



CITY COUNCIL AGENDA

JUNE 10, 2008

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. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

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
- * - Hear Open Forum and continue the RDA Board Meeting
[See Separate Agenda](#) (To be heard after Item 4.2)

- **Invocation (District 6)**
Father Marcelo Navarro, St. Leo the Great Church

- **Pledge of Allegiance**
- **Orders of the Day**

* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

* **ADJOURNMENT:** This meeting will be adjourned in memory of Vahid Hosseini, President of the Shia Association of the Bay Area (SABA), an individual of constant repose who worked tirelessly to promote awareness of Islam in the Bay Area as well as generously supporting various causes and individuals all over the Bay Area; and of Trac Vo, an activist in the Vietnamese community who work silently but tirelessly to help fellow Vietnamese residents achieve their professional and personal dreams in the Santa Clara Valley. (Cortese)

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

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the San José Environmental Business Cluster for receiving the National Business Incubation Association's 2008 Randall M. Whaley Incubator of the Year award. (Mayor/Redevelopment Agency)
- 1.2 Presentation of a proclamation to the Filipino American community in honor of the Philippine Independence Day Celebration & Fil-Am Friendship Month. (Mayor/Cortese/Chu/Liccardo)
- 1.3 Presentation of a commendation to Parks Maintenance District 6 for being the recipients of the Golden Shovel Award as well as Parks, Recreation and Neighborhood Services' Collaboration Award. (Williams)

2. CONSENT CALENDAR

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

- 2.1 **Approval of Minutes.**
- 2.2 **Final adoption of ordinances.**
- 2.3 **[Second Amendment to the Agreement for Audit Services with Macias Gini & Company.](#)**

* **Recommendation:** Adoption of a resolution authorizing the City Auditor to negotiate and execute a Second Amendment to the Agreement with Macias Gini & Company LLP to provide annual financial audits of the use of Libraries and Parks bond funds (Measures O and P) for FY 2001-02 through FY 2007-08, the use of the Library Parcel Tax (Measure S) for FY 2005-06 through FY 2007-08, and a compliance audit of the City's investment program for a total one-time fee not to exceed \$149,600; and authorization to proceed with audits of these funds for FY 2008-09 for a fee not to exceed \$65,200 subject to annual appropriation of funds by the City Council for a potential total maximum compensation amount not to exceed \$2,905,340 for the term of the contract. (City Auditor)

- 2.4 **[Open Purchase Order #10 for FY 2007-2008.](#)**

[Supplemental – Memo from the Director of Finance](#)

Recommendation: Approval of an award of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #10 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)

2. CONSENT CALENDAR

2.5 [Actions Related to the San José Family Shelter Project.](#)

Recommendation: Adoption of a resolution approving the transfer of 35 affordable units or 143 beds from the site of the existing San José Family Shelter at 1590 Las Plumas Avenue to the site of the New San José Family Shelter Project located at 686 North King Road. CEQA: Resolution No. 74196, File No. PDC07-015. Council District 3. (Housing)

2.6 [Actions Related to Internet Crimes Against Children Grant Award.](#)

Recommendation: Adoption of a resolution:

- (a) Accepting an Internet Crimes Against Children Grant award from the Governor's Office of Emergency Services (OES) in the amount of \$250,000;
- (b) Authorizing the City Manager to execute the Grant Award Agreement;
- (c) Delegating authority to the City Manager to accept and execute additional Internet Crimes Against Children Grant Awards from the Governor's Office of Emergency Services for the next five years, if awarded.

CEQA: Not a Project. (Police)

2.7 [Actions Related to the Roosevelt Community Center Package II Project.](#)

Recommendation:

- (a) Approval of Contract Change Order No. 30 with West Coast Contractors, Inc. for the Roosevelt Community Center Package II Project in the amount of \$180,000 for the telecom, data, MATV (Master Antenna Television) and voice tie cabling, and installation of data patch panels.
- (b) Increase the project funding by \$163,000, and contingency authorization from 5% to slightly over 6% for a total project contingency of \$853,450.
- (c) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund 375:
 - (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$163,000 for the Roosevelt Community Center- Multi Service Project;
 - (2) Decrease the: Roosevelt Center Gymnasium Design Project by \$161,000;
 - (3) Decrease the Reserve: Future PDO/PIFO Projects by \$2,000.

CEQA: Mitigated Negative Declaration, File No. PP03-12-397. Council District 3.

