.

2.15 Request for an excused absence for Council Member Liccardo.

Recommendation: Request for an excused absence for Council Member Liccardo from the Regular Meeting of the Transportation and Environment Committee on December 3, 2007 and the Closed Session, Regular Session, and Evening Session Meetings of the City Council on December 4, 2007 due to Authorized City Business: Delegation trip with the Bay Area Council and Asia Society to Shanghai, China. (Liccardo)

(Rules Committee referral 12/5/07)

Absence Excused.

2.16 Request for an excused absence for Council Member Nguyen.

Recommendation: Request for an excused absence for Council Member Nguyen from the Closed Session, Regular Session, and Evening Session Meetings of the City Council on December 4, 2007 due to illness. (Nguyen)

(Rules Committee referral 12/5/07)

Absence Excused.

2.17 Initiation of the Annexation/Reorganization of Story No. 58.

Recommendation: Adoption of a resolution initiating proceedings and setting a public hearing on January 29, 2008 at 7:00 p.m. for the reorganization/annexation of the territory designated as Story No. 58 which involves the annexation to the City of San José of approximately 6.93 gross acres County island consisting of 25 parcels located on both sides of Rosemar Avenue, between Juliet Park Drive and Fleming Avenue and on the northeasterly side of Fleming Avenue between Rosemar Avenue and Marchant Court, and detachment of the same from the appropriate special districts including Central Fire Protection, County Sanitation District 2-3 and Area No. 01 (Library Services) County Service. (Multiple Owners). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)

Heard at 1:30 p.m.

Resolution No. 74188 adopted.

2. CONSENT CALENDAR

2.18 Initiation of the Annexation/Reorganization of Capitol No. 55.

Recommendation: Adoption of a resolution initiating proceedings and setting a public hearing on January 29, 2008 at 7:00 p.m. for the reorganization/annexation of the territory designated as Capitol No. 55 which involves the annexation to the City of San José of approximately 0.74 gross acre County pocket located on the southwest side of South White Road, 400 feet southeast of East Hills Drive, and detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation District 2-3, and Area No. 01 (Library Services) County Service. (Jesse and Olga Villarreal, Emilia Gonzales, and Alex and Gloria Banuelos, Owner). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)

Heard at 1:30 p.m.

Resolution No. 74189 adopted.

2.19 Initiation of the Annexation/Reorganization of Capitol No. 56.

Recommendation: Adoption of a resolution initiating proceedings and setting a public hearing on January 29, 2008 at 7:00 p.m. for the reorganization/annexation of the territory designated as Capitol No. 56 which involves the annexation to the City of San José of approximately 0.27 gross acre County pocket located on the southwest side of South White Road, 600 feet southeast of East Hills Drive, and detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation District 2-3, and Area No. 01 (Library Services) County Service. (Michael Sanders Jr. and Sr., and Isabel M. Hernandez, Owner). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)

Heard at 1:30 p.m.

Resolution No. 74190 adopted.

2.20 Initiation of the Annexation/Reorganization of Evergreen No. 200.

Recommendation: Adoption of a resolution initiating proceedings and setting a public hearing on January 29, 2008 at 7:00 p.m. for the reorganization/annexation of the territory designated as Evergreen No. 200 which involves the annexation to the City of San José of approximately 34.1 gross acres of land located between Pleasant Acres Drive and Ruby Avenue, West of Murillo Avenue, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Multiple Owners). CEQA: Resolution No. 65459. Council District 8. (Planning, Building and Code Enforcement)

Heard at 1:30 p.m.

Resolution No. 74191 adopted.

2. CONSENT CALENDAR

2.21 Initiation of the Annexation/Reorganization of Evergreen No. 201.

Recommendation: Adoption of a resolution initiating proceedings and setting a public hearing on January 29, 2008 at 7:00 p.m. for the reorganization/annexation of the territory designated as Evergreen No. 201 which involves the annexation to the City of San José of approximately 2.5 gross acres of land located on the southeast corner of Ruby Avenue and Holderman Drive, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Multiple Owners). CEQA: Resolution No. 65459. Council District 8. (Planning, Building and Code Enforcement)

Heard at 1:30 p.m.

Resolution No. 74192 adopted.

2.22 Repair and modifications at the Plant's Environmental Services Building.

Recommendation: Approval of the first amendment to the agreement with Allana Buick & Bers, Inc. for professional services related to the repair and modifications of the San José/Santa Clara Water Pollution Control Plant's Environmental Services Building, modifying the scope of services and increasing the compensation by \$276,695 for a total maximum amount not to exceed \$587,495; and extending the term of the agreement by twenty-four months from July 31, 2008 to July 31, 2010. CEQA: Not a Project. (Public Works/Environmental Services)

Deferred to 1/15/08 per Administration.

2.23 Calabazas Park Bicycle Motorcross (BMX) Site.

Recommendation: Approval of a continuation agreement with Wormhoudt, Inc. for landscape architectural services for Calabazas Park BMX Site, accepting completed additional construction assistance work, increasing the original agreement's total compensation of \$98,000 by \$9,500, for a total agreement amount of \$107,500 and increasing the term of the original agreement retroactive to March 31, 2007, by nine months, through December 31, 2007. CEQA: Exempt, File No. PP06-152. Council District 1. (Public Works)

Approved.

2.24 Edenvale Sanitary Sewer Supplement Phase V Project.

Recommendation: Approval of the first amendment to the consultant agreement with HMH Engineers for the Edenvale Sanitary Sewer Supplement Phase V Project extending the term of the agreement from December 31, 2007 to December 31, 2009 at no additional cost to the City. CEQA: Resolution No. 67245, File No. PP01-03-055. Council District 2. (Public Works)

Approved.

2. CONSENT CALENDAR

2.25 Vacation of a Public Service Easement along Pistache Lane and set a Public Hearing.

Recommendation: Adoption of a resolution of intention to vacate a 2.5-foot public service easement along a private street, Pistache Lane, between Leigh Avenue and Foxworthy Avenue and setting a public hearing on January 29, 2008 at 1:30 p.m. CEQA: Negative Declaration, File No. PDC06-055. Council District 9. (Public Works)

Resolution No. 74175 adopted.

2.26 Contract Change Order for the New Civic Center Parking Garage Project.

Recommendation:

(a) Approval of Contract Change Order No. 19 for the New Civic Center Parking Garage Project with the City making a final payment to Swinerton Builders in the amount of \$557,546, for a total contract amount of \$22,918,150, as a full settlement of all construction claims and disputes.

Approved.

