



# **CITY COUNCIL AGENDA**

**NOVEMBER 18, 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 during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. 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, Staff Reports and some associated documents for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp). Council Meetings are televised live and rebroadcast on Channel 26.

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, 2<sup>nd</sup> Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for the final document.

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**
  - 9:01 a.m.** - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: Constant, Nguyen. (Excused)**
  - 1:32 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Constant, Nguyen. (Excused)**
  - 7:06 p.m.** - Public Hearings, Council Chambers, City Hall  
**Absent Council Members: Chirco, Constant, Nguyen. (Excused)**
- **Invocation (District 10)**

Twelve year old Carolyn DiLoreto and eleven year old Nicolas Sancen, representing The Tabard Theatre Company, sang “Friendship”, from the play “Hot ‘N’ Cole”, which begins on November 20, 2008 at the Theatre on San Pedro Square.
- **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 11.1(a) continued to 12/16/08 per the Administration and Item 11.6 continued to 12/2/08 at the Applicant’s request.
- **Closed Session Report**

No Report.

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to San José State University in celebration of International Week, November 17 – 21, 2008, committed to highlighting the importance of international education. (Liccardo)  
**Mayor Reed and Council Member Liccardo recognized and commended San José State University in celebration of “International Week”.**
- 1.2 Presentation of a commendation to McLaughlin Area Tenants (MAT) for their contributions to the community and in recognition of MAT receiving the Elizabeth Anabo BRICC Award 2008. (Nguyen)  
**Heard in the evening.**  
**Mayor Reed recognized and commended McLaughlin Area Tenants for their contributions to the City of San José. Council Member Nguyen was not present.**
- 1.3 Presentation of a proclamation declaring December 1, 2008 as “World AIDS Day” in the City of San José. (Pyle)  
**Mayor Reed and Council Member Pyle recognized December 1, 2008 as “World AIDS Day” in the City of San José.**
- 1.4 Presentation of a proclamation declaring the week of November 23 through 29, 2008 as “Family Week” in the City of San José. (Williams)  
**Mayor Reed and Council Member Williams recognized the week of November 23 through November 29, 2008 as “Family Week” in the City of San José.**
- 1.5 Presentation of a commendation to San José State University’s Silicon Valley Center for Entrepreneurship for their commitment to promoting innovation, entrepreneurship and the international visibility and economic vitality of the City of San José.  
(Mayor/Pyle/OED)  
(Rules Committee referral 11/5/08)  
**Mayor Reed and Council Member Pyle recognized and commended San José State University’s Silicon Valley Center for Entrepreneurship for their commitment to promoting innovation, entrepreneurship and the international visibility and economic vitality of the City of San José.**
- 1.6 Presentation of a commendation to Borgata Recycling for recognizing and providing a solution for tire diversion from the City of San José landfills. (Mayor/Nguyen/OED/ESD)  
(Orders of the Day)  
**Mayor Reed recognized and commended Borgata Recycling for recognizing and providing a solution for tire diversion from the City of San José landfills. Council Member Nguyen was not present**

## 2. CONSENT CALENDAR

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### 2.1 Approval of Minutes.

There were none.

### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28433 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to South Bay Hauling Inc. DBA South Bay Hauling and DBA Box Recycling.  
**Ordinance No. 28433 adopted.**
- (b) ORD. NO. 28434 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Bernardini Enterprises Inc. DBA JD Services.  
**Ordinance No. 28434 adopted.**
- (c) ORD. NO. 28437 – Rezoning certain real property situated at the east side of Campbell Avenue approximately 400 feet southeasterly of El Camino Real (1270 Campbell Avenue) to the A(PD) Planned Development Zoning District. PDC07-081  
**Ordinance No. 28437 adopted.**
- (d) ORD. NO. 28438 – Rezoning certain real property situated on the southwest corner of the intersection of The Alameda and Sunol Street (850 The Alameda) to A(PD) Planned Development Zoning District. PDC07-020  
**Ordinance No. 28438 adopted.**
- (e) ORD. NO. 28439 – Amending Section 6.64.250 of Chapter 6.64 of Title 6 of the San José Municipal Code to add authorization for the Director of the Department of Transportation to establish and adjust taxi rates and fares that taxicab owners and drivers can charge the public.  
**Ordinance No. 28439 adopted.**

### 2.3 Airport Living Wage.

**Recommendation:**

- (a) Final adoption of Ordinance No. 28432, an Ordinance of the City of San José amending Title 25 of the San José Municipal Code to add a new Chapter 25.11 to extend Living Wage, Worker Retention, Labor Peace and Employee Work Environment Reporting requirements at the Norman Y. Mineta San José International Airport.  
**Ordinance No. 28432 adopted.**  
**Noes: Oliverio.**

## 2. CONSENT CALENDAR

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### 2.3 Airport Living Wage (Cont'd.)

- (b) Authorize the addition of three positions in the Public Works Department: 1.0 Contract Compliance Coordinator, 1.0 Contract Compliance Specialist and 1.0 Contract Compliance Assistant.

**Approved.**

**Noes: Oliverio.**

- (c) Adopt the following 2008-2009 appropriation ordinance amendments in the Airport Maintenance and Operation Fund (523):

- (1) Increase the Personal Services appropriation in the Public Works Department in the amount of \$166,930.
- (2) Increase the Non-Personal/Equipment appropriation in the Public Works Department in the amount of \$22,483.
- (3) Increase the Overhead appropriation in the amount of \$29,587.
- (4) Decrease the Contingency Reserve in the Airport in the amount of \$219,000.