SNI: Five Wounds/Brookwood. (Public Works/City Manager's Office)

2. CONSENT CALENDAR

2.8 [Contract Change Order for Construction of the Mayfair Community Center Project.](#)

Recommendation: Approval of Contract Change Order No. 13 with Zolman Construction and Development, Inc. for the removal of approximately 880 lineal feet of asbestos containing underground pipes discovered during site excavation for the Mayfair Community Center Project, in the amount of \$190,000 for a total construction contract amount of \$14,026,218. CEQA: Mitigated Negative Declaration, File No. PP06-024. Council District 5. SNI: Mayfair. (Public Works)

2.9 **Request for excused absences for Councilmember Constant.**

Recommendation: Request for excused absences for Councilmember Constant.

- (a) [Request for an excused absence](#) from the Closed Session and City Council Meeting of June 10, 2008 due to Authorized City Business: Federated City Employees' Retirement Services Education Training in Chicago, IL.
- (b) [Request for an excused absence](#) from the Rules and Open Government Committee Meeting of June 11, 2008 due to Authorized City Business: Federated City Employees' Retirement Services Education Training in Chicago, IL.

(Constant)

(Rules Committee referral 5/28/08)

2.10 [Contract with Fairbank, Maslin, Maullin & Associates for Consultant Survey Services.](#)

[Supplemental – Memo from the Director of Communications](#)

- * **Recommendation:** Approval of a contract for consultant survey services with Fairbank, Maslin, Maullin & Associates, for a three-year term from time of execution, in an amount not-to-exceed \$300,680, subject to appropriation of funding. CEQA: Not a Project. (City Manager's Office)
- * (Deferred from 6/3/08 – Item 2.7)

2.11 [Approval to Donate Five Surplus Brush Patrol Vehicles.](#)

Recommendation: Adoption of a resolution authorizing the Director of Finance to donate five surplus Brush Patrol Vehicles (1988 Ford F350 Cab and Chassis with a Brush Patrol body) with a cumulative estimated value of \$25,000 as follows: one vehicle to the Spring Valley Fire District, a volunteer fire department; two vehicles to San José Search and Rescue, a non-profit organization; one vehicle to Central County Occupational Center, an educational organization; and one surplus Brush Patrol to the Eves Volunteer Fire Department. CEQA: Not a Project. (Finance)

- * (Deferred from 6/3/08 – Item 2.10)

* **RECOMMEND DEFERRAL TO 6/17/08 PER RULES COMMITTEE**

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)

3.2 Report of the Rules and Open Government Committee – [May 21, 2008](#)

Mayor Reed, Chair

- (a) City Council (City Clerk)
 - (1) Review May 27, 2008 Final Agenda
 - (2) Review June 3, 2008 Special Meeting Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) AB 2058 (Levine) – Recycling Plastic Carryout Bags: Paper Carryout Bags. (Environmental Services)
HEARD BY COUNCIL 6/3/08 – ITEM 3.5
 - (b) AB 2437 (Ruskin) – Regional Water Systems. (Environmental Services)
HEARD BY COUNCIL 6/3/08 – ITEM 3.6
 - (c) Follow-Up to Questions Regarding State Foreclosure Legislation. (Housing)
SEE ITEM 3.4 FOR COUNCIL ACTION TO BE TAKEN
 - (2) Federal
- (d) Meeting Schedule
 - (1) Set Special Council Meeting for June 19, 2008 to discuss potential Ballot Measures. (City Manager’s Office)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committee
 - (1) Appointment of Mayor’s designee to the Dublin Delegation. (Mayor)
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Proposed Ballot Measures. (City Attorney’s Office)
- (h) Review of additions to Council Committee Agendas
- (i) Open Government Initiatives
- (j) Open Forum
- (k) Adjournment

3.3 Report of the Rules and Open Government Committee – [May 28, 2008](#)

Mayor Reed, Chair

- (a) City Council (City Clerk)
 - (1) Review June 3, 2008 Final Agenda
 - (2) Review June 10, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) AB 2640 (Huffman) – Solid Waste: Compostable Organics Management. (Environmental Services)
 - (b) SB 1321 (Correa) – School Recycling Programs. (Environmental Services)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.3 Report of the Rules and Open Government Committee – May 28, 2008 (Cont'd.)