(b) Adoption of the following 2007-2008 Appropriation Ordinance Amendments in the Civic Center Parking Fund (Fund 433):

- (1) Increase the New Civic Center Parking Garages appropriation to the Public Works Department in the amount of \$484,000; and
- (2) Decrease the Reserve for Civic Center Off-Site Parking Garage by \$484,000.

CEQA: Resolution Nos. 72230 and 72230.1. (Public Works)

Ordinance No. 28210 adopted.

2.27 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 \$10,000.
- (b) Establish an appropriation to the Department of Transportation for the Street Trees Installation project (PSM 509) in the amount of \$10,000.

CEQA: Mitigated Negative Declaration, File No. CP04-028. Council District 3. (Transportation/City Manager's Office)

Ordinance No. 28211 adopted.

Resolution No. 74176 adopted.

2. CONSENT CALENDAR

2.28 Silicon Valley Intelligent Transportation Systems Project – Kimley-Horn Agreement.

Recommendation:

- (a) Approval of a third amendment to the Consultant Services Agreement between the City of San José and Kimley-Horn and Associates, Inc., for the design and development of the Silicon Valley Intelligent Transportation Systems West Corridor Project, to extend the term of the agreement, as previously amended and extended, from December 28, 2007 to December 31, 2008, and increasing the maximum compensation by \$71,484 from \$823,466 to \$894,950.

Approved.

- (b) Adoption of a resolution authorizing the Director of Transportation to extend the term beyond December 31, 2008 for up to a maximum of an additional 180 days with no increase in compensation.

CEQA: Exempt, File No. PP00-02-026. (Transportation)

Resolution No. 74177 adopted.

2.29 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 October 16, 2007 through November 15, 2007*. (City Auditor)
(Rules Committee referral 12/12/07)

Report Accepted.

2.30 Naming of a new park.

Recommendation: As recommended by the Parks and Recreation Commission on December 5, 2007, name a new park located at 139 Fleming Avenue as "Fleming Park".
(City Clerk)

(Rules Committee referral 12/12/07)

Approved.

2.31 Request for an excused absence for Council Member Constant.

Recommendation: Request for an excused absence for Council Member Constant from the Inclusionary Housing Study Session on December 11, 2007 due to Authorized City Business: Neighborhood Meeting on Crime and Safety at Rosemary Elementary School.
(Constant)

(Rules Committee referral 12/12/07)

Absence Excused.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – December 5, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review December 11, 2007 Final Agenda
The Committee approved the December 11, 2007 City Council Agenda with two additions.
 - (2) Review December 18, 2007 Draft Agenda
The Committee approved the December 18, 2007 Draft City Council Agenda with five additions.
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
The Committee accepted the Legislative Guiding Principles as amended.
 - (2) Federal
There was none.
- (d) Meeting Schedules
There were none.
- (e) The Public Record
The Committee noted and filed the Public Record.
- (f) Appointments to Boards, Commissions and Committees
 - (1) Human Rights Commission.
The Committee moved to forward all of the information received, reviewed and considered to the full City Council without a recommendation and requested that the Council hear the matter not before 3:30 p.m. on January 9, 2008.
 - (2) Appointment to Work2future Board of Directors. (Mayor)
The Committee accepted the appointments.
- (g) Rules Committee Reviews, Recommendations and Approvals
There were none.
- (h) Review of additions to Council Committee Agendas
There were none.

3. STRATEGIC SUPPORT SERVICES

3.1 The Rules and Open Government Committee – December 5, 2007 (Cont'd.)

Mayor Reed, Chair

(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)

The Committee tentatively agreed to the following requirements for the City Boards and Commissions: (1) Seven day standard for posting regular meeting agendas and related staff reports. (2) Distribution of supplemental memorandums, same as Council Committees. (3) Four day standard for posting special meetings agendas. The Committee agreed to continue the discussion beginning with recording requirements at the next meeting as well as applying the SRTF recommendations to “standing” or “other” committees. The Committee also expressed an interest in understanding the difference between “Minutes” and “Synopsis”.

(j) Open Forum

There were none presented.

(k) Adjournment

The meeting was adjourned at 4:00 p.m.

The Rules and Open Government Committee Report and the Actions of December 5, 2007 were accepted.

3.2 Report of the Public Safety, Finance and Strategic Support Committee Council Member Nguyen, Chair

No Report.

3.3 Ordinance to Eliminate Officeholder Accounts.

Recommendation: Approval of an ordinance amending Title 12 of the San José Municipal Code to repeal Part 8 of Chapter 12.06 regulating officeholder accounts; adopt interim officeholder account regulations; prohibit the establishment of officeholder accounts after July 1, 2008; and make other technical and clarifying changes. CEQA: Not a Project. (City Attorney's Office)

Ordinance No. 28212 passed for publication, as amended:

- (1) **The City Manager was authorized to negotiate and execute an amendment to the HP Naming Agreement.**

(Continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.3 Ordinance to Eliminate Officeholder Accounts (Cont'd.)

- (2) The Budget Director will return at mid-year with an appropriation action for the HP funds earmarked in the budget for allocation to the Mayor and Council Office Budgets.
- (3) The City Attorney/City Clerk will develop a procedure for the use of the new funding.
- (4) The City Attorney/City Clerk will provide a list of “Do’s and Don’ts” for Council expenditures.

3.4 Ordinance changes increasing penalties imposed by the Elections Commission, establishing requirements for campaign communications and making other technical corrections to the campaign regulations.

Recommendation: Approval of an ordinance amending Chapter 12.04 of Title 12 of San José Municipal Code to increase the total amount of penalties which may be imposed by the San José Elections Commission and amending Chapter 12.06 of Title 12 by adding a new Part 10 to set out requirements for campaign communications and mass mailing disclosures and disclaimers, and making other minor technical corrections and clarifications to the campaign regulations. CEQA: Not a Project. (City Attorney’s Office/City Clerk)

Ordinance No. 28213 passed for publication.

3.5 Actions Related to Additional Funding for History San José.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute the fifth amendment to the Operations Agreement between the City and History San José to advance the fourth quarter payment for FY 2007-08 in the amount of \$143,705.75.

Resolution No. 74178 adopted.

- (b) Adoption a resolution authorizing the City Manager to negotiate and execute the sixth amendment to the Operations Agreement between the City of San José and History San José to increase the annual operating subsidy for FY 2007-08 from \$574,823 to \$875,000, subject to appropriation of the funding during the mid-year budget process scheduled for February 2008.

Resolution No. 74179 adopted.