(Airport/Public Works/City Manager's Office)

(Deferred from 11/4/08 – Item 6.2)

**Ordinance No. 28442 adopted.**

**Noes: Oliverio.**

### 2.4 Settlement Agreement with Green Valley Corporation.

**Recommendation:** Adopt a resolution authorizing the City Attorney to execute a Settlement Agreement and Release with Green Valley Corporation, dba Barry Swenson Builder, considered by the City Council during the Closed Session held on March 25, 2008, for which the City will receive \$125,000. CEQA: Not a Project. (City Attorney's Office)

**Resolution No. 74659 adopted.**

### 2.5 Settlement Agreement with Sutter's Place, Inc., dba Bay 101.

**Recommendation:** Adopt a resolution authorizing the City Attorney to execute a Settlement Agreement with Sutter's Place, Inc., dba Bay 101, considered by the City Council during the Closed Session held on October 7, 2008, for which the City will receive \$275,000. CEQA: Not a Project. (City Attorney's Office)

**Resolution No. 74660 adopted.**

## 2. CONSENT CALENDAR

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### 2.6 Amend lease agreements with USO of Northern California, Inc.

**Recommendation:**

- (a) Approve the sixth amendment and Continuation Agreement to Space Lease (Existing Lease) with the USO of Northern California, Inc. (USO), to extend the term through June 30, 2010, with no change to the rental rate of \$1.00 per year, and to provide for current and future relocation, expansion, and contraction of the leased premises at the City of San José's expense.

**Approved.**

- (b) Adopt a resolution authorizing the City Manager to:
- (1) Negotiate and execute a new lease (New Lease) with the USO for approximately 2,000 square feet in Terminal B, for the term of five (5) years from the date that the USO takes possession of the new space, with no change to the rental rate of \$1.00 per year, to replace the Existing Lease once the USO relocates from the temporary leased premises in the Existing Lease.
- (2) Exercise up to two (2), three (3)-year options to extend the term on the same terms and conditions, at the City's sole discretion.

CEQA: Resolution Nos. 67380 and 71451, PP 08-205. (Airport)

**Resolution No. 74661 adopted.**

### 2.7 Award contract to replace potable water lines (North First Street Parallel Main – Phase III).

**Recommendation:** Report on bids and award of contract for the North First Street Parallel Main – Phase III to the low bidder, Ranger Pipelines, Inc., for the term of December 2008 to April 2009, in an amount not to exceed \$838,550, and approve a project contingency in the amount of \$100,000. CEQA: Exempt, File No. PP08-187. Council District 4. (Environmental Services)

**Approved.**

### 2.8 Approve cooperative purchase of office supplies.

**Recommendation:** Authorize the Director of Finance to execute:

- (a) An annual purchase order for the cooperative purchase of Office Supplies with OfficeMax (Warren, MI) through the cooperative contract offered by Public Sourcing Solutions in an amount not to exceed \$1,050,000.
- (b) Amend the initial Purchase Order to adjust the not-to-exceed compensation subject to annual appropriation of funding.
- (c) Execute subsequent annual Purchase Orders through the term of the contract ending May 31, 2011 subject to annual appropriation of funding.

CEQA: Not a Project. (Finance)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.9 Approve agreement for Live Online Homework Help Services.

**Recommendation:** Report on Request for Proposal (RFP) for the purchase of Live Online Homework Help Services and adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with Tutor.com (New York, NY) for a web based live homework help services solution with a first year not-to-exceed compensation of \$125,000; and
- (b) Execute six additional one-year options to renew the Agreement subject to appropriation of funds.

CEQA: Not a Project. (Finance)

**Resolution No. 74662 adopted, as amended, approving one year agreement only. Staff requested to look into options available for using Curriki, a free software service.**

### 2.10 Approve purchase of Symantec Clustering Software.

**Recommendation:** Authorize the Director of Finance to:

- (a) Execute a purchase order for the purchase of Symantec clustering software, maintenance and installation services from GTSI Corporation (“GTSI”) located in Chantilly, Virginia, under the pricing, terms, and conditions obtained through the U.S. Communities sponsored cooperative agreement, in an amount not to exceed \$305,000.
- (b) Amend the Purchase Order for the purchase of additional quantities as required up to a not-to-exceed amount of \$30,000 subject to the appropriation of funds.

CEQA: Not a Project. (Finance)

**Approved.**

### 2.11 Award the purchase of furniture to Wright Line LLC.

**Recommendation:** Report on bids and award the purchase of dispatcher console systems furniture, training center system furniture, printer stands, product training, delivery and installation to the low bidder, Wright Line LLC (Worcester, MA), for a total amount not to exceed \$572,477.50, including all applicable sales taxes, and authorize the Director of Finance to:

- (a) Execute purchase order for the base bid and add alternate products and services;
- (b) Amend the initial purchase order to make minor configuration changes as needed or to purchase additional quantities of base bid, add alternate, and/or peripheral products at the prices bid for one year after issuance of the initial Purchase Order subject to the appropriation of funds.

CEQA: Not a Project. (Finance)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.12 Report on Bids for the Purchase of Traffic Signal Controllers.

