



CITY COUNCIL AGENDA

DECEMBER 2, 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 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. 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. 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 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**
 - 9:00 a.m. - Closed Session, Call to Order in Council Chambers
Adjourn to Closed Session in Council Chambers Conference Room, W133
[See Separate Agenda](#)
 - 1:30 p.m. - Regular Session, Council Chambers, City Hall
 - 3:30 p.m. - Hear Open Forum (no earlier than 3:30 p.m.)
 - 7:00 p.m. - General Plan Hearings, Council Chambers, City Hall
 - 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (Mayor)**
 - Diane Fisher, Jewish Community Relations Council

- **Pledge of Allegiance**

- **Orders of the Day**

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

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

ADJOURNMENT: This meeting will be adjourned in memory of Officer Delia Julia Bravo-Carney, a beloved public servant.

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 Kerri Hamilton for her dedication and service to the City of San José. (Mayor/Cortese/Campos/Liccardo/Chu)
- 1.2 Presentation of a commendation to Cupertino Electric for recognizing and providing a high standard and leadership in Energy and Environmental Design. (Economic Development)
- 1.3 Presentation of a commendation to Anil Kar, Water Pollution Control Plant Electrical Maintenance Division Manager and Energy Saving Rebate Check by PG&E for achieving significant energy savings under “Savings by Design” Program. (Environmental Services)
- 1.4 Presentation of a commendation to the Environmental Services Department - Water Resources Division for their leadership in becoming the first City of San José operation to develop and fully implement an Environmental Management System to the ISO 14001 (Environmental Services)
- 1.5 Presentation of a commendation to the Leland Robotics Team for their outstanding achievements in the field of Robotics. (Pyle)
(Rules Committee referral 11/19/08)

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.

Recommendation: Approval of minutes.

- (a) Regular Minutes of September 9, 2008
- (b) Special Meeting Minutes of the Joint City Council/County/Redevelopment Agency Board Meeting of September 15, 2008
- (c) Regular Minutes of September 16, 2008

2. CONSENT CALENDAR

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28446 – Rezoning certain real property situated on the west side of Elwood Road, approximately 750 feet northerly of Trinidad Avenue (17601 Elwood Road) to A(PD) Planned Development Zoning District. PDC08-004
- (b) ORD. NO. 28447 – Amending Chapter 20.70 of Title 20 of the San José Municipal Code to amend Section 20.70.100 to allow business support and certain office uses with a Special Use Permit in certain areas in the Downtown, to modify parking requirements for live/work units and to allow animal grooming as permitted use in downtown zoning districts; to amend Section 20.70.120 to modify residential occupancy requirements for live/work units, and to make other related clarifying or technical changes to said chapter.
- (c) ORD. NO. 28448 – Amending Sections 20.30.500 and 20.30.520 of Chapter 20.30 of Title 20 of the San José Municipal Code to modify the square footage and minimum separation requirements of accessory structures, amending Section 20.90.220 of Chapter 20.90 of Title 20 of the San José Municipal Code to allow certain reductions to one-car garages for certain single family residences, and amending Section 20.100.500 of Chapter 20.100 of Title 20 of the San José Municipal Code to allow minor additions to two-family dwellings where current parking regulations are being met.
- (d) ORD. NO. 28449 – Amending certain Sections of Chapter 20.40 (Commercial Zoning Districts), 20.80 (Specific Use Regulations), 20.90 (Parking and Loading) and 20.200 (Definitions), all of Title 20 of the San José Municipal Code and all to streamline requirements for certain commercial uses specified in the Ordinance and to make other related clarifying changes to the Commercial Use Regulations.
- (e) ORD. NO. 28450 – Rezoning certain real property situated on the north side of Story Road, approximately 80 feet easterly of Dominick Way (14671 Story Road) to A(PD) Planned Development Zoning District. PDC05-068

2.3 [Automated Teller Machine Concession Agreement.](#)

Recommendation: Approve an Automated Teller Concession [Agreement](#) with U.S. Bank for a term from January 1, 2009 to December 31, 2015, with a monthly concession fee to the Norman Y. Mineta San José International Airport beginning the first year of the agreement of \$1,500 per automated teller machine, for a total estimated annual first year concession fee to the Airport in the amount of \$144,000. CEQA: Resolution Nos. 67380 and 71451, PP 08-219. (Airport)

2. CONSENT CALENDAR

2.4 [Adopt a Master Service Agreement with Construction Testing Services.](#)

