



CITY COUNCIL AGENDA

AUGUST 26, 2008

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.

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**
9:31 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Campos, Constant. (Excused)

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Campos, Constant. (Excused)

- **Invocation (District 7)**
Monsignor Dominic, Saint Maria Goretti 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 2.9 deferred to 9/16/08, Items 3.2, 3.6 and 5.1 deferred to 9/9/08, Item 4.6 dropped per the Administration and Joint Redevelopment Item 8.3 deferred to 9/23/08.

- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring September as Latino Health Awareness Month in the City of San José. (Mayor/Williams/Campos)
(Rules Committee referral 8/20/08)
Mayor Reed and Council Member Williams recognized September 2008 as “Latino Health Awareness Month” in the City of San José. Council Member Campos was not present.
- 1.2 Presentation of a commendation to Kerio Technologies for its innovation in software solutions and contributions to the global and local San José economies.
(Mayor/Liccardo/Redevelopment Agency)
(Rules Committee referral 8/20/08)
Mayor Reed, Council Member Liccardo and Executive Director Harry Mavrogenes recognized and commended Kerio Technologies for its innovation in software solutions and contributions to the global and local San José economies.
- 1.3 Presentation of a commendation to San José State University Honor Students Chienfei Connie Chen, Kiran Sharma, and Rick Dexter for their great service in helping to create the Urban Forest of San José website for use by community residents and City staff.
(Transportation)
(Rules Committee referral 8/20/08)
Mayor Reed and Director of Transportation James Helmer recognized and commended the San José State University Honor Students Chienfei Connie Chen, Kiran Sharma, and Rick Dexter for their great service in helping to create the Urban Forest of San José website for use by community residents and City Staff.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none.
- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28366 – Rezoning certain real property situated at the northeast corner of Zanker Road and River Oaks Parkway (199 River Oaks Parkway) to the A(PD) Planned Development Zoning District. PDC07-102
Ordinance No. 28366 adopted.
- (b) ORD. NO. 28367 – Rezoning certain real property situated on the north side of Elden Drive, approximately 500 feet easterly of South Bascom Avenue (679 and 681 Elden Drive) to A(PD) Planned Development Zoning District. PDC06-082
Ordinance No. 28367 adopted.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (c) ORD. NO. 28368 – Rezoning certain real property situated on the southwest corner of San Felipe Road and Aborn Road (3303 San Felipe Road) to CN Commercial Neighborhood Zoning District. C08-026
Ordinance No. 28368 adopted.
- (d) ORD. NO. 28369 – Rezoning certain real property situated on the east side of Seaboard Avenue, approximately 300 feet southerly of Trimble Road (2586 Seaboard Avenue) to LI-Light Industrial Zoning District. C08-009
Ordinance No. 28369 adopted.
- (e) ORD. NO. 28370 – Rezoning certain real property situated on the southeast corner of Monterey Road and Old Tully Road (2400 Monterey Road) to CN Commercial Neighborhood Zoning District. C08-027
Ordinance No. 28370 adopted.
- (f) ORD. NO. 28371 – Rezoning certain real property situated on the southeast corner of South Second Street and Keyes Street (1140 South 2nd Street) to A(PD) Planned Development Zoning District. PDC07-086
Ordinance No. 28371 adopted.
- (g) ORD. NO. 28372 – Prezoning certain real property situated on both sides of Norman Avenue, Willow Street, Santa Lucia Drive, Santa Inez Drive, and St. Anthony Drive, as well as the area bounded by these streets to the north of Keesling Avenue from County of Santa Clara to R-1-5 Single-Family Residence Zoning District. C08-021
Ordinance No. 28372 adopted.