**Recommendation:** Report on bids and award the purchase of 570 fully assembled 2070L traffic signal controllers, add-on modules and related hardware/software training to the lowest responsive bidder, Western Systems Inc. (Everett, WA), for a total amount not to exceed \$1,509,630, including sales taxes, and authorize the Director of Finance to:

- (a) Execute the purchase order(s) for an initial three year term;
- (b) Purchase additional quantities during the initial three year period on an as-required basis at the same unit pricing subject to the appropriation of funds; and
- (c) Execute purchase orders to acquire additional quantities for two additional one-year terms on an as-required basis at the same unit pricing subject to the appropriation of funds.

CEQA: Not a Project. (Finance)

**Approved.**

### 2.13 Accept Library Grant Awards.

**Recommendation:**

- (a) Adopt a resolution accepting the following nine grant awards in a total amount of \$564,899:
  - (1) Early Start Program, (U.S. Department of Education, \$191,593);
  - (2) Early Childhood Education Program, (U.S. Department of Education, \$277,074);
  - (3) Staff Education Grant (LSTA, \$13,808);
  - (4) California of the Past Digital Storytelling (LSTA, \$10,000);
  - (5) Libraries as Community Resources for Increasing High School Graduation Rates (LSTA, \$39,933);
  - (6) Outreach to Latino Communities (LSTA, \$4,991);
  - (7) Survey and Analysis of San José Teens (LSTA, \$5,000);
  - (8) Developing Self-Directed Interest Groups (LSTA, \$20,000); and
  - (9) The African American Baseball Experience (NEH, \$2,500).

**Resolution No. 74663 adopted.**

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

- (1) Increase the Library Grants appropriation (2431) by \$564,899;
- (2) Increase the Revenue from the Federal Government by \$562,399; and
- (3) Increase the Other Revenue estimate by \$2,500.

CEQA: Not a Project. (Library)

**Ordinance No. 28443 adopted.**

**Resolution No. 74664 adopted.**

## 2. CONSENT CALENDAR

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### 2.14 Accept Human Trafficking Prevention Grant.

**Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to accept the FY 2008 Law Enforcement Task Forces for Human Trafficking Victims Continuation Grant in the amount of \$250,000 and to execute the grant agreement with the Department of Justice specifying the grant terms including the City's provision of in-kind services and all related documents necessary to effectuate the grant.

**Resolution No. 74665 adopted.**

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
- (1) Establish an appropriation to the Police Department for the 2008 Human Trafficking Prevention Grant in the amount of \$250,000;
  - (2) Increase the estimate for Earned Revenue from Federal Government by \$250,000.

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

**Ordinance No. 28444 adopted.**

**Resolution No. 74666 adopted.**

### 2.15 Excused absence for Council Member Chirco.

**Recommendation:** Request for an excused absence for Council Member Chirco from the Regular Meeting of the Rules and Open Government Committee on November 5, 2008 due to Personal Business. (Chirco)

(Rules Committee referral 11/5/08)

**Excused.**

### 2.16 Excused absence for Council Member Williams.

**Recommendation:** Request for an excused absence for Council Member Williams from the Special City Council Meeting on November 10, 2008 due to Personal Business. (Williams)

(Rules Committee referral 11/5/08)

**Excused.**

## **2. CONSENT CALENDAR**

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### **2.17 California Gang Reduction, Intervention and Prevention Grant Application.**

**Recommendation:** Adopt a resolution authorizing the City Manager to submit an application to the California Gang Reduction, Intervention and Prevention Grant in the amount of \$400,000 to support the efforts of the Mayor's Gang Prevention Task Force (MGPTF) and to negotiate and execute a grant agreement accepting the grant and any collateral documents, and to execute amendments to the grant agreement to extend or modify the grant period or to accept additional grant funds under this grant in an aggregate amount up to twice the original grant amount. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)  
(Rules Committee referral 11/5/08)

**Resolution No. 74667 adopted.**

### **2.18 Excused absence for Council Member Constant.**

**Recommendation:** Request for an excused absence for Council Member Constant from the Evening Session of the Regular City Council Meeting on October 28, 2008 due to Authorized City Business: Candlelight Procession for Jeff Fontana at Jeffrey Fontana Park. (Constant)  
(Rules Committee referral 11/12/08)

**Excused.**

### **2.19 Envision San José 2040 General Plan Update Task Force – Membership.**

**Recommendation:** As referred by the Rules and Open Government Committee of November 12, 2008, accept the resignation of Phaedra Ellis-Lamkins from the Envision San José 2040 Task Force and appoint Mary Creasman as her replacement. (Liccardo)  
[Rules Committee referral 11/12/08 – Item G(2)]

**Accepted.**

## **3. STRATEGIC SUPPORT SERVICES**

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

**City Manager Debra Figone reported that the Structural Deficit Elimination Plan and the First Forecast will be out by the end of the week and added that Staff will be meeting with Labor and the media before the December 5, 2008 Study Session.**

### **3.2 Report of the Rules and Open Government Committee – October 15, 2008 Mayor Reed, Chair**

**Accepted.**

### **3. STRATEGIC SUPPORT SERVICES**

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- 3.3 Report of the Rules and Open Government Committee – October 22, 2008**  
Mayor Reed, Chair  
Deferred to 12/2/08 per City Clerk.