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a Master Services Agreement with Construction Testing Services for Special Inspections and Material Testing Consultant Services for the Terminal Area Improvement Program (TAIP) at the Norman Y. Mineta San José International Airport in an amount not-to-exceed \$1,000,000 and authorizing the City Manager to negotiate and execute an agreement with lower ranked firms in order of their ranking should the City not be able to negotiate favorable terms with Construction Testing Services. CEQA: Resolution Nos. 67380 and 71451, PP08-235. (Airport/Public Works)

2.5 [Approval of actions related to Commercial Solid Waste Fees.](#)

Recommendation:

- (a) Adopt a [resolution](#) authorizing the City Manager to allocate funds resulting from the Settlement Agreement with Browning-Ferris Industries of North America, Inc. and Allied Waste Services of North America, LLC to the following public school districts upon each district executing Waste Reduction and Recycling Cooperation Agreements with the City:
- (1) San José Unified School District, in the amount of \$575,795;
 - (2) Franklin-McKinley School District, in the amount of \$157,259;
 - (3) Alum Rock Union School District, in the amount of \$150,972;
 - (4) Cambrian School District, in the amount of \$63,210; and
 - (5) Orchard School District, \$11,598.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
- (1) Establish a City-Wide Appropriation: Commercial Solid Waste Fees from Solid Waste Service to Public Schools, in the amount of \$1,449,250;
 - (2) Increase the revenue estimate for Other Revenue by \$958,834 to recognize the revenue from the Settlement Agreement with Browning-Ferris Industries of North America, Inc. and Allied Waste Services of North America, LLC; and
 - (3) Establish a Transfer from the Integrated Waste Management Fund in the amount of \$490,416.
- (c) Adopt the following Appropriation Ordinance Amendments in the Integrated Waste Management Fund (423):
- (1) Establish a Transfer to the General Fund of \$490,416 for Commercial Solid Waste Fees from Solid Waste Service to Public School; and
 - (2) Decrease the Ending Fund Balance by \$490,416.
- CEQA: Not a Project. (Environmental Services/City Manager's Office)

2. CONSENT CALENDAR

2.6 Parking Citation Processing and Collection Services.

Recommendation: Report on Request for Proposals and adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an [agreement](#) with Turbo Data Systems, Inc. (Tustin, CA) for Parking Citation Processing and Collection Services with a Customer Service Center for a one-year term and a maximum compensation not-to-exceed \$600,000.
- (b) Exercise four one-year options to extend the agreement subject to appropriation of funds.

CEQA: Not a Project. (Finance)

2.7 Consultant Agreement with DR Associates International.

Recommendation: Adopt a [resolution](#) authorizing the City Manager to:

- (a) Execute an [agreement](#) with DR Associates International to provide consultant services to perform pre-employment background investigation services as part of the hiring process for Fire Department personnel including Firefighter Recruits, Public Safety Dispatchers, and Student Interns for a one-year term beginning December 3, 2008 through December 2, 2009, in an amount not to exceed \$143,700.
- (b) Amend the maximum compensation for the first year to provide for a greater quantity of background services subject to appropriation of funds.
- (c) Exercise up to two one-year options to renew subject to appropriation of funds.

CEQA: Not a Project. (Fire)

2.8 Actions related to Fire Stations 12 and 17.

Recommendation:

- (a) Approve the Third Contract Amendment for Don Dommer Associates, Inc. for the Fire Station No. 12 Project, increasing the [agreement](#) compensation by \$35,152 from \$347,929 to \$383,081 and extending the contract term by three months from March 1, 2009 to June 1, 2009.
- (b) Approve the Fourth Contract Amendment with Banducci Associates Architects, for the Fire Station No.17 Project, increasing the [agreement](#) compensation by \$30,275 from \$369,555 to \$399,830 and extending the contract term by three months from March 1, 2009 to June 1, 2009.

CEQA: Fire Station No. 12: Mitigated Negative Declaration, PP05-071. Fire Station No. 17: Exempt, PP05-275. Council Districts 9 and 10. (Fire/Public Works)

2. CONSENT CALENDAR

2.9 [Reallocation of Funding for the Energy Management System in 911 Center.](#)

- * **Recommendation:** Adopt the following 2008-2009 Appropriation Ordinance amendments in the General Fund (001):
- (a) Decrease the Building Facilities Maintenance Backlog: 9-1-1 UPS System, PAB Chiller, Police Special Operations Unit Motors appropriation by \$200,000; and
 - (b) Establish a Building Facilities Maintenance Backlog: Energy Management System for the 9-1-1 Communications Center appropriation in the amount of \$200,000.
- CEQA: Not a Project. (General Services/City Manager's Office)

2.10 [Almaden Expressway Pedestrian Bridge.](#)