Mayor Reed, Chair

- (c) (2) Federal
- (d) Meeting Schedule
 - (1) Rules and Open Government Summer Meeting Schedule. (City Clerk)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committee
 - (1) Appointment and Re-appointment to the following Boards and Commissions:
 - (a) 2 new appointments to the Airport Commission.
 - (b) 1 re-appointment and 4 new appointments to the Arts Commission.
 - (c) 2 re-appointments and 1 new appointment to the Disability Advisory Commission.
 - (d) 1 new appointment to the Early Care and Education Commission.
 - (e) 2 new appointments to the Historic Landmarks Commission.
 - (f) 2 new appointments to the Library Commission.
 - (g) 2 re-appointments and 2 new appointments to the Parks and Recreation Commission.
 - (h) 1 re-appointment and 2 new appointments to the Senior Citizens Commission.
 - (i) 1 new appointment to the Traffic Appeals Commission.
- (g) Rules Committee Reviews, Recommendations and Approvals
- (h) Review of additions to Council Committee Agendas
- (i) Open Government Initiatives
- (j) Open Forum
- (k) Adjournment

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

3.5 [Follow-Up to Questions Regarding State Foreclosure Legislation.](#)

Recommendation: As referred by the Rules and Open Government Committee:

- (a) Accept staff's response to questions raised at the April 16, 2008 Rules and Open Government Committee and approve staff's recommendation to adopt a position of support for SB 1137 (Perata) and AB 2586 (Torrico), and adopt a position of support if amended for AB 2509 (Galgiani).
- (b) Approve a general set of "guiding principles" for the support of legislation related to the foreclosure crisis.

(City Clerk)

[Rules Committee referral 5/21/08 – Item C(1)(c)]

3. STRATEGIC SUPPORT SERVICES

3.6 [Rules and Open Government Committee Recommendations on the Sunshine Reform Task Force's Remaining Phase I Provisions.](#)

[Attachment – Memo from the City Attorney](#)

Recommendation:

- (a) Adopt a resolution:
 - (1) Approving the Sunshine Reform Task Force Recommendations on Public Meetings as amended by the Rules and Open Government Committee and directing staff to proceed with implementation on a pilot basis;
 - (2) Approving staff recommendations on the definition of Agenda and Public Review File and directing staff to proceed with implementation on a pilot basis;
 - (3) Approving the Sunshine Reform Task Force Recommendations on Closed Session as amended by the Rules and Open Government Committee and directing staff to proceed with implementation on a pilot basis;
- (b) Approve a minor amendment to the Calendar Disclosure requirements approved by the Council in August 2007; and
- (c) Discuss and decide whether to record Closed Session.

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

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

3.7 [Report on Bids for Combination Sewer Cleaning Trucks and Optional Equipment.](#)

- * **Recommendation:** Report on bids and award the purchase of four combination sewer cleaning trucks and optional equipment to the low bidder, Coast Counties Truck & Equipment Co., for a total amount not-to-exceed \$1,118,589.24, including taxes and fees, and authorize the Director of Finance to:

- (a) Execute the purchase order for the initial purchase of quantity four combination sewer cleaning trucks and optional equipment;
- (b) Amend the initial purchase order to purchase additional quantities of combination sewer cleaning trucks and optional equipment, on an as-required basis, at the same unit pricing subject to appropriation of funding;
- (c) Execute purchase orders to acquire additional quantities of combination sewer cleaning trucks and optional equipment, on an as-required basis, for four additional years subject to annual manufacturer's price increases added to the initial bid price and appropriation of funding.

CEQA: Not a Project. (Finance)

3.8 [Agreement to Purchase Office Supplies.](#)

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

- (a) An agreement and purchase order for the cooperative purchase of office supplies with Corporate Express through the cooperative contract offered by the National Intergovernmental Purchasing Alliance starting July 1, 2008 until June 30, 2012 in an amount not-to-exceed \$1,200,000 for the initial year of the agreement.

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.8 Agreement to Purchase Office Supplies. (Cont'd.)

Recommendation:

- (b) Amendments to the initial purchase order to adjust the not-to-exceed compensation subject to annual appropriation of funding.
- (c) Execute subsequent annual Purchase Orders subject to annual appropriation of funding.