- 3.4 Report of the Rules and Open Government Committee – October 29, 2008**  
Mayor Reed, Chair  
Deferred to 12/2/08 per City Clerk.

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

- 3.6 Council Policy entitled “Donation of Surplus Property.”**

**Recommendation:** Adopt a resolution approving a formal Council Policy entitled “Donation of Surplus Personal Property.” CEQA: Not a Project. (Finance)  
(Deferred from 11/4/08 – Item 3.7)

**Resolution No. 74668 adopted, as amended. Add provision that any donee, or donee’s agent, certify that no one involved in the donation process received, or will receive, a profit or fee for the transaction.**

- 3.7 Public Hearing on the formation of the Convention Center Facilities District.**

**Recommendation:** Open the Public Hearing in connection with the formation of a Convention Center Facilities District to authorize the levy of special taxes pursuant to the City of San José Convention Center Facilities District financing procedure and authorizing other related actions, and adoption of a resolution to continue the Public Hearing to January 13, 2009. CEQA: Resolution No. 72767. (Economic Development)

**The Public Hearing was opened.**

**Resolution No. 74669 adopted.**

- 3.8 Verbal Report and Discussion Regarding City Officials’ Participation in the Chamber of Commerce City-to-City Trip to Chicago, IL.**

**Recommendation:** As referred by the Rules and Open Government Committee of November 12, 2008, receive the verbal report and discuss lessons learned from the City-to-City trip to Chicago, Illinois. (Mayor)

[Rules Committee referral 11/12/08 – Item G(3)]

**Report Received. No Council Action.**

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

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- 4.1 Report of the Community & Economic Development Committee – October 27, 2008  
Council Member Pyle, Chair  
Accepted.**

- 4.2 Approve actions related to Housing and Economic Recovery Act of 2008.**

**Recommendation:**

- (a) Adopt a resolution authorizing:
- (1) The Director of Housing to negotiate and execute any documents necessary to accept federal Neighborhood Stabilization Program funds in the amount of \$5,628,283;
  - (2) A shortened citizen participation comment period of 15 days on a Substantial Amendment to the City's FY 2008-09 Consolidated Annual Action Plan (ConPlan);
  - (3) Approval of a Substantial Amendment to the ConPlan; and
  - (4) The Director of Housing to negotiate and execute any documents necessary to apply for and accept additional Neighborhood Stabilization Program funds from the State's allocation of \$145 million.

**Resolution No. 74670 adopted.**

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund (Fund 448):
- (1) Establish an appropriation to the Housing Department for the Housing and Economic Recovery Act Program in the amount of \$5,628,283;
  - (2) Increase the estimate for Earned Revenue by \$5,628,283.

CEQA: Not a Project. (Housing)

**Ordinance No. 28445 adopted.**

**Resolution No. 74671 adopted.**

- 4.3 Memorandum of Understanding for Residential Housing at 1270 Campbell Avenue.**

**Recommendation:** Approve a Memorandum of Understanding between the City of San José and the City of Santa Clara regarding planning, permit approval and inspection responsibilities for the proposed residential housing development at 1270 Campbell Avenue. CEQA: Not a Project. Council District 3. (Planning, Building and Code Enforcement)

**Approved.**

## 5. NEIGHBORHOOD SERVICES

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- 5.1 **Report of the Neighborhood Services and Education Committee**  
Council Member Chirco, Chair  
No Report.

- 5.2 **Approve expansion of the Teacher Homebuyer Program Expansion.**

**Recommendation:** Adopt a resolution to allow the expansion of the Teacher Homebuyer Program to include credentialed, non-teaching staff and administrators in San José K-12 public schools. CEQA: Not a Project. (Housing)

**Resolution No. 74672 adopted.**

- 5.3 **K.O.N.A. Neighborhood Improvement Plan Amendment.**

**Recommendation:**

- (a) Accept the Strong Neighborhoods Initiative (SNI) *K.O.N.A. Neighborhood Improvement Plan Amendment* as the renewed community vision for the future of the K.O.N.A. SNI Planning Area.
- (b) Encourage K.O.N.A. area residents, property owners and community members to continue to dedicate their time, energy and resources towards the *Plan* and this *Amendment* while continuing with their community-building activities.

CEQA: Resolution No. 71045. Council Districts 7 and 8. SNI: K.O.N.A. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). (Planning, Building and Code Enforcement)

**Heard in the evening.**

**Accepted.**

- 5.4 **Silver Leaf Neighborhood Action Agenda.**

**Recommendation:**

- (a) Accept the *Silver Leaf Neighborhood Action Agenda* as the community vision for the future of the Silver Leaf area.
- (b) Encourage the Silver Leaf neighborhood residents, property owners and community members to continue to dedicate their time, energy and resources towards the Neighborhood Improvement Plan, continuing with their community-building activities.