- * **Recommendation:** Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 10 (Fund 389):
- (a) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$596,000 for the TRAIL: 7 Expressway Pedestrian Bridge; and
 - (b) Decrease the Ending Fund Balance by \$596,000.
- CEQA: Mitigated Negative Declaration, PP03-04-110. Council District 10. (Parks, Recreation and Neighborhood Services/City Manager's Office)

2.11 **Fiscal Actions for Redevelopment Agency Capital Projects.**

Recommendation:

- (a) (1) [Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund \(City-side Redevelopment Fund\) for 2008-2009:](#)
 - (a) Increase the estimate for Earned Revenue by \$133,500.
 - (b) Establish the appropriation to the Department of Public Works for the Transit Mall Paving Restoration Project (PSM 550) in the amount of \$54,000.
 - (c) Establish the appropriation to the Parks, Recreation and Neighborhood Services Department for the Downtown for the Holidays Project (PSM 553) in the amount of \$79,500.
 - (2) Adopt a [resolution](#) making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Transit Mall Paving Restoration Project as more specifically described in the memorandum from the Redevelopment Agency, dated September 3, 2008.
- CEQA: Transit Mall Paving Restoration Project: Resolution No. 65459 and addenda thereto PP08-244; Downtown for the Holidays: Resolution No. 72767. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

2. CONSENT CALENDAR

2.11 Fiscal Actions for Redevelopment Agency Capital Projects. (Cont'd.)

Recommendation:

- (b) (1) [Adopt the following Appropriation Ordinance and Funding Sources](#)
Resolution amendments in the Services for Redevelopment Capital
Projects Fund (City-side Redevelopment Fund) for 2008-2009:
- (a) Increase the estimate for Earned Revenue by \$65,693.
 - (b) Establish an appropriation to the General Services Department for
the Children's Discovery Museum Boiler Replacement Project
(PSM 560) in the amount of \$65,693.
- (2) Adopt a [resolution](#) making certain determinations regarding the related
expenditure of Redevelopment Agency funds on certain public
improvements in connection with the Children's Discovery Museum
Boiler Replacement Project as more specifically described in the
memorandum from the Redevelopment Agency, dated October 31, 2008.
CEQA: Children's Discovery Museum Boiler Replacement Project: Not a
Project. Council District 3. (General Services/City Manager's Office)

2.12 [Grant Agreement with Santa Clara VTA.](#)

Recommendation: Adopt a resolution authorizing the City Manager to execute a
Transportation Fund for Clean Air (TFCA) grant [agreement](#) with the Santa Clara Valley
Transportation Authority (VTA) that will provide for the City's receipt of grant funds in
an amount not to exceed \$595,450 for the following two transportation projects:

- (a) Light Rail Transit (LRT) Controller Upgrade Phase II in an amount not-to-exceed
\$545,450.
- (b) San José Bicycle Racks in an amount not-to-exceed \$50,000.

CEQA: Exempt, File No. PP08-225. Council Districts 3, 4, 5 and 6. SNI: 13th Street,
Burbank/Del Monte, Delmas Park. (Transportation)

2.13 [Councilmember Campos' Travel to San Francisco, CA.](#)

Recommendation: Approval of Councilmember Campos' travel to San Francisco, CA
on January 9-11, 2008 to attend the League of California Cities Latino Caucus Annual
Board Meeting. Councilmember Campos is a Board Member for the League of
California Cities and a Past Latino Caucus President. Source of Funds: Mayor/Council
Travel Fund. (Campos)
(Rules Committee referral 11/19/08)

2.14 [Excused absence for Councilmember Nguyen.](#)

Recommendation: Request for an excused absence for Councilmember Nguyen from
the Closed Session, Regular Session and Evening Session of the City Council on
November 18, 2008 due to illness. (Nguyen)
(Rules Committee referral 11/19/08)

2. CONSENT CALENDAR

2.15 [Appointments to Boards, Commissions and Committees.](#)

- * **Recommendation:** As recommended by the Rules and Open Government Committee of November 19, 2008:
- (a) Appoint Kaushik Joglekar to fill the vacant position on the Early Care and Education Commission. (Chirco)
 - (b) Re-appoint Kulwant Singh and David Parker and approve appointments of Andrae Macapinlac, Matthew Salcido and Donald Young to the Human Rights Commission. (Chu)
 - (c) Re-appoint Bobby Yount to the remainder of a vacant, unexpired term on the Arts Commission. (Williams)
 - (d) Appoint Robert Bailey, Hassan Kahn and Dan Wagner to the Advisory Commission on Rents. (Campos)
 - (e) Appoint Patrick Hall and Bob Gill to the Senior Citizens Commission. (Constant)
- [Rules Committee referral 11/19/08 – Items F(1) – (5)]

2.16 [Naming a new park.](#)