- (h) ORD. NO. 28373 – Prezoning certain real property situated on the south side of Keesling Avenue, on both sides of Grace Avenue south of Keesling Avenue, west of Phantom Avenue, approximately 100 feet northerly of Hamilton Avenue, and west of Meridian Avenue, on both sides of Isabel Drive and north of Blackford Lane from County of Santa Clara to R-2 Single-Family Residence Zoning District. C08-021
Ordinance No. 28373 adopted.
- (i) ORD. NO. 28374 – Prezoning certain real property situated on the west side of Meridian Avenue, between Hamilton Avenue and Blackford Lane from County of Santa Clara to CN Commercial Neighborhood Zoning District. C08-021
Ordinance No. 28374 adopted.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (j) ORD. NO. 28375 – Rezoning certain real property situated on the north side of Hamilton Avenue, from approximately 350 feet west of Meridian Avenue to the west side of Norman Avenue, and west of Meridian Avenue, approximately 100 feet north of Isabel Drive from County of Santa Clara to CO Commercial Office Zoning District. C08-021
Ordinance No. 28375 adopted.
- (k) ORD. NO. 28376 – Rezoning certain real property situated along and within the area generally bounded by Ciro Avenue, Di Salvo Avenue, Bailey Avenue, and Bellerose Drive, north of Stevens Creek Boulevard, from County of Santa Clara to R-1-8 Single-Family Residence Zoning District. C08-025
Ordinance No. 28376 adopted.
- (l) ORD. NO. 28377 – Rezoning certain real property situated on the east side of Bellerose Drive, approximately 150 feet northerly of Stevens Creek Boulevard from County of Santa Clara to R-2 Two-Family Residence Zoning District. C08-025
Ordinance No. 28377 adopted.
- (m) ORD. NO. 28378 – Rezoning certain real property situated on the east side of Di Salvo Avenue, approximately 300 feet northerly of Steven Creek Boulevard, from County of Santa Clara to R-M Multiple Family Residence Zoning District. C08-025
Ordinance No. 28378 adopted.
- (n) ORD. NO. 28379 – Rezoning certain real property situated on the northwest corner of Stevens Creek Boulevard and Revey Avenue from County of Santa Clara to CP Commercial Pedestrian Zoning District. C08-025
Ordinance No. 28379 adopted.
- (o) ORD. NO. 28380 – Rezoning certain real property situated north of O’Connor Drive on both sides of Di Salvo Avenue from County of Santa Clara to CO Commercial Office Zoning District. C08-025
Ordinance No. 28380 adopted.
- (p) ORD. NO. 28381 – Rezoning certain real property situated north of Dry Creek Road and south of Campbell Avenue, westerly of Meridian Avenue from County of Santa Clara to R-1-2 Single-Family Residence Zoning District. C08-020
Ordinance No. 28381 adopted.
- (q) ORD. NO. 28382 – Rezoning certain real property situated north of Dry Creek Road, west of Meridian Avenue, east of Leigh Avenue, and south from the properties along the north side of McBain Avenue from County of Santa Clara to R-1-5 Single-Family Residence Zoning District. C08-020
Ordinance No. 28382 adopted.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (r) ORD. NO. 28383 – Rezoning certain real property situated east of Hurst Avenue, west of Meridian Avenue, north from the properties along the south side of Montemar Avenue, and south from the properties along the north side of Willowhurst Avenue from County of Santa Clara to R-1-8 Single-Family Residence Zoning District. C08-020
Ordinance No. 28383 adopted.
- (s) ORD. NO. 28384 – Rezoning certain real property situated on the southwest corner of Meridian Avenue and Willowhurst Avenue from County of Santa Clara to CN Commercial Neighborhood Zoning District. C08-020
Ordinance No. 28384 adopted.
- (t) ORD. NO. 28385 – Rezoning certain real property situated west of Meridian Avenue, approximately 120 feet southerly of Willowhurst Avenue and south of Willowhurst Avenue, approximately 180 feet westerly of Meridian Avenue from County of Santa Clara to CO Commercial Office Zoning District. C08-020
Ordinance No. 28385 adopted.
- (u) ORD. NO. 28387 – Amending Title 14 of the San José Municipal Code to add a new Chapter 14.32 to establish a procedure for the financing of certain public capital facilities through the establishment of Convention Center facilities districts, the levy of special taxes and the issuance of bonds secured by such special taxes.
Ordinance No. 28387 adopted.