CEQA: Not a Project. Council District 2. (City Manager's Office)  
(Rules Committee referral 11/5/08)

**Heard in the evening.**

**Accepted.**

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

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- 6.1 Report of the Transportation and Environment Committee – November 3, 2008  
Council Member Williams, Chair  
Accepted.**

- 6.2 Artwork on the east façade of the Airport’s Consolidated Rental Car Garage.**

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Christian Moeller, to fabricate an artwork on the east façade of the Airport Consolidated Rental Car Garage at the Norman Y. Mineta San José International Airport in an amount not to exceed \$1,153,200 for artist to cause the materials and labor related to production of a 79,360 square foot pixelated mural upon metal fabric facade material, to be purchased and installed by the construction contractor with funds for the garage construction project. This agreement does not increase the base budget for garage façade construction, the costs of which will be repaid by rental car user fees. CEQA: Resolution Nos. 67380 and 71451, PP 08-226. (Economic Development) (Deferred from 10/28/08 – Item 6.2)

**Resolution No. 74673 adopted.**

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

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## **8. PUBLIC SAFETY SERVICES**

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- 8.1 Presentation on e-Citation Pilot Program.**

**Recommendation:** Accept staff presentation on the e-Citation Pilot Program. CEQA: Not a Project. (Police)

**Staff presentation was heard.**

- 8.2 Public Intoxication Policy Review and Discussion**

**Recommendation:** As referred by the Rules and Open Government Committee on November 5, 2008:

- (a) Review and discuss the San José Police Department’s policies for handling individuals who are intoxicated in public.
  - (b) Review and discuss statistics and data related to public intoxication arrests. (Mayor/Campos/Nguyen)
- [Rules Committee referral 11/5/08 – Item G(2)]

*(Action continued on the next page)*

## **8. PUBLIC SAFETY SERVICES**

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### **8.2 Public Intoxication Policy Review and Discussion (Cont'd.)**

- (1) The City Manager was directed to initiate a task force that will be charged with addressing the issue of arrests for public intoxication. The City Manager's Office is charged with identifying key stakeholders to be included in this process, including: a representative from each stakeholder group represented at this Council meeting, Police Chief Robert Davis, City Attorney Richard Doyle, the District Attorney's Office, Public Defenders Office, County Department of Corrections and County Supervisor District #2. Other interested parties should contact the City Manager's Office.**
- (2) The following directions from the memorandum from Council Member Liccardo, dated November 18, 2008, were referred to the task force for further discussion and input from the broader base of stakeholders:**
  - (a) City Manager and City Attorney directed to investigate and return to Council or to the appropriate Council Committee with a set of recommendations for non-criminal sanctions and diversionary approaches that might apply to some persons who might otherwise face arrest under Penal Code Section 647(f). These alternatives should include, but not be limited to:**
    - (1) Sobering stations for intoxicated persons.**
    - (2) Enforcement of Municipal Code provisions that entail non-criminal sanctions, particularly where police response costs can be recovered under Municipal Code Section 10.16.100. Such provisions might include Section 10.12.010 (drinking in public), Section 10.10.010 (sitting or lying down on downtown sidewalks), Section 10.12.110 (public urination), Section 10.16.010 (disturbing the peace) or others.**
    - (3) Enforcement of any new or proposed Municipal Code provisions that Council might create to impose fines or other non criminal penalties.**
  - (b) City Manager directed to return to Council or the appropriate Council Committees with additional procedures that an officer should satisfy to obtain objective evidence to support his or her findings to arrest under Penal Code Section 647(f). Such recommendations might include but are not limited to:**
    - (1) Requiring officers to offer PAS testing to arrestees but ensuring that a suspect's refusal could be documented in the Officer's report.**
    - (2) Requiring officers to offer blood or urine chemical testing at the option of the arrestee, but with the expense of such test incurred by the arrestee.**
    - (3) Conducting coordination tests, such as line walking and standing balance tests, in all Section 647(f) arrests in which a person appears to have sufficient control over their motor skills.**

*(Action continued on the next page)*

## **8. PUBLIC SAFETY SERVICES**

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### **8.2 Public Intoxication Policy Review and Discussion (Cont'd.)**

- (3) City Manager directed to bring forward recommendations on the composition, process and expected outcomes of the task force to the Public Safety, Finance and Strategic Support Committee (PSFSS) at the December 18, 2008 meeting for approval. Upon Committee approval, the task force will convene for a period of no more than 90 days, at which time the City Manager will report back to the PSFSS Committee on the findings and recommendations of the task force. With the PSFSS Committee's approval, those findings and recommendations will then be referred to the Council at the next appropriate Council Meeting for final adoption.**
- (4) As outlined in the memorandum from Council Member Liccardo, dated November 18, 2008, the Council referred to the Administration:**
  - (a) A request to present to the Council any proposal of cost sharing of police expenditures with nightclubs, and a public discussion of San José Police Department's nighttime Entertainment Zone personnel deployment strategy and costs;**
  - (b) Direction to ascertain how and whether the City can accurately survey the demographic characteristics, including race, ethnicity, gender and approximate age, of the people in the downtown Entertainment Zone during key hours of heavy nightclub activity, preferably under the auspices of an unaffiliated third party; and**
- (5) Reaffirmed previous direction to form a "community-based advisory group to facilitate the action items recommended in the Hospitality Zone Assessment report to ensure that new and existing policies are working to make downtown a vibrant, hospitable and safe entertainment center.**

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

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**The Joint Council/Redevelopment Agency convened at 3:28 p.m. to consider Item 9.1 in a Joint Session.**

### **9.1 North San José Area Development Policy.**

#### **Recommendation:**

- (a) Direct the City Manager and Redevelopment Agency Executive Director to explore alternatives for allowing affordable housing projects and those projects demonstrating an ability to finance construction of the units to proceed in the short term, in spite of the lack of allocation. Any change to Phase 1 allocations should be covered by the existing North San José Environmental Impact Report.
- (b) Direct staff to return to City Council with findings by mid January 2009.