- Recommendation:** As recommended by the Parks and Recreation Commission of November 5, 2008, name a new turnkey park located on the McKay Drive and Lundy Avenue residential project site as “Gran Paradiso”. (City Clerk)
- * (Rules in-Lieu referral 11/25/08)

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 – [October 22, 2008](#) Mayor Reed, Chair

- (a) City Council
 - (1) Review October 28, 2008 Final Agenda
 - (2) Review November 4, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
- (d) Meeting Schedules
 - (1) Approve a Redevelopment Agency/City Council Study Session on the Proposed FY 2008-2009 Capital Budget and 2009-2013 Capital Improvement Program on November 17, 2008 from 9:00 a.m. to Noon. (Redevelopment Agency)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Approve re-appointments to the Youth Commission for Districts 2, 4 and Citywide. (Williams/Chu/Mayor)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – October 22, 2008 (Cont'd.) Mayor Reed, Chair

- (g) Rules committee Reviews, Recommendations and Approvals
 - (1) Approve the Monthly Report of Activities for September 2008. (City Auditor)
 - (2) Conceptually Approve a Framework for Structural Improvements to the City's Boards and Commissions Program. (City Clerk)
 - (3) Recommend the City Manager develop a program or amend the current School Crossing Guard Program. (Pyle)
 - (h) Review of Significant Public Records Act Requests
 - (i) Review of Council Policy Updates per Sunshine Reforms
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force (SRTF)
 - (a) SRTF Phase II Report and Recommendations
 - (b) Staff's Response to Phase II Report and Recommendations of the SRTF.
 - (c) SRTF Chair's Response to the Staff Report responding to Phase II Report and Recommendations of the SRTF.
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
 - (j) Open Forum
 - (k) Adjournment
- (Deferred from 11/4/08 – Item 3.4 and 11/18/08 – Item 3.3)

3.3 Report of the Rules and Open Government Committee – [October 29, 2008](#) Mayor Reed, Chair

- (a) City Council
 - (1) Review November 4, 2008 Final Agenda
 - (2) Review November 11, 2008 Draft Agenda
None – Meeting Cancelled
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Approve appointment of David Mills to the Work2future Board of Directors. (Mayor)
 - (2) Recommend term extension of Sharon Hightower to the Civil Service Commission for up to one year expiring on or before December 1, 2009. (City Clerk)
- (g) Rules committee Reviews, Recommendations and Approvals
 - (1) Approve amendment to Ordinance 26710 (Section 17.72.570), entitled: "Storing or maintaining household items". (Cortese)

3. STRATEGIC SUPPORT SERVICES

3.3 Report of the Rules and Open Government Committee – October 29, 2008 (Cont'd.) Mayor Reed, Chair

- (g) Rules committee Reviews, Recommendations and Approvals (Cont'd.)
 - (2) Adopt resolution encouraging smoke-free multi-unit housing in the City of San José. (Williams/Chu)
 - (3) Amend the Rules and Open Government Committee to include a review of Study Session Agendas. (Mayor)
 - (4) Recommend to add 1) “Review and discuss the San José Police Department’s policies for handling individuals who are intoxicated in public”; and 2) “Review and discuss statistics and data related to public intoxication arrests” to the November 18, 2008 Council Agenda. (Mayor/Campos/Nguyen)
 - (5) Request additional information regarding the Citywide Inclusionary Policy. (Constant/Oliverio)
 - (6) Recommend that the City Council and Agency Board accept the disclosure of property interest by Kerry Adams-Hapner, Deputy Director of Economic Development, and direct that the disclosure be entered into the public minutes of the Agency Board meeting. (City Attorney)
 - (h) Review of Significant Public Records Act Requests
 - (i) Review of Council Policy Updates per Sunshine Reforms
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force (SRTF)
 - (a) SRTF Phase II Report and Recommendations
 - (b) Staff’s Response to Phase II Report and Recommendations of the SRTF.
 - (c) SRTF Chair’s Response to the Staff Report responding to Phase II Report and Recommendations of the SRTF.
 - (d) Confirm direction and approve Workplan responding to the Rules and Open Government Committee’s consideration of the Law Enforcement Record recommendation of the SRTF.
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
 - (j) Open Forum
 - (k) Adjournment
- (Deferred from 11/18/08 – Item 3.4)

3.4 Report of the Rules and Open Government Committee – [November 5, 2008](#) Mayor Reed, Chair

- (a) City Council
 - (1) Review November 11, 2008 Final Agenda
None – Meeting Cancelled
 - (2) Review November 18, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting

3. STRATEGIC SUPPORT SERVICES

3.4 Report of the Rules and Open Government Committee – November 5, 2008 (Cont'd.)

Mayor Reed, Chair

- (c) Legislative Update
 - (1) State
 - (a) Sacramento Update (Verbal Report). (City Manager's Office)
 - (2) Federal
- (d) Meeting Schedules
 - (1) Approval to cancel Rules Committee Meetings in November and December and set dates for "Rules In-Lieu" Meetings. (City Clerk)
 - (2) Approval of the City Council Meeting Schedule for the period January to July 2009. (City Manager's Office)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules committee Reviews, Recommendations and Approvals
 - (1) Direct the City Manager to report back to the Rules Committee with a status update, or possible action, on the Street Light Shutoff Program which was implemented as part of the City's 2008-2009 Budget. (Pyle)
 - (2) Reconsideration of the date the City Council will review and discuss the Public Intoxication Policy. (Mayor)
 - (3) Approval of Retirement Board Supplemental Questionnaire. (City Attorney's Office)
- (h) Review of Significant Public Records Act Requests
- (i) Review of Council Policy Updates per Sunshine Reforms
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force (SRTF)
 - (a) SRTF Phase II Report and Recommendations
 - (b) Staff's Response to Phase II Report and Recommendations of the SRTF.
 - (c) SRTF Chair's Response to the Staff Report responding to Phase II Report and Recommendations of the SRTF.
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

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

3.6 [City Hall Retail RFP.](#)

Recommendation: Approve the issuance of a Request for Proposals to select a developer for the vacant space on the ground floor of City Hall on 4th Street. CEQA: Not a Project. Council District 3. (Economic Development/General Services)

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

4.2 [Historic Landmark Nomination and Mills Act Historical Property Contract for the Ames House.](#)

Recommendation:

- (a) Public hearing and adopt a [resolution](#) designating the Ames House on a 0.16-acre site located at the east side of N. Fifteenth Street, approximately 90 feet south of E. Saint James Street (186 N. Fifteenth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-172)
- (b) Public hearing and adopt a [resolution](#) approving the Historical Property [Contract](#) (California Mills Act Contract No. MA08-004) between the City of San José and the owners of the Ames House (Hullene and Marcus Salomon). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. SNI: 13th Street. Council District 3. (Planning, Building and Code Enforcement)

(Continued from 10/28/08 – Item 4.4)

4.3 [Historic Landmark Nomination and Mills Act Historical Property Contract for the Hobson House.](#)

[Attachment – Declaration of Conflict of Interest for Councilmember Liccardo](#)

Recommendation:

- (a) [HL08-173](#) – Public hearing and adoption of a [resolution](#) designating the Hobson House on a 0.146 acre site, located at the westerly side of N. Fifteenth Street, approximately 250 feet north of E. Julian Street (333 N. Fifteenth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
- (b) [MA08-005](#) – Public hearing on the Historical Property [Contract](#) (California Mills Act contract) between the City of San José and the owners of Hobson House (City Landmark No. HL08-173) on a 0.146 acre site, located at the westerly side of N. Fifteenth Street, approximately 250 feet north of E. Julian Street (333 N. Fifteenth Street), (Rene T. and Claudia Correa, Property Owner) and adoption of a resolution approving the contract. The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. Council District 3. (Planning, Building and Code Enforcement)

[Resolution](#)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 [Historic Landmark Nomination and Mills Act Historical Property Contract for the Renzel House.](#)

Recommendation:

- (a) [HL08-174](#) – Public hearing and adoption of a [resolution](#) designating the Renzel House on a 0.70 acre site, located at the northeast side of Arroyo Way, approximately 250 feet east of S. Seventeenth Street (120 Arroyo Way) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
- (b) [MA08-006](#) – Public hearing on the Historical Property [Contract](#) (California Mills Act contract) between the City of San José and the owners of Renzel House (City Landmark No. HL08-174) on a 0.70 acre site, located at the northeast side of Arroyo Way, approximately 250 feet east of S. Seventeenth Street (120 Arroyo Way), (Donald Lieberman and Patricia A. Long Trustee & Et. Al., Property Owner) and adoption of a [resolution](#) approving the contract. The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. SNI: University. Council District 3. (Planning, Building and Code Enforcement)

4.5 [Historic Landmark Nomination and Mills Act Historical Property Contract for the Somers House.](#)

Recommendation:

- (a) [HL08-175](#) – Public hearing and adoption of a [resolution](#) designating the Somers House on a 0.143 acre site in the Reed City Landmark Historic District located at the west side of S. Sixth Street, approximately 420 feet southerly of E. Reed Street (675 S. Sixth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
- (b) [MA08-007](#) – Public hearing on the Historical Property [Contract](#) (California Mills Act contract) between the City of San José and the owners of Somers House (City Landmark No. HL08-175) 0.143 acre site in the Reed City Landmark Historic District located at the west side of S. Sixth Street, approximately 420 feet southerly of E. Reed Street (675 S. Sixth Street), (Jason K. Rowand and Batsirai M. Mutasa, Property Owner) and adoption of a [resolution](#) approving the contract. The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. SNI: University. Council District 3. (Planning, Building and Code Enforcement)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.6 Convention Center and Cultural Facilities Management Agreement.