- (c) Defer Council consideration of an increase of the annual subsidy for History San José from \$335,085 to \$875,000, for each year for FY 2008-09 and FY 2009-10 to the FY 2008-09 budget hearings.

Approved.

(Continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.5 Actions Related to Additional Funding for History San José (Cont'd.)

- (d) Direction to staff to continue working with History San José in order to bring forward for City Council consideration at the beginning of FY 2009-10 a funding plan and schedule for the remaining years of the agreement with the City through FY2017-18.

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

Approved.

3.6 Supplemental Salary and Benefits for City Military Reservists.

Recommendation:

- (a) Adoption of a resolution to extend the provisions of Resolution No. 73180 through December 31, 2008 to enable the City to continue to provide supplemental pay and benefits, pursuant to Resolution No. 73180, to employees who are military reservists and who are called to active duty; and,
Resolution No. 74180 adopted, as amended: delete "extending through 12/31/08". The program to continue until further action of the Council.
- (b) Direction to staff to continue to meet with reservists prior to and upon return from deployment to ensure accurate payment and reconciliation of supplemental pay and benefits received by the reservist.

CEQA: Not a Project. (Human Resources/Finance)

Approved.

Staff directed to bring the existing policy for supplemental pay and benefits for reservists to the Rules and Open Government Committee for consideration as a permanent policy.

3.7 2006 – 2007 In-Lieu Fees Annual Report.

Recommendation: Review of the 2006 – 2007 Annual Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements.

CEQA: Not a Project. (Public Works)

Approved.

3.8 Report of the Rules and Open Government Committee – December 12, 2007 Mayor Reed, Chair

- (a) City Council
 - (1) Review December 18, 2007 Final Agenda
The Committee approved the December 18, 2007 City Council Agenda with six additions.
 - (2) Review December 25, 2007 Draft Agenda
None, meeting was canceled.

3. STRATEGIC SUPPORT SERVICES

3.8 Report of the Rules and Open Government Committee – December 12, 2007 Mayor Reed, Chair (Cont'd.)

- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Neighborhood Speed and Traffic Enforcement.
 - (b) 2007 State Legislative Summary.
Deferred to January 9, 2008.
- (c) Legislative Update (Cont'd.)
 - (2) Federal
 - (a) Summary of Federal Relations Activities – Year-end 2007.
The Committee accepted the report.
- (d) Meeting Schedules
 - (1) Set Hearings for March (Winter) and April/May (Spring) 2008 for General Plan Amendments. (Planning, Building and Code Enforcement)
Deferred to January 9, 2008.
- (e) The Public Record
The Committee noted and filed the Public Record with the exception of Item (1) which was referred to the Administration for a written report to be on the Rules and Open Government Committee Agenda on January 16, 2008.
- (f) Appointments to Boards, Commissions and Committees
There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) City Council and Redevelopment Agency Appointments.
The Committee approved the appointments.
 - (2) Approval of Council Committee Work Plans.
 - (a) Community and Economic Development Committee
 - (b) Neighborhood Services and Education Committee
 - (c) Public Safety, Finance and Strategic Support Committee
 - (d) Rules and Open Government
 - (e) Transportation and Environment Committee**The Committee approved the work plans.**
 - (3) Recommendation for City Council Policy on Flare Usage.
The Committee referred this item to the Administration to be included in the “Green Vision” work plan and be brought back to Council.

3. STRATEGIC SUPPORT SERVICES

3.8 Report of the Rules and Open Government Committee – December 12, 2007

Mayor Reed, Chair (Cont'd.)

(h) Review of additions to Council Committee Agendas

There were none.

(i) Open Government Initiatives

(2) Sunshine Reform Task Force

(a) Review of remaining provisions of Sunshine Reform Task Force
Phase I Report and Recommendations.

Deferred to January 9, 2008.

(j) Open Forum

There were none presented.

(k) Adjournment

(Rules Committee referral 12/12/07)

The meeting was adjourned at 2:58 p.m.

The Rules and Open Government Committee Report and the Actions of December 12, 2007 were accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee

Council Member Pyle, Chair

No Report.

4.2 Actions related to the City's Sister City Program.

Recommendation: Adoption of a resolution affirming the previously adopted Council guidelines on Sister City Affiliations and amending the guidelines to include consideration of a new Sister City affiliation only after that City has been established as an Economic Partnership City and tangible results can be demonstrated.

[Deferred from 10/23/07 – Item 4.3(a)]

**Dropped. To be heard by Community and Economic Development
Committee in Spring 2008.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Transportation improvements on certain streets in Council Districts 3 and 6.

Recommendation:

- (a) (1) Acceptance of the Jackson-Taylor Community Improvement Zone Multi-Modal Transportation Improvement Inventory; and
- (2) Acceptance of the Midtown South Community Improvement Zone Multi-Modal Transportation Improvement Inventory.

CEQA: Not a Project. Council Districts 3 and 6. SNI: Burbank/Del Monte and Thirteenth Street. (Planning, Building and Code Enforcement)

Accepted.

- (b) Adoption of a resolution to approve the addition of the Hedding/Oakland-13th intersection to the protected intersection list pursuant to the provisions of the City's Transportation Impact Policy (City Policy 5-3).

CEQA: Resolution to be adopted. Council District 3. SNI: Thirteenth Street. (Planning, Building and Code Enforcement/Transportation)

Resolution No. 74181 adopted.

CEQA Resolution No. 74182 adopted.

4.4 Public Hearing on the Reorganization/Annexation of Penitencia No. 76.

Recommendation: Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Penitencia No. 76 on an approximately 1.14 gross acre County pocket consisting of 1 parcel located on the south side of Sierra Road, 200 feet east of Varner Court, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service (Jack Kim and Hester Lau-Kim, Owner).

CEQA: Resolution No. 65459. Council District 4. (Planning, Building and Code Enforcement)

Heard in the evening.

The Public Hearing was held.

Deferred to 1/29/08 per Director of Planning, Building and Code Enforcement.

4.5 Public Hearing on the Reorganization/Annexation of Parker No. 25.

Recommendation: Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Parker No. 25 on an approximately 3.49 gross acre County pocket consisting of 13 parcels located on both sides of Woodard Road between Nova Scotia Avenue and Twilight Drive, and detachment of the same from the appropriate special districts including Central Fire Protection, West Valley Sanitation, County Lighting County Service and Area No. 01 (Library Services) County Service (Multiple Owners). CEQA: Resolution No. 65459.

Council District 9. (Planning, Building and Code Enforcement)

Heard in the evening.

The Public Hearing was held.