(Mayor)

(Rules Committee referral 11/12/08)

**The memorandum from Mayor Reed and Council Members Chu and Liccardo, dated November 14, 2008, was approved, with the City Manager directed to:**

- (1) **Devise a procedure that allows projects to move forward on an “as ready” basis through a temporary increase in the 8,000 Phase I cap, with a retroactive reduction in Phase I as projects’ reserved development capacity expires at the termination of their 2 year PD or SD Permits or other through any other feasible alternative.**
- (2) **Return before the end of the 2008 calendar year with a recommendation for Council action.**

**Noes: Oliverio.**

**The Joint Council/Redevelopment Agency adjourned at 3:44 p.m.**

- **Open Forum**

- (1) **Ross Signorino commented on the new speaker card boxes in Council Chambers and the discussion about the City Officials’ participation in the Chamber of Commerce City to City Trip to Chicago, Illinois.**

- **Adjournment**

**The Council of the City of San José adjourned the afternoon session at 3:46 p.m.**

## 10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

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No General Plan Public Hearing at this time.

## 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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### 11.1 Public Hearings on Consent Calendar.

#### **Recommendation:**

- (a) Consideration of a Street Renaming for Tract 9881 from Tierra Encantada Court to Bob Hansen Way, located on the south side of Tierra Encantada Way, approximately 220 feet east of McCreery Avenue (Tierra Encantada Development, LLP, Owner). SNI: Mayfair. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).  
ST08-002 – District 5  
[Continued from 10/21/08 – Item 11.1(c)]  
**Continued to 12/16/08 per Administration.**
- (b) Consideration of an ordinance rezoning the real property located at/on the northwest corner of S. 2nd Street and Martha Street (895 S 2nd Street) from CN Commercial Neighborhood Zoning District to R-M Multiple Residence Zoning District for future development of 3 single family residential units on a 0.19 gross acre site. A separate Site Development Permit application would need to be approved for the future development of 3 units at the site (Fazekas Rose M and Leslie J Trustee, Owner). SNI: Spartan/Keyes. CEQA: San José 2020 General Plan Final EIR.  
C08-043 – District 3  
**Dropped per Applicant.**
- (c) Consideration of an ordinance rezoning the real property located on the west side on Lincoln Avenue extending from W. San Carlos Street on the south to Pacific Avenue on the north, excluding the northwest corner of W. San Carlos Street and Lincoln Avenue (275, 285 Lincoln Avenue, 1141, 1165, 1177 W. San Carlos Street, 966 Pacific Avenue) to allow the demolition of existing structures and construction of up to 47 single-family attached residential units and 6 live/work lofts on a 1.16 gross acre site (James & Tina Jean, Owner). CEQA: Mitigated Negative Declaration.  
PDC07-017 – District 6  
**Dropped per Applicant.**

## **11. PUBLIC HEARINGS ON CONSENT CALENDAR**

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### **11.1 Public Hearings on Consent Calendar (Cont'd.)**

- (d) Consideration of an ordinance rezoning the real property located on the west side of Elwood Road, approximately 750 feet northerly of Trinidad Avenue (17601 Elmwood Road) from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow for the construction of three single-family detached residences on a 0.74 gross acre site (Bannister, Winston Trustee, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC08-004 – District 10

**Ordinance No. 28446 passed for publication.**

- (e) Consideration of a street naming of an easement located at 1064 Broadway Avenue to Julia Kate Place (Christopher Piekarski, et al, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

ST08-004 – District 6

**Resolution No. 74676 adopted.**

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## 11. PUBLIC HEARINGS

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- 11.2 Ordinance amending Chapter 20.70 to amend the Downtown Zoning District standards to broaden allowed ground floor uses in certain circumstances, modify parking and residential occupancy requirements for Live/Work units, allow animal grooming and other related clarifying changes and amendments.**

**Recommendation:** Consideration of an ordinance of the City of San José amending Title 20 of the San José Municipal Code, the Zoning Code, to amend Section 20.70.100 of Chapter 20.70 to allow business support and business and administrative office uses as permitted uses with a special use permit in the DG Downtown Ground-Floor space overlay, modify parking requirements for live/work units, and allow animal grooming as a permitted use in downtown zoning districts; Amend Section 20.70.120 to modify the residential occupancy requirement for live/work units; and make other related clarifying changes and amendments. CEQA: Exempt, PP08-197. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

Citywide

(Continued from 10/28/08 – Item 11.2)

**Ordinance No. 28447 passed for publication, as amended:**

- (1) Restrict to 20,000 square feet the aggregate amount of any future non-retail use granted development permits within the Downtown Ground Floor Zoning Overlay Area, such that any additional square footage would require a change in Council policy.**
- (2) City Manager directed to return to Council with a report on all non-retail use granted development permits within the Downtown Ground Floor Zoning Overlay Area during the 12 month period following enactment of the proposed ordinance changes.**

- 11.3 Ordinance amending Chapter 20.30, 20.90 and 20.100 to amend single family zoning standards related to accessory structures, allow one covered parking space in certain circumstances, and to allow minor additions to two family dwellings administratively when parking regulations are met and other related clarifying changes and amendments.**

**Recommendation:** Consideration of an ordinance of the City of San José amending portions of Title 20 of the San José Municipal Code: Chapter 20.30, Sections 20.30.500 to allow the square footage of accessory structures to match those of garages; Chapter 20.30, Sections 20.30.52 to clarify the minimum separation required for accessory buildings and accessory structures; Chapter 20.90, Section 20.90.220, to allow by right parking reductions to one car garages for single family residences located in the R-1, R.2 and R-M Residence Zoning Districts and Chapter 20.100, Section 20.100.500, to allow minor additions to two family dwellings provided current parking regulations are being allowed. CEQA: Exempt, PP08-174. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-0).