CEQA: Not a Project. (Finance)

* (Deferred from 5/20/08 – Item 3.5 and 6/3/08 – Item 3.4)

RECOMMEND DEFERRAL TO 6/17/08 PER ADMINISTRATION

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee Councilmember Pyle, Chair – *No Report.*

4.2 [Actions Related to the Landmark Designation of the former Main Library Building.](#)

[Attachment – Memo from Senior Planner Sally Zarnowitz](#)

[Attachment – State of California Parks and Recreation Primary Record](#)

[Attachment – Memo from the Director of Redevelopment](#)

Recommendation: Consideration of designation of the Former Main Library as a City Historical Landmark, located on the southside of West San Carlos Street between Market Street and Almaden Boulevard. CEQA: Not a Project. Director of Planning, Building and Code Enforcement recommends that the City Council decline to proceed with landmark designation of the former Main Library building as a City Landmark. The Historic Landmarks Commission voted (5-1-1, Cunningham opposed, Lavelle absent) to recommend that the City Council adopt a resolution to initiate proceedings to consider the former MLK Main Library building as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature; set a public hearing on August 26, 2008 at 1:30 p.m.; and refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation. Council District 3. (Planning, Building and Code Enforcement)

* **TO BE HEARD IMMEDIATELY FOLLOWING ITEM 6.2**

4.3 **Actions Related to the Special Tenant Improvement and Industrial Tool Installation Programs.**

* **Recommendation:** Acceptance of Report on making the Special Tenant Improvement Industrial Tool Installation programs permanent with certain modifications. CEQA: Not a Project. (Planning, Building and Code Enforcement/Economic Development)

* **RECOMMEND DEFERRAL TO 6/17/08 PER ADMINISTRATION**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 [Actions related to the design and installation of Public Artwork at Happy Hollow Park and Zoo.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Tom Otterness to design, fabricate and install public artwork for the Happy Hollow Park and Zoo in a total amount not-to-exceed \$932,500. CEQA: Exempt, File No. PP05-184. (Economic Development)

* (Deferred from 6/3/08 – Item 2.8)

* **RECOMMEND DEFERRAL TO 6/17/08 PER ADMINISTRATION**

4.5 [Fiscal Actions Related to the Cinnabar Commons Apartments Project.](#)

Recommendation: Adoption of a resolution:

(a) Approving an increase to the City permanent loan to Cinnabar Commons, a California limited partnership, or an affiliated entity for up to \$506,652 to capitalize interest on the City's loan for the Cinnabar Commons Family Apartments project, located on Stockton Avenue between Cinnabar Street and Lenzen Avenue.

(b) Approving up to 120% Loan-to-Value (LTV) as an exception to the City Council policy limiting LTV to 100%.

CEQA: EIR Resolution No. 71174. Council District 6. (Housing)

* (Deferred from 5/20/08 – Item 2.9 and 6/3/08 – Item 4.3)

4.6 **Lease Agreement with the Tech Museum of Innovation for installing a Photovoltaic System on the roof of Parkside Hall.**

[Supplemental – Memo from the Deputy City Manager](#)

Recommendation:

(a) Adoption of a resolution authorizing the City Manager to negotiate and execute a lease agreement between the City of San Jose and the Tech Museum of Innovation for the use of Parkside Hall's roof and authorizing the City Manager to consent to the sublease of Parkside Hall's roof and the Tech Museum's roof to Solar Star or Solar Star's assignee for the purpose of constructing, installing, maintaining and operating a photovoltaic solar generation system.

(b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Tech Museum's installation of a photovoltaic solar generation system on the roof of Parkside Hall.

CEQA: Exempt, File No. PP08-039. Council District 3. (City Manager's Office)

* (Deferred from 6/3/08 – Item 4.6)

5. NEIGHBORHOOD SERVICES

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

5.2 [Actions Related to the Strong Neighborhoods Initiative Washington Neighborhood Improvement Plan Amendment.](#)

[Attachment – Memo from Deputy Executive Director of RDA and Deputy City Manager](#)

Recommendation: Review and Recommendation of the Strong Neighborhoods Initiative Washington Neighborhood Improvement Plan Amendment to the City Council. CEQA: Strong Neighborhoods Initiative Program EIR, Resolution No. 71045. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). Council Districts 3 and 7. SNI: Washington. (Planning, Building and Code Enforcement)

* **TO BE HEARD NO EARLIER THAN 5:00 P.M.**

5.3 [Report on Bids and Action Related to Bascom Library and Community Center Project.](#)

Recommendation: Report on bids and take appropriate action based on the evaluation of bids for the Bascom Library and Community Center Project. CEQA: Exempt, File No. PP07-081. Council District 6. SNI: Burbank/Del Monte. (Parks, Recreation and Neighborhood Services/Library/Public Works)

* **RECOMMEND DEFERRAL TO 6/17/08 PER ADMINISTRATION**

5.4 [Amendment to an Agreement for Engineering Services for Various City Trail Projects.](#)

Recommendation: Approval of the first amendment to the master agreement with CH2M HILL, Inc. for engineering services for various City trail projects increasing the total compensation by \$1,500,000, for a total agreement amount of \$3,500,000, in order to fund services for the Lower Guadalupe River Trail.