2.3 Continuation Agreement for actuarial services related to labor negotiations.

Recommendation: Adopt a resolution authorizing the City Attorney to negotiate and execute a Continuation Agreement with Bartel Associates LLC for additional consultant actuarial services related to labor negotiations concerning police retirement benefits, continuing the term through June 30, 2009 and increasing compensation by \$150,000, for a total maximum compensation not to exceed \$330,000. CEQA: Not a Project. (City Attorney's Office)

Resolution No. 74560 adopted.

2.4 Office of the City Auditor's Report.

Recommendation: Accept the Office of the City Auditor's *Report of Activities and Findings for the Period June 16 through June 30, 2008*. (City Auditor)

Report Accepted.

2.5 Findings report relating to the Bay 101 Conditional Approval of Stock Transfer.

Recommendation: Accept the finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending March 31, 2008. (City Auditor)

Report Accepted.

2. CONSENT CALENDAR

2.6 Workforce Investment Act Fund for the State Employment Training Panel Grant.

Recommendation: Adopt an Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund to:

- (a) Establish an appropriation to the Office of Economic Development for the State Employment Training Panel Grant project in the amount of \$385,000.
- (b) Increase the estimate for Earned Revenue by \$385,000.

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

Ordinance No. 28388 adopted.

Resolution No. 74561 adopted.

2.7 Workforce Investment Act Fund for Department of Health & Human Services.

Recommendation: Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund:

- (a) Establish an appropriation to the Office of Economic Development for the Department of Health & Human Services for New Americans Job Program in the amount of \$191,593.
- (b) Increase the estimate for Earned Revenue by \$191,593.

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

Ordinance No. 28389 adopted.

Resolution No. 74562 adopted.

2.8 Amendment to the Agreement with Verisign, Inc.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to execute an amendment to the agreement with VeriSign, Inc. to extend the term of the agreement from May 21, 2008 through June 30, 2009 and increase maximum compensation from \$249,760, by \$100,000, to \$349,760.

Resolution No. 74563 adopted.

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendment in the General Fund:

- (1) Increase the Beginning Fund Balance by \$250,000;
- (2) Increase the Information Technology Department Non-Personal/Equipment appropriation in the amount of \$250,000.

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

Ordinance No. 28390 adopted.

Resolution No. 74564 adopted.

2. CONSENT CALENDAR

2.9 Approve Travel for Independent Police Auditor.

Recommendation: Approve travel for Independent Police Auditor Barbara Attard, for two business-related trips:

- (a) To conduct training in investigations and oversight of police misconduct cases for the Police Service Commission in Abuja, Nigeria on September 15-19, 2008. Source of Funds: CLEEN Foundation and the Open Society Justice Initiative.
- (b) To attend the NACOLE Annual Conference in Cincinnati, Ohio on October 27-30, 2008. Source of Funds: IPA General Fund Budget.

(Independent Police Auditor)

Deferred to 9/16/08 per Orders of the Day.

2.10 City of San José's Sewer System Management Plan.

Recommendation: Approve the City of San Jose's Sewer System Management Plan that is required by State Water Resources Control Board Order No. 2006-0003 - Statewide General Waste Discharge Requirements for Sanitary Sewer Systems. CEQA: Not a Project. (Transportation/Public Works/Environmental Services)

Approved.

2.11 Council Member Chu's Travel to Long Beach, CA.

Recommendation: Approve travel by Council Member Chu to Long Beach, CA on September 24-27, 2008 to participate in the League of California Cities' Annual Conference. Source of Funds: Mayor/Council Travel Fund. (Chu)
(Rules Committee referral 8/13/08)

Approved.

2.12 Excused absences for Council Member Campos.

Recommendation: Request excused absences for Council Member Campos from the following regularly scheduled meetings due to maternity leave:

- (a) Closed Session and Regular City Council Meeting of August 19, 2008.
- (b) Healthy Neighborhood Venture Fund Advisory Committee Meeting of August 21, 2008.
- (c) Regular Meeting of the Community and Economic Development Committee of August 25, 2008.
- (d) Closed Session and Regular City Council Meeting of August 26, 2008.

(Campos)

(Rules Committee referral 8/20/08)

Excused.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)
City Manager Debra Figone provided an update on State Budget issues; noted that the State is 57 days into the new Fiscal Year without an adopted budget and there has been limited progress in solving the \$15.2 Billion dollar deficit; and added that the Governor has a compromise plan under discussion which includes a 1 cent sales tax increase for 3 years.

3.2 Report of the Rules and Open Government Committee – August 13, 2008
Mayor Reed, Chair
Deferred to 9/9/08 per Orders of the Day.

3.3 Report of the Public Safety, Finance and Strategic Support Committee
Council Member Nguyen, Chair
No Report.

3.4 Response to the Civil Grand Jury Report entitled “City Fails to Hold History San José Accountable”.

Recommendation: Accept the staff response to the Civil Grand Jury Report entitled, “City Fails to Hold History San José Accountable”. CEQA: Not a Project. Council District 7. (General Services)
Accepted.