Attachment – Memo from Councilmembers Constant, Campos, Nguyen and Williams

Recommendation:

- (a) Accept the status report on the negotiations with Team San José for an additional five-year term for the period July 1, 2009 through June 30, 2014 for the management of the Convention Center and Cultural Facilities; and
- (b) Direct the City Manager to negotiate an agreement based on the key business terms identified within this report.

CEQA: Not a Project. (Economic Development)

4.7 Smoke-Free Multi-Unit Housing Resolution.

Recommendation: As referred by the Rules and Open Government Committee of October 29, 2008, consider adopting a resolution to encourage smoke-free multi-unit housing in the City of San José. (Williams/Chu)

(Rules Committee referral 11/19/08)

* **TO BE HEARD NO EARLIER THAN 2:30 P.M.**

5. NEIGHBORHOOD SERVICES

5.1 **Report of the Neighborhood Services and Education Committee – November 13, 2008**

Councilmember Chirco, Chair

- (a) Report on Pricing and Revenue Plan. (Parks, Recreation and Neighborhood Services)
 - (b) Library Annual Usage Report. (Library)
 - (c) Report on Joyce Ellington Library Consumer Health Focus. (Library)
 - (d) Report on Citywide Sports Field Study. (Parks, Recreation and Neighborhood Services)
- SEE ITEM 5.3 FOR COUNCIL ACTION TO BE TAKEN**
- (e) Update on Community Center Re-use – Funding and Source of Funding/Facility Re-use Policy Recommendations. (Parks, Recreation and Neighborhood Services)
 - (f) Report on 2008-09 Summer Aquatics Program. (Parks, Recreation and Neighborhood Services)
 - (g) Report on the San José Education Foundation Pilot Contract. (Parks, Recreation and Neighborhood Services)
 - (h) Anti-Graffiti/Anti-Litter Campaign Update. (Parks, Recreation and Neighborhood Services)
 - (i) Review of Quarterly Performance Measure Reporting. (Neighborhood Services CSA)
 - (j) Strong Neighborhoods Monthly Update. (City Manager's Office)
 - (1) Neighborhoods Commission Update
 - (2) Neighborhood Leadership Development Updates

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services & Education Committee – November 13, 2008 (Cont'd.)

Councilmember Chirco, Chair

- (k) Schools/City Collaborative Monthly Update. (City Manager's Office)
 - (1) Report from School Safety, Joint Use, and Teacher Recruitment/Retention Sub-committees
- (l) Oral Petitions
- (m) Adjournment

5.2 [Memorandum of Understanding for the shared planning, development and operation of recreational facilities.](#)

Recommendation: Approve the Memorandum of Understanding (MOU) between the City of San José and the East Side Union High School District for the shared planning, development and operation of recreational facilities. CEQA: Not a Project. Council Districts 2, 3, 4, 5, 7 and 8. SNI: Mayfair, KONA, West Evergreen. (Parks, Recreation and Neighborhood Services)

(Deferred from 10/28/08 – Item 5.3)

RECOMMEND DEFERRAL TO 12/16/08 PER ADMINISTRATION

5.3 [Community Sports Field Study.](#)

Recommendation: Approve the final draft of the Community Sports Field Study. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

[Neighborhood Services and Education Committee referral 11/13/08 – Item (d)]

TO BE HEARD FIRST IN THE EVENING

[Attachment – Sports Field Study](#)

5.4 [Approve SNI's Spartan Keyes Neighborhood Improvement Plan Amendment.](#)

[Attachment – Spartan Keyes Neighborhood Improvement Plan 2008](#)

[Attachment – Spartan Keyes Neighborhood Improvement Plan 2002](#)

Recommendation:

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

CEQA: Strong Neighborhoods Initiative Program EIR Resolution No. 71045. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1). Council Districts 3 and 7. SNI: Spartan Keyes. (Parks, Recreation and Neighborhood Services/City Manager's Office/Planning, Building and Code Enforcement/Redevelopment Agency)

TO BE HEARD SECOND IN THE EVENING

6. TRANSPORTATION & AVIATION SERVICES

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

6.2 [Agreement with Air-Transport IT Services.](#)

Recommendation: Adopt a resolution:

- (a) Authorizing the Director of Finance to execute the second amendment to the Integrated Systems [Agreement](#) with Air-Transport IT Services, Inc., to expand the system into Terminals A and B; extend the term of the agreement by an additional two years from December 31, 2008 to December 31, 2010; and increase the total compensation by \$2,431,846 from \$6,492,877 to \$8,492,723 to include all hardware, installation, and all applicable sales tax.
- (b) Increasing the contingency amount by \$468,154 from \$850,000 to \$1,318,154 and authorizing the Director of Finance to execute change orders as required to cover unanticipated changes in the system design and/or installation.
- (c) Amending Council [Resolution](#) No. 73082 to amend the Director of Finance’s authority to execute the remaining three option years for ongoing maintenance and support without further Council action other than the appropriation of funds, with total compensation not to exceed the following amounts for the periods listed below:
 - (1) Year 3 (01/09 - 12/09) – \$1,252,139.
 - (2) Year 4 (01/10 - 12/10) – \$1,352,266.
 - (3) Year 5 (01/11 - 12/11) – \$1,506,141.

CEQA: Resolution Nos. 67380 and 71451, PP 08-224. (Finance)

6.3 [Airport Parkway Under-Crossing Trail Project.](#)

Recommendation:

- (a) Approve a Second Amendment to the [Agreement](#) with the Santa Clara Valley Water District (SCVWD) for the construction of the Airport Parkway Under-Crossing Trail project to increase funding for the project in the amount of \$125,000 for a total contract amount not-to-exceed \$2,450,980.
- (b) Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
 - (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$49,000 for the TRAIL: Airport Parkway Under-Crossing; and
 - (2) Decrease the Reserve: Future PDO/PIFO Projects by \$49,000.

CEQA: Mitigated Negative Declaration, File No. PP04-323. Council District 4. (Parks, Recreation and Neighborhood Services/City Manager’s Office)

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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

9.1 [Report on the Citywide CIP and SNI Projects.](#)

Recommendation: Accept the Status Report on the Citywide Capital Improvement Program, including Parks, Library, Public Safety Bond projects and Strong Neighborhoods Initiative projects funded by the City and Redevelopment Agency. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

- **Open Forum (To be heard no earlier than 3:30 p.m.)**
Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.
- Council will recess until 7:00 p.m.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of General Plan Consent Calendar (Item 10.1) 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 General Plan Consent Calendar (Item 10.1) and considered separately.

10.1 [Tentative approval of General Plan Consent Calendar items.](#)

[Attachment – General Plan Hearing](#)

[Attachment 2 – Draft – Framework for Preservation of Employment Lands](#)

[Attachment 3 – Framework Conversion Scenario #1](#)

[Attachment 4 – Merged Proposed Framework](#)

[Attachment 5 – Letter from the Parks and Recreation Commission](#)

Recommendation:

- (a) **Accept Status Report on the Framework for Preservation of Employment Lands.** Director of Planning, Building and Code Enforcement recommends the following actions: Adopt a resolution to consolidate into one document: (1) The text of the Framework originally adopted by City Council on October 23, 2007, and (2) The further implementation direction for the Framework set forth by City Council on that same date, as memorialized in that certain memorandum dated October 19, 2007 from Mayor Reed and Councilmembers Nguyen, Pyle, and Williams, and also to change the term “Extraordinary Economic Benefit” to “Extraordinary Benefit” in order to make the Framework consistent with that certain memorandum dated October 19, 2007, which recognizes that extraordinary benefits should not only be limited to those that are economic in nature, none of which actions are intended to create any substantive changes to the Framework as approved by City Council on October 23, 2007.

(Continued from 5/6/08 – Item 10.2)

RECOMMEND DROP PER ADMINISTRATION

- (b) [Amendment on approximately 0.96 acres on the southeast corner of Landess Avenue and Morrill Avenue \(3102 Morrill Avenue\).](#) Tentative approval of a General Plan amendment request to change the San José 2020 General Plan Land Use/ Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) on 0.6 acres and Medium Low Density Residential (8 DU/AC) on 0.36 acres to Neighborhood/Community Commercial on a 0.96-acre site located on the southeast corner of Landess Avenue and Morrill Avenue (3102 Morrill Avenue) (Klifo Family Invs LLC, Owner/CFC Commercial Finance Corp, Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1, Platten absent). CEQA: Negative Declaration. [GP07-04-03](#) – District 4

10. GENERAL PLAN PUBLIC HEARINGS

10.1 Tentative approval of General Plan Consent Calendar items. (Cont'd.)

Recommendation:

- (c) **Text amendment on approximately 5.4 acres on the northeast corner of Samaritan Drive and South Bascom Avenue (2581 Samaritan Drive).**