Resolution No. 74193 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.6 Public Hearing on the Reorganization/Annexation of Parker No. 26.

Recommendation: Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Parker No. 26 on an approximately 0.53 gross acre County pocket consisting of 2 parcels located on the south side of Woodard Road, 300 feet west of Twilight Drive, and detachment of the same from the appropriate special districts including Central Fire Protection, West Valley Sanitation and Area No. 01 (Library Services) County Service (Multiple Owners).

CEQA: Resolution No. 65459. Council District 9. (Planning, Building and Code Enforcement)

Heard in the evening.

The Public Hearing was held.

Resolution No. 74194 adopted.

5. NEIGHBORHOOD SERVICES

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

No Report.

5.2 Actions related to the acquisition of a billboard located at 1000 South Bascom.

Recommendation: Adoption of a resolution determining that the public interest and necessity require the acquisition of a billboard owned by Clear Channel Outdoor (“CCO”) located at 1000 South Bascom, San José, CA (APN Numbers 282-29-002, 003, and 004) and authorizing the City Attorney to file suit in eminent domain to acquire such property interest, to apply for an order for possession before judgment, and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available. CEQA: Exempt, File No. PP05-0126.

Council District 6. (Public Works)

(Deferred from 12/4/07 – Item 3.6)

Deferred to 1/8/08 per Council Member Oliverio.

5.3 Pilot Program for the Registration and E-Commerce System.

Recommendation:

- (a) Approval of a two-year pilot program for the Registration and E-Commerce System (RECS).
- (b) Direction to staff to return to the Neighborhood Services & Education Committee and the Parks and Recreation Commission with semi-annual project updates in June and December 2008-2010.

Approved.

(Continued on the next page)

5. NEIGHBORHOOD SERVICES

5.3 Pilot Program for the Registration and E-Commerce System (Cont'd.)

(c) Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):

- (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$68,000 for the Registration and e-Commerce System FF&E; and
- (2) Decrease the Ending Fund Balance by \$68,000.

Ordinance No. 28214 adopted.

(d) Approval of 1.0 Program Manager in the Parks, Recreation and Neighborhood Services Department and 0.5 Senior Systems Application Programmer in the Information Technology Department to support the system.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/Information Technology/City Manager's Office)

Approved.

5.4 East San José Carnegie Branch Library Project.

Recommendation: Report on bids and award of contract for the East San José Carnegie Branch Library project to the lowest responsive bidder, Farotte Construction Co., Inc., for the base bid and Add Alternate Nos. 1-5 in the amount of \$6,772,488, and approval of a contingency in the amount of \$813,000. CEQA: Exempt, File No. PP07-211 and Historical Preservation Permit No. HP07-005. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works/Library)

Approved.

5.5 Report on bids and action for the Ryland Pool Rehabilitation Project.

Recommendation:

(a) Report on bids and award of contract for the Ryland Pool Repairs project to the low bidder, Pool Time USA, in the amount of \$898,108, and approval of a contingency in the amount of \$134,716.

Approved.

(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 \$1,123,000 for the Ryland Pool Repairs; and
- (2) Decrease the Reserve: Ryland Pool by \$1,123,000.

CEQA: Exempt PP07-211. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 28215 adopted.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – December 3, 2007 Council Member Williams, Chair

- (a) Terminal Area Improvement Program Progress Report.
The Committee accepted the Staff Report with two Committee members present.
- (b) BART/VTA Coordination Issues (VTP 2035, Bus Service Realignment) Progress Report. (
The Committee accepted the Staff Report with two Committee members present.
- (c) Report on Residential Traffic Calming Community Meetings.
The Committee accepted the Staff Report with two Committee members present.
- (d) Recommendation on Tree Preservation Services.
Deferred to January 2008.
- (e) Quarterly Update on Council Directives.
Deferred.
- (f) Commercial Solid Waste System Redesign and Enhancement Options.
The Committee accepted the Staff Report with two Committee members present.
- (g) Status Report on the Activities Related to the Municipal Climate Action Plan.
The Committee accepted the Staff Report with two Committee members present and to forward the recommendation to the full Council for consideration.
See Item 2.10 for Council Action taken.
- (h) Report on Solar Energy for City Facilities.
The Committee accepted the Staff Report with two Committee members present.
- (i) Oral Petitions
There were none presented.
- (j) Adjournment
The meeting was adjourned at 3:55 p.m.

The Transportation and Environment Committee Report and the Actions of December 3, 2007 were accepted.

6. TRANSPORTATION & AVIATION SERVICES

6.2 Passenger Boarding Bridges at the Airport.

Recommendation:

- (a) Approval to reject all bids for the Installation of the Passenger Boarding Bridges Project.
- (b) Report on readvertised bids and award of contract for the Installation of Passenger Boarding Bridges Project at the Norman Y. Mineta San José International Airport to the low bidder, Lloyd W. Aubry Co., Inc. in the amount of \$2,367,714, and approval of a contingency in the amount of \$355,157.

CEQA: Resolutions Nos. 67380 and 71451, File No. PP07-250. (Public Works)

Approved.

6.3 Extension of the \$5 Pilot Program at City garages for one week.

Recommendation: Adoption of a resolution to repeal Resolution No. 73855 and to amend the Master Parking Rate Schedule to authorize the Director of Transportation to extend the modification to the Free Parking Program to allow the City to continue charging a \$5 entry fee at various City-owned garages after 10 p.m. on Thursday, Friday and Saturday evenings from December 31, 2007 to January 8, 2008. (Transportation) (Rules Committee referral 12/12/07)

Resolution No. 74183 adopted.

- **Adjournment**

The Council of the City of San José adjourned the morning Council session at 11:54 a.m.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

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.

Approved.

- (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.

Ordinance No. 28216 adopted.

- (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.

Resolution No. 74184 adopted.

- (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.

Ordinance No. 28217 adopted.

(Continued on the next page)

8. PUBLIC SAFETY SERVICES

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

- (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.

Ordinance No. 28218 adopted.

Resolution No. 74185 adopted.

- (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.

Ordinance No. 28219 adopted.

Resolution No. 74186 adopted.

- (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)

(Deferred from 11/20/07 – Item 8.1 and 12/11/07 – Item 8.1)

Ordinance No. 28220 passed for publication, as amended.