3.5 SB 1420 (Padilla) – Food Facilities: Nutritional Information.

Recommendation: As referred by the Rules and Open Government Committee, consider a position of support for SB 1420 (Padilla) – Food Facilities: Nutritional Information. (Williams)
[Rules Committee referral 8/13/08 – Item C(1)(a)]
A position of support was accepted.

3.6 Report of the Rules and Open Government Committee – August 6, 2008
Mayor Reed, Chair
Deferred to 9/9/08 per Orders of the Day.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee
Council Member Pyle, Chair
No Report.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Housing Director Authority Relating to Predevelopment Loans and Second Mortgages.

Recommendation:

- (a) Approve an ordinance amending Chapter 5.06 of Title 5 of the San José Municipal Code – “Contract Authority of the Director of Housing, City Manager and Director of Finance” – to modify the Director of Housing’s delegated authority by: eliminating the maximum amount of predevelopment loans that can be made to nonprofit housing developers by the Director; and authorizing the Director to make commitments of project-based second mortgages.
- (b) Adopt a resolution to increase the maximum amount of predevelopment loans that can be approved by the Director of Housing from \$100,000 to \$500,000; and set a \$500,000 limit on the amount of project-based second mortgages that can be committed by the Director of Housing to any one for-sale development.

CEQA: Not a Project. (Housing)

(Deferred from 5/20/08 – Item 4.3, 6/3/08 – Item 4.4, and 8/5/08 – Item 4.2)

Deferred to September 2008.

4.3 Mexican Heritage Plaza Transition Plan.

Recommendation:

- (a) Accept the report presented to the Community & Economic Development Committee on June 23, 2008 regarding the Mexican Heritage Plaza transition update.

Received.

Noes: Oliverio.

- (b) Adopt a resolution authorizing the City Manager to negotiate and execute a cooperation agreement with the Hispanic Foundation of Silicon Valley to join the City in managing the business planning process for the Mexican Heritage Plaza transition to community cultural center.

CEQA: Not a Project. Council District 5. (City Manager’s Office/General Services)

[Community and Economic Development Committee referral 06/23/08 – Item (h)]

(Deferred from 8/5/08 – Item 4.3 and 8/19/08 – Item 4.2)

Resolution No. 74565 adopted.

Noes: Oliverio.

Staff directed to report back on the Plaza’s “Donor Wall”.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Rezoning real property located on the southeast corner of North First Street and East Rosemary Street.

Recommendation: Consideration of an ordinance rezoning the real property located on the southeast corner of North First Street and East Rosemary Street from CN-Commercial Neighborhood, CG-Commercial General, and LI-Light Industrial Zoning Districts to A(PD) Planned Development Zoning District to allow 290 multi-family residential units on a 4.045 gross acre site (Metro Eight Properties, LLC, Owner; ROEM Development Corporation, Developer). CEQA: Resolution No. 72768 and addendum thereto. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC07-101 – District 3

(Deferred from 8/12/08 – Item 11.3)

The memorandum from Council Member Liccardo, dated August 22, 2008, was approved, with the following conditions:

- (1) **The developer shall pay an amount to assist in the acquisition of the parcel located on the northeast corner of Rosemary and Kerley for a possible park. The Agency has budget \$1.5 million to be used for the down payment to purchase the parcel. In addition, the City has indicated that it will have PDO fees that will be used for the purchase, however, it is anticipated there will still be a shortfall. The total assistance paid by the developer will be the residual amount between the asking price and the total of the Agency and PDO contributions.**
- (2) **The developer shall provide Eco Passes to all residents of the project for the first year of their residence, in conformity with commitments that the developer has chosen to make, to alleviate the parking and traffic situation on surrounding residents.**
- (3) **The developer has offered to build in a manner consistent with green building principles.**
- (4) **The developer shall comply with proposed Development Standards articulated on pages 4 and 5 of the June 17, 2008 Staff report.**

Ordinance No. 28391 passed for publication.

Noes: Oliverio.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Administrative Hearing regarding an appeal of the Planning Commission's decision to approve a Conditional Use Permit to convert an existing bookstore for daycare center and preschool use.