Tentative approval of a General Plan text amendment request to revise the text of the General Plan to increase the maximum allowable building height from 50 feet to 70 feet above ground level on an approximately 5.4-acre site located at the northeast corner of Samaritan Drive and South Bascom Avenue (2581 Samaritan Drive) (Samaritan Medical Center, Owner/Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1, Platten absent). CEQA: Negative Declaration.
GP08-T-01 – District 9

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10. GENERAL PLAN PUBLIC HEARINGS

10.2 [Greenline/Urban Growth Boundary Minor Modification and General Plan Amendment on 3.2 Acres at the Northeasterly Quadrant of the Intersection of Piercy Road and Silicon Valley Road \(formerly Tenant Avenue\) \(0 Piercy Road\).](#)

[Attachment – Memo from Councilmember Forrest Williams](#)

[Attachment – Applicant Response to Staff Report](#)

[Attachment – County Parks and Recreation Dept. Comment Letter and Response](#)

[Attachment – Planning Commission Staff Reports and Attachments](#)

Recommendation:

- (a) Tentative approval of a minor modification to the City of San José's Greenline/Urban Growth Boundary (UGB) to include approximately 3.2 acres of unincorporated territory located at the northeasterly quadrant of the intersection of Piercy Road and Silicon Valley Road. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-1-2, Kinman opposed, Campos and Zito absent).

UGB06-001 – District 2

- (b) Tentative denial of a General Plan amendment and Urban Service Area (USA) expansion request to change the General Plan land use designation from Rural Residential (0.2 dwelling units per acre) to High Density Residential (25-50 dwelling units per acre) on an approximately 3.2-acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (5-0-2, Campos and Zito absent).

GP06-02-02 – District 2

(Barbaccia Investments, Owner/Jack Previte, Applicant). CEQA: Negative Declaration. (Continued from 5/20/08 – Item 10.2)

10.3 **Continuance of all General Plan amendment actions from December 2, 2008 to December 16, 2008.**

Recommendation: Continuance of all General Plan amendment actions from December 2, 2008 to December 16, 2008. (Planning, Building and Code Enforcement)

11. PUBLIC HEARINGS

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) 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 Public Hearings Consent Calendar (Item 11.1) and considered separately.

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) [Consideration of an ordinance rezoning the real property located on the southeast corner of Southwest Expressway and Leigh Avenue \(1030 Leigh Avenue\) from CP Commercial Pedestrian Zoning District to A\(PD\) Planned Development Zoning District to allow up to 64 multi family residential units for senior affordable housing, over 7,500 square foot dental office and surface parking on a 0.97 gross acre site \(Barry Mirkin, Owner\). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval \(6-0-0\).
\[PDC07-083\]\(#\) – District 6
\[Ordinance\]\(#\)
\[Attachment – Development Map\]\(#\)](#)

- (b) [Consideration of an ordinance rezoning the real property located on the northeast corner of Samaritan Drive and South Bascom Avenue \(2581 Samaritan Drive\) from A\(PD\) Planned Development Zoning District to A\(PD\) Planned Development Zoning District to allow for construction of 74,800 square feet for medical office uses and an expansion of the an existing parking structure on a 6.32 gross acre site \(Samaritan Medical Center, Owner\). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval \(6-0-0\).
\[PDC08-014\]\(#\) – District 9
\[Attachment – Location Map\]\(#\)
\[Ordinance\]\(#\)](#)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

- 11.2 [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 “CGP” and to allow uses with the “CGP” 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. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).

Citywide

(Continued from 11/18/08 – Item 11.4)

11. PUBLIC HEARINGS

11.3 [Rezoning real property located on the westerly corner between Charcot Avenue and Junction Avenue.](#)

[Attachment – PDC 521 Charcot 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 from 11/18/08 – Item 11.6)

11.4 [Rezoning real property located on the south side of Hamilton Avenue.](#)

[Attachment – Memo from Councilmember Oliverio](#)

[Attachment – Staff Report](#)

[Attachment – PDC Tomato Thyme](#)

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 from 11/18/08 – Item 11.8)

● 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>
10003	Northwest corner of State Highway 237 and Gold Street	4	Legacy III SJ America Center I, LLC	6 Lots	Commercial	Approve
10014	Southwest corner of Cinnabar Street and Stockton Avenue	6	Morrison Park Apartments, LLC	1 Lot / 250 Units	Multi-Family Attached	Approve

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

- **Open Forum**

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.

- **Adjournment**

This meeting will be adjourned in memory of Officer Delia Julia Bravo-Carney, a beloved public servant. Delia was a San José Police Department Officer who worked in District 5 and suddenly passed away on Friday, November 21, 2008. (Campos)

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.
 - 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.