The memorandum from Mayor Reed, Vice Mayor Cortese and Council Member Pyle, dated December 14, 2007 was approved, as follows:

- (1) **Accepted Staff's supplemental memorandum recommendations (a) through (f) with the following amendments:**
 - (g) **Approval of an ordinance amending Chapter 22.08 of Title 22 of the San José Municipal Code to provide that that the City Council may determine, in its sole discretion, to allocate an amount which is less than two percent (2%) of the total amount budgeted from the San José 9-1-1, Fire, Police, Paramedic and Neighborhood Security Act, up to \$1.1 million, in order to complete the South San José Substation Project. Any reduction in allocation for the acquisition of a work of art shall be by an appropriation ordinance.**

8. PUBLIC SAFETY SERVICES

- 8.1 Report on bids and approval of actions related to the Police Southside Substation Project (Cont'd.)**
- (2) Staff directed to pursue private donors, grant opportunities and identify possible funding sources that would allow for inclusion of an art component in the Police Substation, but would not delay the project. Staff directed to bring an update on their progress to Council at mid-year (2/12/08) and to add this project to the Unfunded Needs List.**
 - (3) Staff directed to conduct an inventory of remaining former Public Safety facilities that can be sold. Revenues from these properties should be used to complete the remaining projects to be funded through the Neighborhood Security Bond Act.**
 - (4) In future reports, when appropriations and reserves are being changed, Staff directed to also include information regarding the remaining balance after the change and on future demands of the fund.**
 - (5) Staff further directed to continue to work with the District 2 Council Office to identify funding sources for the public art.**

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 3:40 p.m. to Consider Items 9.1, 9.2 and 9.3 In A Joint Session.

9.1 Improvements on the grounds of O.B. Whaley Elementary School.

Recommendation:

- (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445 for Redevelopment Agency funding of publicly-owned improvements for the Evergreen Elementary School District in the form of design and construction of recreation facilities in the Strong Neighborhoods Initiative project area
Resolution No. 74187 adopted.**
- (b) Approval by the City Council of an agreement with the Evergreen Elementary School District in an amount not to exceed \$200,000 for the City's portion of contribution, for public improvements at the O.B. Whaley Elementary School.**
- (c) Approval by the Redevelopment Agency Board of an agreement with the Evergreen Elementary School District in an amount not to exceed \$500,000 for the Agency's contribution for public improvements at the O.B. Whaley Elementary School in the West Evergreen neighborhood of the Strong Neighborhoods Initiative Redevelopment Project Area.**

CEQA: Exempt, File No. PP07-174. (City Manager's Office/Redevelopment Agency) Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 Downtown Zoning Overlay.

Recommendation:

- (a) (1) Direct the City Manager and Redevelopment Agency Director to jointly develop new Entertainment Zone Planning Guidelines for the Downtown; and
- (2) Return to City Council with specific recommendations no later than June 24, 2008.
- (3) Reaffirm support for Council Policy 6-23.
- (4) 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.
- (5) Direct the City Manager to limit the length of time for CUPs in the Downtown to a term of two years.

(Liccardo/Williams)

(Rules Committee referral 11/14/07)

(Deferred from 12/11/07 – Item 9.1)

Approved.

- (b) (1) Reaffirm support for the existing Council Policy 6-23 for the review of new applications for Conditional Use Permits (CUPs) for entertainment uses in Downtown.
- (2) Direct the City Manager, in coordination with the Redevelopment Agency, to undertake the work plan itemized below and in the attachment and report back to the City Council with recommendations by June, 2008, which include the following primary tasks of this work plan:
 - (a) A study of the implications of developing zoning regulations, including a potential zoning overlay and/or zoning guidelines which identify preferred areas for entertainment uses and drinking establishments, as well as appropriate development and operational standards for such uses.
 - (b) Review and consider restructuring the permitting process, including CUPs and Special Use Permits (SUPs) for entertainment uses and drinking establishments, including night clubs, bars, and restaurants with entertainment to strengthen the City's ability to regulate for compliance.
 - (c) Review and recommend revisions to Council Policy 6-23 to ensure compatibility with Downtown's housing development and enhanced quality of life for Downtown residents.

CEQA: Not a Project. Council District 3. (City Manager's Office/Redevelopment Agency)

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.3 City Council and Redevelopment Agency Appointments.

Recommendation: As recommended by the Rules and Open Government Committee on December 12, 2007, approve the City Council and Redevelopment Agency Committee Appointments. (Mayor)

[Rules Committee referral 12/12/07 – Item (g)(1)]

Approved, with the following amendments:

- (1) **Community and Economic Development Committee Work Plan**
 - (a) **Defer Item 5(a) Sign Code Ordinance**
- (2) **Neighborhood Services and Education Committee Work Plan**
 - (a) **Add an Inclusionary Housing Update as Item (7) to the May 8, 2008 meeting per Council direction.**
 - (b) **Add a Neighborhood Clean Up Services Update as Item (9) to the June 12, 2008 meeting per Council direction.**
- (3) **Public Safety, Finance and Strategic Support Committee Work Plan**
 - (a) **Add Nonprofit Contract for Public and Education Access Cable Programming to the January 17, 2008 meeting.**

- **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>
9939	West side of Dent Avenue, 500 ft North of Kooser Road.	9	Rockwell Homes, Inc.	12 Lots/ 12 Units	SFD	Approve
9943	Bounded by Kentwood Avenue, Highway 85 and S. DeAnza Boulevard	1	Braddock & Logan	77 Lots/ 57 Units	MFA/SFD	Approve

- **Notice of City Engineer’s Award of Construction Projects**
None.

- **Open Forum**
 - (1) **Erica Stanojevic urged the Council to ban the use of plastic grocery bags.**
 - (2) **Ross Signorino wished the Mayor, Council Members and Staff a “Merry Christmas”.**
 - (3) **David Wall recommended City funds be sorted by residual balance at mid-year and offered suggestions for finding funding for public art.**
 - (4) **Timothy Fitzgerald voiced concerns of excessive police presence at the Martin Luther King Library.**
 - (5) **Mark Trout expressed religious viewpoints.**

- **Adjournment**

The Council of the City of San José adjourned the afternoon Council session at 4:08 p.m.

- **Orders of the Evening**
The Orders of the Evening were approved with General Plan Items 10.1(c) and 10.7 continued to 1/8/08.

10. GENERAL PLAN PUBLIC HEARINGS

(Heard by the City Council at 7:01 p.m.)

10.1 Tentative approval of General Plan Consent Calendar items.

Recommendation:

- (a) **Text Amendment to allow a change in the maximum building height on 12.8 acres at the northwesterly terminus of Great Oaks Boulevard.**

Tentative approval of a General Plan text amendment request to change the *San José 2020 General Plan* text to allow a change in the maximum building height from 50 feet to 120 feet above ground level on an approximately 12.8-acre site located at the northwesterly terminus of Great Oaks Boulevard on the northwest corner of Monterey Highway and State Route 85. (Rose Ventures II, Inc. Owner, Equinix, Inc. Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). CEQA: Resolution No. 67245, and Addenda hereto. SNI: None.