Citywide

**Ordinance No. 28448 passed for publication.**

## 11. PUBLIC HEARINGS

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- 11.4 **Ordinance amending Chapter 20.50, 20.90, 20.100 and 20.200 to create a new commercial/industrial zoning district, clarify industrial zoning standards, modify uses allowed in mixed industrial areas, to realign uses in the Light Industrial, Heavy Industrial and Industrial Park zoning districts to fit the adopted General Plan, streamline tank permitting processes, define specified uses and establish parking requirements for specified uses and other related clarifying changes and amendments.**

**Recommendation:** Consideration of an ordinance of the City of San José amending Title 20 of the San José Municipal Code, the Zoning Code, to amend Section 20.50.010 of Chapter 20.50 to establish the CIC combined Industrial/Commercial Zoning District and to clarify the IP Industrial Park, LI Light Industrial and HI Heavy Industrial Zoning Districts; amend Section 20.50.100 to change the “CM” Denotation to “C<sup>GP</sup>” and to allow uses with the “C<sup>GP</sup>” Denotation with a Conditional Use Permit on properties designated Mixed Industrial Overlay or Combined Industrial/Commercial by the General Plan, to establish use regulation for the CIC Combined Industrial/Commercial Zoning District, to allow Laboratory, Medium Manufacturing and Assembly, and Warehouse Uses as a permitted use in the IP Industrial Park Zoning District; to add Research and Development Office, Mortuary without Funeral Services, and Warehouse Retail as enumerated uses, to allow Crematory Uses with a Conditional Use Permit in LI Light Industrial Zoning Districts, to eliminate Day Care Center as a conditional use in the HI Heavy Industrial Zoning District with a Mixed Industrial Overlay, and to add Autobroker, wholesale, No On-Site Storage as a permitted use in the IP Industrial Park Zoning District; add Section 20.50.113 to clarify use regulations for Public Eating Establishments in the LI Light Industrial or HI Heavy Industrial Zoning Districts; add Section 20.50.130 to establish regulations for Warehouse Retail; amend Section 20.50.200 to establish development regulations for the CIC Combined Industrial/Commercial Zoning District; amend Section 20.90.060 of Chapter 20.90 to establish parking requirements for Research and Development Office, Mortuary without Funeral Services, and Warehouse Retail; amend Section 20.100.500 of Chapter 20.100 to allow above-ground storage tanks 2,000 gallons or less with a permit adjustment; amend Section 20.200 to define Mortuary and Funeral Services, Mortuary without Funeral Services, Research and Development Office, and Warehouse Retail; and make other related clarifying changes and amendments. CEQA: Negative Declaration, PP08-124.

Citywide

**Continued to 12/2/08 per Administration.**

## 11. PUBLIC HEARINGS

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- 11.5 Ordinance amending Chapter 20.40, 20.80, 20.90 and 20.200 to amend commercial zoning standards to allow expanded range of vehicles sales in the CN zone, revise front setback exception, allow outdoor dining in more areas with certain restrictions, establish parking requirements for specified uses, define certain uses, add retail art studio uses and related development standards, and revise private property special event requirements and other related clarifying changes and amendments.**

**Recommendation:** Consideration of an ordinance of the City of San José amending Title 20 of the San José Municipal Code, the Zoning Code, to amend Section 20.40.100 of Chapter 20.40 to allow the sale of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles with a special use permit in the CN Commercial Neighborhood District, add retail art studios as an enumerated use, add outdoor dining incidental to a public eating establishment as an enumerated use; add Section 20.40.140 to establish regulations for retail art studios in commercial districts; amend Section 20.40.250 to revise the front setback exception for commercial districts; amend Section 20.40.520 to allow outdoor dining within 150 feet of residentially zoned property subject to certain restrictions; amend Section 20.80.1420 of Chapter 20.80 to revise the provisions for outdoor private property special events; amend Section 20.90.060 of Chapter 20.90 to establish parking requirements for retail art studios and outdoor dining incidental to a public eating establishment, and clarify parking requirements for private uses; amend Chapter 20.200 to define instructional art studios, retail art studios, and outdoor dining incidental to a public eating establishment; and to make other related clarifying changes and amendments. CEQA: Negative Declaration, PP08-124. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

Citywide

**Ordinance No. 28449 passed for publication.**

- 11.6 Rezoning real property located on the westerly corner between Charcot Avenue and Junction Avenue.**

**Recommendation:** Consideration of an ordinance rezoning the real property located on the westerly corner between Charcot Avenue and Junction Avenue from LI(PD) Planned Development Zoning District to LI(PD) Planned Development Zoning District to allow 118,5000 square feet of light industrial uses on a 6.67 gross acre site (521 Charcot Avenue) (Club Auto Sport-Silicon Valley, LLC, Owner). CEQA: North San José EIR Resolution No. 72768 and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

PDC08-030 – District 4

**Continued to 12/2/08 at the Applicant's Request.**

# 11. PUBLIC HEARINGS

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## 11.7 Rezoning real property located on the north side of Story Road.