CEQA: Not a Project. (Public Works)

6. TRANSPORTATION & AVIATION SERVICES

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

6. TRANSPORTATION & AVIATION SERVICES

6.2 [Actions related to the Food & Beverage and Retail Request for Proposal at the Airport.](#)

[Attachment – Auditor’s Memo](#)

[Attachment – Administration’s Response to Auditor’s Memo](#)

[Attachment – PGC Appeal](#)

[Attachment – Statement and Declaration of Interest Form from Councilmember Chu](#)

[Supplemental – Airport Food and Beverage & Retail Concession Program Q&A](#)

[Supplemental – Response to PGC Appeal](#)

[Supplemental – Staff Response to PGC’s Supplemental Submission](#)

[Supplemental – Letter from Brown and Ramirez Attorneys at Law](#)

[Supplemental – Letter of Appeal](#)

[Supplemental – Information Relating to the PGC Appeal](#)

[Exhibit List to Supplemental Submission](#)

Recommendation:

- (a) Consideration of appeal by Pacific Gateway Concessions, regarding the Airport Food & Beverage and Retail Concessions Program Request for Proposals and adoption of a resolution setting forth the decision of the City Council.
- (b) Adoption of a resolution authorizing the City Manager to:
 - (1) Negotiate and execute Concession Agreements between the City of San José and the following entities, effective from the date of execution by the City Manager through June 30, 2020:
 - (a) Host International, Inc., for the construction and operation of retail concessions at the Airport listed as Package 1 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$1,620,000.
 - (b) AMS-SJC JV, for the construction and operation of retail concessions at the Airport listed as Package 2 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$2,000,000.
 - (c) Areas USA SJC, LLC, for the construction and operation of food and beverage concessions at the Airport listed as Package 3 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$1,726,200.
 - (d) Host International, Inc., for the construction and operation of food and beverage concessions at the Airport listed as Package 4 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$2,860,000.

Item Continued on Next Page

- (2) Terminate negotiations with any of the recommended proposers for Packages 1 through 4 and negotiate Concession Agreements with lower-ranked proposers in order of their ranking for each package, in the event that the City Manager determines that the City and the recommended proposer cannot agree upon the terms of the Concession Agreement by August 1, 2008.
- (3) Negotiate and execute amendments to the Concessions Agreements for expansion or contraction of locations and modification or replacement of concepts and subtenants during the overall term of the Concession Agreements, so long as no changes are made in the provisions in the Concession Agreements regarding percentage rent or MAG to be paid to the City.

CEQA: Resolutions Nos. 67380 and 71451, File No. PP08-060. (Airport)

* (Deferred from 6/3/08 – Item 6.2)

* **TO BE HEARD IMMEDIATELY FOLLOWING ITEM 3.1**

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- 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 receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9477	Southeast corner of Fruitdale Avenue and Southwest Expressway	6	Southwest Expressway Investors LP	6 Lots / 502 Units	Multi-Family Attached and Retail

- 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 May 2008:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Dent Avenue Storm Drain Improvement Project	9	Wattis Construction Company, Inc.	\$199,802	5/14/08
Homewood Drive Sanitary Sewer Rehabilitation Project	6	Veolia ES Industrial Services, Inc., dba J.F. Pacific Liners, Inc.	\$266,375	5/14/08
St James Street and St John Street Sanitary Sewer Rehabilitation	3	Veolia ES Industrial Services, Inc., dba J.F. Pacific Liners, Inc.	\$426,520	5/15/08
Selma Olinder Dog Park	3	Suarez and Munoz Construction, Inc.	\$220,700	5/15/08

- Open Forum (To be heard no earlier than 3:30 p.m.)
- Redevelopment Agency Board Meeting (immediately following Item 4.2)

- **Adjournment**

- * This meeting will be adjourned in memory of Vahid Hosseini, President of the Shia Association of the Bay Area (SABA), an individual of constant repose who worked tirelessly to promote awareness of Islam in the Bay Area as well as generously supporting various causes and individuals all over the Bay Area; and of Trac Vo, an activist in the Vietnamese community who work silently but tirelessly to help fellow Vietnamese residents achieve their professional and personal dreams in the Santa Clara Valley.
(Cortese)

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

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

1. Public Meeting Decorum:

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

2. Signs, Objects or Symbolic Material:

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

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

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

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