Recommendation: Conduct an Administrative Hearing and consider an appeal of the Planning Commission's decision to approve a Conditional Use Permit to convert an existing bookstore for daycare center and preschool use on a 0.40 gross acre site, in the CO Office Commercial Zoning District, located on the northwest corner of Bercaw Lane and Wyrick Avenue (14381 Bercaw Lane) (Beck, Diaz and Menendez, LLC, Owner). CEQA: Exempt.

CP07-092 – District 9

(Deferred from 8/19/08 – Item 11.2)

The memorandum from Council Member Chirco, dated August 22, 2008, was approved, with the following modifications and a clarification that the property address is 14381 Bercaw Lane.

- (1) Include a condition that implements the use described in the permit in two phases:
 - (a) Phase 1 operation is limited to 45 children. Once the 45 child enrollment is reached and no sooner than 1 year from approval of the permit, the applicant may notify the Director of Planning, Building and Code Enforcement (PBCE) that the applicant desires to expand enrollment under the permit.
 - (b) Upon receipt of that notice, the Director of PBCE shall initiate an Operational Confirmation Review. Under this review, the Director of PBCE shall gather all information necessary to assess the operational history of the daycare, including input from the community and relevant information held by other City Departments. Based on the assessment of this information, the Director of PBCE shall determine whether the expansion of enrollment under Phase II at that time would be appropriate in that it would not create undue adverse impacts upon the neighborhood. If the Director of PBCE does not allow the expansion, the applicant may reapply no more frequently than once every two years.
- (2) The applicant shall manage the subject facility in such a manner that the arrival time of clients are staggered so that no more than 65% arrive within the same morning peak hour and afternoon peak hour.
- (3) The fence surrounding the proposed play area shall be set back at least 10 feet from the property line and shall be of a height and design compatible with the surrounding neighborhood.

Resolution No. 74566 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.6 Acquisition and Predevelopment Funding for the Airport Parkway Apartments Project.

Recommendation: Adopt a resolution approving an acquisition and predevelopment funding commitment of up to \$11,400,000 to BRIDGE Housing Corporation, or its designated affiliate, for the 200-unit Airport Parkway Apartments project located at 40 and 50 Airport Parkway which will include units for residents at extremely low-income, very low-income, and low-income levels as well as households with higher incomes. CEQA: Resolution No. 72768 and Addendum thereto, PDC06-130. Council District 3. (Housing)

Dropped per Administration under Orders of the Day.

4.7 Public Hearing on the Historic Landmark Designation for the Former Main Library Building.

Recommendation: Adopt a resolution to decline to designate the former Main Library building as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature. CEQA: Not a Project. Council District 3. (Planning, Building and Code Enforcement)

Resolution No. 74567 adopted.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – August 14, 2008 Council Member Chirco, Chair

Deferred to 9/9/08 per Administration, under Orders of the Day.

5.2 Report on Bids and Action Related to Bascom Library and Community Center Project.

Recommendation:

- (a) Conduct a hearing to determine whether the low bid submitted by Zolman Construction & Development, Inc. for the Bascom Library and Community Center Project should be rejected on the ground that Zolman was not qualified to submit a bid.

Bid rejected.

- (b) Award the construction contract for the project to the low bidder, John Plane Construction, Inc., to include the base bid and add alternative Nos. 1 and 3, in the amount of \$17,974,000 and approve a contingency in the amount of \$1,797,000. CEQA: Exempt, File No. PP07-081. Council District 6. SNI: Burbank/Del Monte. (Parks, Recreation and Neighborhood Services/Library/Public Works)
(Deferred from 6/10/08 – Item 5.3 and et. al., and 8/12/08 – Item 5.2)

Approved.

5. NEIGHBORHOOD SERVICES

5.3 Actions Related to Neighborhood Clean-up Bin Services for Recycle Plus Collection in Districts A and C.

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

- (a) Execute a three and a half year agreement with Green Waste Recovery, Inc. (San José, CA) with a not-to-exceed compensation of \$1,357,950 for the first 18 months (January 1, 2009 through June 30, 2010).
- (b) Exercise a compensation adjustment after the first 18 months of the term subject to the Refuse Rate Index, an index based on a combination of the Consumer Price and Producer Price Indexes, and appropriation of funds.
- (c) Execute change orders as required to add or delete Neighborhood Clean-Up bin services based on changing program requirements.
- (d) Exercise one two-year option to extend the term of the agreement, from July 1, 2013 through June 30, 2015, subject to the Refuse Rate Index and annual appropriation of funds.

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

Resolution No. 74568 adopted.