GP07-T-03 - District 2

Staff/Planning recommendation was tentatively approved.

- (b) **Text Amendment to the Discretionary Alternate Use Policies to allow their implementation with a permit in conformance with the Zoning Ordinance.**

Tentative approval of a General Plan text amendment request to change the *San José 2020 General Plan* text of the Discretionary Alternate Use Policies to allow implementation with a Planned Development Zoning, Use Permit, or Development Permit in conformance with the Zoning Ordinance. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1, Platten absent). CEQA: Resolution No. 65459. SNI: All.

GP07-T-05 - Citywide

Staff/Planning recommendation was tentatively approved.

- (c) **Text Amendment to allow a change in the maximum allowable height for structures where height is an intrinsic part of the structure's function.**

Tentative approval of a General Plan text amendment request to change the *San José 2020 General Plan* text to allow solar panels and other structures, where height is an intrinsic part of the structure's function, to have a maximum allowable height not to exceed 100 feet or the maximum allowable building height in the General Plan, whichever is greater. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1, Platten absent). CEQA: Resolution No. 65459.

GP07-T-07 - Citywide

Continued to 1/8/08 per Orders of the Evening.

10. GENERAL PLAN PUBLIC HEARINGS

10.2 Text Amendment for the Coyote Greenbelt overlay designation.

Recommendation: Tentative approval of a General Plan text amendment request to change the *San José 2020 General Plan* text to revise the definition of the Coyote Greenbelt overlay designation to align with the San José 2020 General Plan Land Use/Transportation Diagram to include the following additional existing base land use designations: Public Park and Open Space, Public/Quasi-Public, and Private Recreation. New land uses should only include Agriculture, Public Park and Open Space, and Private Recreation. Ancillary uses to Public Park and Open Space are also appropriate. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1, Platten absent). CEQA: Resolution No. 65459. SNI: None.
GP07-T-04 - District 2

Staff/Planning recommendation was tentatively approved.

10.3 Amendment and Text Amendment for property located on the west side of North 10th Street, between Vestal Street and East Mission Street (825 North 10th Street).

Recommendation: Tentative approval of staff alternative General Plan amendment request to change the Land Use/Transportation Diagram designation from High Density Residential (25-50 DU/AC) to Mixed Use #1, and to change the text of the Jackson Taylor Residential Strategy (JTRS) to allow a maximum residential density of 60 DU/AC for the subject parcel only with no commercial use required on the 3.24-acre site on the west side of North 10th Street, between Vestal Street and East Mission Street (825 North 10th Street) (Hudson Industrial Equities, Applicant / 825 North 10th St. LLC, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1, Platten absent) of the staff alternative General Plan land use amendment and text amendment to change the Jackson Taylor Residential Strategy (JTRS) land use designation from High Density Residential (25-50 DU/AC) to Mixed Use #1, and to change the text of the JTRS to allow a maximum residential density of 60 DU/AC for the subject parcel only with no commercial use required on the 3.24-acre site. CEQA: Mitigated Negative Declaration. SNI: 13th Street.
GP07-03-02/GPT07-03-02 - District 3

Staff/Planning recommendation was tentatively approved.

10.4 Amendment for property located on the northeast side of South First Street, approximately 165 feet northwesterly of East Alma Avenue.

Recommendation: Tentative denial of a General Plan amendment request to change the Land Use/Transportation Diagram designation from General Commercial to Transit Corridor Residential (20+ DU/AC) on an approximately 2.6-acre site on the northeast side of South First Street, approximately 165 feet northwesterly of East Alma Avenue (1290, 1302, and 1334 South 1st Street). (ROEM Development, Applicant/1302 South First Street, LLC, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (7-0-0). CEQA: Incomplete.
GP06-03-02 - District 3

Staff/Planning recommendation of denial was tentatively upheld.

10. GENERAL PLAN PUBLIC HEARINGS

- 10.5 Public Hearing on tentative approval of the following items related to the Evergreen East Hills Vision Strategy Project: (1) Funding Agreement; (2) Update to the Evergreen Development Policy; (3) General Plan Text Amendments; General Plan Land Use / Transportation Diagram Amendments on approximately 542 acres to allow up to 5,700 dwelling units, up to 500,000 square feet of retail, 75,000 square feet of office, and up to 4.66 million square feet of campus industrial. [The EEHVS area coincides with the Evergreen Development Policy area, which is generally bounded by Story Road, Highway 101, Hellyer Avenue and within the Urban Service Area.]**
(Deferred from 12/12/06 - Item 6.4 and 5/15/07 – Item 10.2)

Recommendation:

Dropped to be renoticed.

- 10.6 Text Amendment to the Commercial Land Use and Economic Development goals and policies to balance land use and commute patterns in Evergreen.**

Recommendation: Tentative approval of a General Plan text amendment request to change the *San José 2020 General Plan* text to include additions to Commercial Land Use and Economic Development goals and policies to encourage high quality retail in Evergreen, preserve existing commercial centers and limit grocery stores to a maximum floor area of 20,000 square feet in Southeast Evergreen, and support job generation in order to balance the land use and commute patterns in Evergreen. (City of San José Staff, Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). CEQA: Resolution No. 65459. SNI: K.O.N.A, East Valley/680, and West Evergreen.

GP07-T-06 - District 8

The memorandum from Vice Mayor Cortese, dated December 18, 2007, was tentatively approved, with the following amendments:

- (1) Staff/Planning recommendation was tentatively approved as revised:
Grocery stores are limited to a maximum floor area of 20,000 square feet in Southeast Evergreen (in the area bounded by Aborn Road to the north, San Felipe to the west and the City's Urban Service Boundary to the south). Excepted from this policy are grocery stores permitted prior to January 1, 2007. Expansion or relocation of permitted grocery stores may be allowed upon the same site or within the center in accordance with zoning regulations and PD permitting processes as well as any other applicable City laws.**
- (2) Staff directed to provide an update to either the Annual General Plan: Economic Development and Employment Lands Study Session or in an equivalent form on their efforts to locate and/or encourage employment serving uses at the industrial campus property on Yerba Buena Road including, but not limited to:
 - (a) Opportunities to implement goals 1 and 4 contained in Mayor Reed's Green Vision.****