**Recommendation:** Consideration of an ordinance rezoning the real property located on the north side of Story Road, approximately 80 feet easterly of Dominick Way (14671 Story Road) from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow the construction of up to 11,844 square feet for religious assembly uses on a 1.0 gross acre site (Wat Lao Buddhaxinaram, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC05-068 – District 5

**Ordinance No. 28450 passed for publication.**

## 11.8 Rezoning real property located on the south side of Hamilton Avenue.

**Recommendation:** Consideration of an ordinance rezoning the real property located on the south side of Hamilton Avenue approximately 320 feet easterly of Meridian Avenue (Tomato Thyme Restaurant) (1560 Hamilton Avenue) from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District to allow an outdoor dining patio for an existing restaurant on a 0.375 gross acre site (Smith, John D Trustee & Et Al, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval. (4-1-1-1. Jensen opposed; Do disqualified, and Platten absent.)

PDC07-046 – District 6

**Continued to 12/2/08. Noes: Cortese, Oliverio.**

- **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> |
|--------------|---|-------------------------|------------------------|--------------------|-------------|--------------------------|
| 9981         | NE corner of Willow Glen and Cross Wys. | 6                       | Falcon Development LLC | 10 Lots / 9 Units  | SFA         | Approve                  |

- **Notice of City Engineer’s Award of Construction Projects**  
None.
- **Open Forum**  
(1) **Elaine McKenzie complained about not enough shelters for the homeless, herself included. A member of City Staff was requested to speak with her.**
- **Adjournment**  
**The Council of the City of San José was adjourned at 11:48 p.m.**

# 8. JOINT REDEVELOPMENT AGENCY ITEM

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## 8.1 Approval of actions by the Agency Board and City Council related to the SoFA Sidewalk Demonstration Project.

**Recommendations:**

- (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 in the SoFA Sidewalk Demonstration Project; and,  
**Resolution No. 74674 adopted.**
  
- (b) Adoption of a resolution by the Redevelopment Agency Board awarding a contract to Bugler Construction for the SoFA Sidewalk Demonstration Project, the low bidder in the amount of \$374,400, and authorizing a construction contingency in the amount of \$37,440 for a total construction budget not to exceed \$411,840.

CEQA: Final EIR San Jose Downtown Strategy 2000, Resolution No 72767, File No. PP08-119. [MARKET GATEWAY]

**Redevelopment Agency Resolution No. 5873 adopted.**

## 8.2 Agency Board and City Council actions related to issuance of Merged Area Redevelopment Project Revenue Bonds in an amount not to exceed \$38,855,000.

**Recommendations:**

- (a) Adoption of a resolution by the Redevelopment Agency Board:
  - (1) Authorizing the issuance of Merged Area Redevelopment Project Tax Allocation Bonds, in one tax-exempt series, in an aggregate principal amount not to exceed \$38,855,000 (the 2008A Bonds); and approving in substantially final form the Thirteenth Supplemental Indenture of Trust with Union Bank, as Trustee.
  - (2) Authorizing the competitive sale of the 2008A Bonds.
  - (3) Approving in substantially final form the Preliminary Official Statement (POS), Notice of Intention to Sell Bonds and Official Notices Inviting Bids and authorizing Agency staff to distribute the POS.
  - (4) Authorizing the General Counsel to negotiate and execute a first amendment to the agreement for Bond Counsel Services, in an amount not to exceed \$45,000 for a total contract amount not to exceed \$135,000, for Series 2008A and Series 2008 B Bonds.
  - (5) Authorizing all officers, agents and employees to take such actions and execute such documents necessary and desirable to accomplish issuance of the 2008A Bonds.

**Redevelopment Agency Resolution No. 5874 adopted.**

- (b) Adoption of a resolution by the City Council approving the issuance of Merged Area Redevelopment Project Tax Allocation Bonds, in one tax-exempt series, in an aggregate principal amount not to exceed \$38,855,000.

**Resolution No. 74675 adopted.**

## **8. JOINT REDEVELOPMENT AGENCY ITEM**

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**The Joint Redevelopment Agency Board convened at 7:12 p.m. to consider Item 8.3 in a Joint Session.**

### **8.3 Public Hearing on the Agency's FY 2008-2009 Capital Budget and 2009-2013 Capital Improvement Program.**

**Recommendation:** Joint Public Hearing on the Redevelopment Agency's Proposed FY 2008-2009 Capital Budget and 2009-2013 Capital Improvement Program.

**The Public Hearing was held.**

**Speaking in favor of Capital funding for the San José Municipal Stadium were: Clayton Tanner, Shirley Madsen, Hilton Graef, Roger Carter, Lance Choy, Skylar Phoenix, Len Grilli, Robert Day, Ronald Castro, Stewart Peebles, Sharon Laughlin, Steve Smith, Julie McDonald, Fred Shirey, Geoff Alexander and Andy Dymore.**

**John Mitchell requested funds be appropriated for the restoration of the San José Clock Tower.**