5.4 Action Related to Outdoor Animal Care.

Recommendation: Approve an ordinance amending Section 7.20.020 of Chapter 7.20 of Title 7 of the San José Municipal Code to require both shade and shelter for animals that are maintained outdoors. CEQA: Not a Project. (General Services)

Ordinance No. 28392 passed for publication.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee Council Member Williams, Chair No Report.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Urban Runoff Management Plan 2007-2008 Annual Report.

Recommendation: Authorize submittal of the 2007-2008 Urban Runoff Management Plan Annual Report and certification to the San Francisco Bay Regional Water Quality Control Board in conformance with the City's Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System permit requirements, pursuant to the Federal Clean Water Act. CEQA: Not a Project. (Environmental Services)

Accepted.

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 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>
9978	NW corner of E Taylor St & N 6 th St	3	Todd and Maureen Zeman	5 Lots / 5 Units	SFD	Approve

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

- **Open Forum**

- (1) **Mark Trout expressed religious viewpoints.**
- (2) **David Wall commented about garbage issues, public art, the elimination of an Office Specialist for the Office of the Independent Police Auditor and the need for more handicapped parking spaces at Ryland Park.**

- **Adjournment**

The Council of the City of San José adjourned the meeting at 4:43 p.m. in memory of David Allard, Sr., a City employee for over 13 years, who passed away June 17, 2008.

The Council of the City of San José adjourned the meeting in memory of Henry Schiro, a significant philanthropist and community leader, who sadly passed today on August 26, 2008 (Cortese).

8. JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 4:49 p.m. to consider Items 8.1, 8.2, 8.3 and 8.4 in a Joint Session.

8.1 City Council and Agency Board actions related to award of a contract for construction of the SoFA Sidewalk Demonstration Project.

Recommendation:

- (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Agency funding of the proposed improvements to the SoFA Sidewalk Demonstration Project; and,
- (b) Approval by the Redevelopment Agency Board to award a contract to the lowest responsive bidder and authorize a construction contingency in an amount not to exceed 10% of the contract amount for construction of the SoFA Sidewalk Demonstration Project, for a total construction cost not to exceed \$600,000 including the contingency.

CEQA: Resolution No 72767, File No. PP08-119. **[MARKET GATEWAY]** (Deferred from 6/24/08 - Item 8.3)

Deferred to 9/23/08.

8.2 Award of a construction contract for construction of improvements on the site surrounding the San Jose McEnery Convention Center South Hall.

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 City-owned improvements.
Resolution No. 74569 adopted.
- (b) Approval by the Redevelopment Agency Board for the award of a construction contract to Joseph J. Albanese, Inc., the low bidder, for construction of improvements on the site surrounding the South Hall, in the amount of \$294,000, and authorizing a construction contingency in the amount of \$44,100 or 15% of the contract amount, for a total funding authorization of \$338,100.

CEQA: Exempt, File No. PP08-167. **[MERGED]**

Approved.

8.3 Acceptance of an update on the Convention Center Phase 1 Expansion Project.

Recommendation: Acceptance of the update on the schematic design for the renovation and expansion of the San Jose McEnery Convention Center. CEQA: Not a Project. **[MERGED]**

Deferred to 9/23/08 per Orders of the Day.

8. JOINT REDEVELOPMENT AGENCY ITEM

8.4 Approval of an amendment to the DDA with Imwalle Properties for the Site located at 1696 Story Road and 1101 South King Road and making certain findings.

Recommendation:

- (a) Adoption of a resolution by the City Council accepting the 33433 Summary Report and Reuse Valuation and finding that the sale of the property located at 1696 Story Road and 1101 South King Road will assist in the elimination of blight, is consistent with the Implementation Plan for the Story Road Redevelopment Project Area, and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement (DDA).

Resolution No. 74570 adopted.

- (b) Approval by the Redevelopment Agency Board of the first amendment to the DDA with Imwalle Properties for the properties located at 1696 Story Road and 1101 South King Road to assist with unexpected environmental costs, in an amount not to exceed \$800,000 and to provide for cost sharing related to unexpected environmental remediation costs.

CEQA: Mitigated Negative Declaration. File No, PP02-017 and Addenda thereto, File No. PP08-163. **[STORY ROAD]**

Approved.

The Council of the City of San José and Redevelopment Agency Board was adjourned at 4:54 p.m.