10. GENERAL PLAN PUBLIC HEARINGS

- 10.6 Text Amendment to the Commercial Land Use and Economic Development goals and policies to balance land use and commute patterns in Evergreen (Cont'd.)**
- (2) (b) Federal and State Grant opportunities to help implement reverse commute projects such as the Job Assistance and Reverse Commute program administered by the Federal Transit Administration via the Metropolitan Transportation Commission.**
 - (3) Staff directed to continue to work closely with Shapell Industries to fill vacant storefronts at the Evergreen Village Square with quality retail services.**
- 10.7 Approval of all General Plan amendment actions on December 18, 2007.**

Recommendation: Adoption of a resolution approving all General Plan amendment actions taken on December 18, 2007 and adoption of CEQA resolutions. (Planning, Building and Code Enforcement)

Continued to 1/8/08 per Orders of the Evening.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located at/on the southeast corner of Bollinger Road and Miller Avenue (6148 Bollinger Road) from A(PD) Planned Development Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses on a 13.1 gross acre site (Marchese Christopher Trustee & Et Al, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-085 – District 1

Ordinance No. 28221 passed for publication.

- (b) Consideration of an ordinance rezoning the real property located on (1) the northwest corner of Clinton Place and Stockton Avenue (299 Stockton Avenue), and (2) the south side of Clinton Place approximately 200 feet west of Stockton Avenue from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow (1) commercial uses on a 0.32 gross acre site, and (2) an off-site parking lot across Clinton Place. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC07-074 – District 6

Ordinance No. 28222 passed for publication.

- (c) Consideration of a Street Renaming for three existing public streets that are under construction but not completed: Rue Royale St, St. Tropez Drive, and Esterel Court. Proposed names are: John Sorci Drive, Jennifer Daisy Drive, and Jonathan Rachelle Court, respectively, for a 51-single family detached residential development (PD03-026, Tract 9531, Orchard Heights III), located at/on the north side of Aborn Road approximately 1000 feet east of Altamera Avenue (9531 TRACT) (Blossom Valley Investors Inc, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
ST07-002 – District 8

Resolution No. 74197 adopted, with Planning Staff directed to work with District 8 Council office about the 500 foot notice outreach process that just took place and typical recourse; Staff requested to perform a second outreach to the neighborhood.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Rezoning the real property located on the east side of Bird Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the east side of Bird Avenue, approximately 490 feet northeasterly of Snyder Avenue (1023 Bird Avenue), from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow approximately 530 square feet of living space in an existing two-story accessory structure on an existing single-family lot of a 0.15 gross acre site (Keith Shukait Et. Al, Owner). CEQA: Exempt. The Planning Director recommends that the City Council not adopt the subject rezoning, consistent with Planning Commission's recommendations, for reasons stated in the report.

PDC03-060 - District 6

(Deferred from 12/05/06 – Item 11.6)

Dropped per request of the Property Owner.

11.3 Administrative Hearing on appeal of the Planning Director's decision to approve a Planned Development Tentative Map Permit.

Recommendation: Administrative Hearing on and consideration of an appeal of the Planning Director's decision to approve a Planned Development Tentative Map Permit to subdivide 1 parcel into 19 lots for single-family attached and detached residential uses and one additional common lot on 1.82 gross acres site, in the A(PD) Planned Development Zoning District, located at/on the terminus of Duckett Way, approximately 420 feet east of South DeAnza Boulevard (1566 Duckett Way) (Barry Swenson Builder Green Valley Corp Libby Glass, Owner/Developer). CEQA: Mitigated Negative Declaration and addendum thereto. Director of Planning, Building and Code Enforcement recommends to uphold the Director's decision and approve a Tentative Map permit to allow 19 lots for single family attached and detached residential units and one additional common lot and allow an increase in the size of Lot #19 to accommodate the water tower preservation and access to it, but not allow an increase in the size of Lot #9 as requested by the applicant.

PT07-034 – District 1

Dropped per Orders of the Day.

11. PUBLIC HEARINGS

11.4 Actions related to the proposed Transportation Development Policy and rezoning the real property located on the northeasterly side of North King Road.

Recommendation:

- (a) Adoption of a resolution approving the US-101/Oakland/Mabury Transportation Development Policy. The Policy is proposed to identify required transportation improvements at the US-101/Oakland Road corridor and to manage near term traffic congestions associated with smart growth development in the vicinity. This Policy would create a fair share traffic impact fee to finance the construction of the required improvements, and allow the Level of Services (LOS) at intersections along the corridor to degrade temporarily below the City's LOS goals. CEQA: Resolution to be adopted. (Transportation)

Resolution No. 74195 adopted

CEQA Resolution No. 74195.1 adopted.

Noes: Oliverio.

- (b) Consideration of an ordinance rezoning the real property located on the northeasterly side of North king Road, approximately 640 feet south of Mabury Road (Northeast corner of King Road & Dobbin Drive) from the LI Light Industrial Zoning District to the A(PD) Planned Development Zoning District to allow between 800 to 1300 single-family attached residential units, up to 25,000 sq.ft. of commercial uses, and public parkland on a 24.77 gross acre site (San José Transit Village Partners, LLC, Owner). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-1). (Planning, Building and Code Enforcement)
PDC07-015 – District 3

Ordinance No. 28224 passed for publication.

The memorandum from Council Members Liccardo, Campos and Chu, dated December 14, 2007, was approved, including, The rezoning of real property from Light Industrial to PD Zoning to allow between 800- 1,300 residential units, up to 25,000 square feet of commercial uses and a dedication of one acre of land to be developed as a turnkey park, with the remainder of the requirement to be fulfilled with a fee in conformance with the City's Park Dedication Ordinance with the following:

- (1) Individual PD Permits for structures within the PD Zoning District shall conform with citywide green building standards imposed by the City of San José as of the date of approval of the site development permit.**
- (2) If no green building standards have been adopted, San José Transit Village Partners, LLC, would encourage that each project meet the equivalent of a minimum of 50 points on the Green Point Rated Checklist. All building projects shall be credited for work done on this site as part of the Master Plan PD Permit. The City's Planning, Building and Code Enforcement shall be responsible for confirming the Applicant's green efforts.**

11. PUBLIC HEARINGS

11.4 Actions related to the proposed Transportation Development Policy and rezoning the real property located on the northeasterly side of North King Road. (Cont'd.)

- (b) (3) At a minimum the developer will: (a) divert a minimum of 80% of the Site Demolition waste from sanitary landfills. (b) Use a minimum of 25% Recycled Content for all fill and base rock. (c) Use low flow and/or drip irrigation for all common landscaping. (d) reduce site wide impervious surfaces to lower the total amount of stormwater runoff.
- (4) Additional conditions omitted from the memorandum: 10,000 sq foot of commercial minimum to be part of the development. Developer has indicated that 200 units can and will meet the 50 points as minimum. The reduction in the park dedication from 2 acres to 1 acre would be made in conformance with the Park Dedication Ordinance and the remainder of the obligation will be paid in fees. Those fees could be used to upgrade nearby open space such as the Penitencia Creek Park or the Alum Rock School District. Staff requested to continue working with the Alum Rock School District and negotiate to find a school site.
- CEQA Resolution No. 74196 adopted, and the Final EIR was read into the record. Noes: Oliverio.

11.5 Rezoning the real property located at/on the southwest corner of E. Hedding Street and N. 10th Street.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the southwest corner of E. Hedding Street and N. 10th Street (899 N. 10th Street) to allow construction of 54 single-family attached residences on a 2.09 gross acres site (Greater Bay Trust Company Trustee Et Al, Owner). SNI: 13th Street. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0).

PDC07-025 – District 3

Ordinance No. 28225 passed for publication, including the special conditions to be added to the Draft Development Standards as outlined on Page 5 of the Staff Report:

- (1) The minimum private open space should be 100 square feet, with a combined total of provide and common open space of 270 square feet. The open space should be provided in a manner which is integrated in the usable living space of the units to the maximum extent feasible.
- (2) The porches should extend a maximum of 7 feet into the front setback.

Staff was directed to:

- (1) Work with the applicant at the Planned Development Stage for on- site parking; and at the time the Hudson Property site comes forward for rezoning, that both parties come forward with a clear plan as to the alternative which is jointly approved by both the (development) parties.
- (2) Bring forward a statement from the Department of Transportation as to the analysis of the preferred option presented by the two parties.

11. PUBLIC HEARINGS

11.6 Rezoning the real property located in the area bounded by East Virginia Street, Martha Street, South 5th Street, and South 6th Street.

Recommendation: Consideration of an ordinance rezoning the real property located in the area bounded by East Virginia Street, Martha Street, South 5th Street, and South 6th Street (9750 TRACT) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow approximately 18 residential units in ~35 foot tall townhouse structures along S. 6th Street and approximately 240 residential units in a ~55 foot tall podium building with architectural projections up to 70 feet tall on the remainder of a 3.9 gross acre site (Virginia Terrace 170 LP David Small, Owner/ Developer). SNI: Spartan/Keyes. CEQA: Addendum to Mitigated Negative Declaration (PDC05-029). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC07-035 – District 3

Ordinance No. 28226 passed for publication, including the Staff recommendation of lowering the podium height to the greatest extent possible without reducing the number of parking spaces within the garage and to provide stoops and stairs from the units to site perimeter or to lower the height of the podium to 3 feet above grade, consistent with the Martha Gardens Specific Plan.

11.7 Administrative Hearing on appeal of the Planning Commission's decision to conditionally approve a Conditional Use Permit.

Recommendation: Administrative Hearing on and consideration of an appeal of the Planning Commission's decision to conditionally approve a Conditional Use Permit to allow expansion of the previously approved permit to authorize an off-site parking arrangement where patrons would utilize the Santa Clara Valley Transportation Agency parking lot at 3390 Monterey Highway in order to allow additional patrons within the establishment. The Planning Commission's decision denied the applicant's proposal to expand hours of entertainment and to construct an interior wall partition to separate the restaurant from the nightclub to allow patrons under the age of 21 years at the existing Fiesta Restaurant Nightclub on a 2.16 gross acres site, in the CN Neighborhood Commercial Zoning District, located at/on the northeast corner of Monterey Road and Rancho Drive (3844 Monterey Rd) (Noghrey Jamshid and Martha E, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to uphold the Planning Commission's decision to conditionally approve a Conditional Use permit to allow changes to the hours of entertainment, construction of an interior wall, permit an off-site parking arrangement, and to allow patrons under the age of 21 years.

CP06-060 – District 7

Resolution No. 74198 adopted, to uphold the Planning Commission's decision. The memorandum from Mayor Reed, and Council Members Nguyen, Campos and Oliverio, dated December 14 2007, was approved, including the following conditions:

(Continued on the next page)

11. PUBLIC HEARINGS

11.7 Administrative Hearing on appeal of the Planning Commission's decision to conditionally approve a Conditional Use Permit (Cont'd.)

- (1) A one year evaluation of the Conditional Use Permit to be conducted by Planning, Building and Code Enforcement to be submitted to the City Council for its review.
- (2) After 9:00 p.m. the Applicant must utilize a separate entrance for nightclub patrons on the southern side of the building.

11.8 Administrative Hearing on appeal of the Planning Commission's decision to deny a Conditional Use Permit.

Recommendation: Administrative Hearing on and consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit to allow off-sale of alcoholic beverages at an approved mini-mart located at a gasoline service station on a 0.63 gross acre site, in the CN Neighborhood Commercial Zoning District, located at the northwest corner of South White Road and Aborn Road (3295 S. White Road) (Vikram Singh and Baljinder Kaur, Owners). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to overturn the Planning Commission decision to deny and approve a Conditional Use Permit to allow off-sale of alcoholic beverages in a remodeled gasoline station.

CP07-019 – District 8

Resolution No. 74199 adopted, the Planning Commission decision was overturned and the Conditional Use Permit was approved.

Noes: Chu, Liccardo, Nguyen, Oliverio.

- **Open Forum**
None were presented.

- **Adjournment**
The Council of the City of San José was adjourned at 9:34 p.m.

8. JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 10:05 p.m. to consider Item 8.1 in a Joint Session.

8.1 Approval of the Annual Report of Financial Transactions of Community Redevelopment Agencies.

Recommendation: Adoption of resolutions by the City Council and Agency Board:

- (a) Approving the Annual Report of Financial Transactions of community redevelopment agencies for FY 2006-07 for the purpose of forwarding the annual report to the State Controller, in accordance with Community Redevelopment Law, Section 33080.1; and,
- (b) Approving the Independent Auditor's Report on internal control over financial reporting and on compliance and other matters based on an audit of financial statement performed in accordance with government auditing standards (Compliance Report), as required by Health and Safety Code 33080.1.

Resolution No. 74167 adopted.

Redevelopment Agency Resolution No. 5803 adopted.

The Council of the City of San José and Redevelopment Agency Board adjourned at 10:06 p.m.