

CITY COUNCIL AGENDA

DECEMBER 16, 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 and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

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

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
 - 8:30 a.m. - Closed Session, Call to Order in Council Chambers
Adjourn to Closed Session in Council Chambers Conference Room, W133
[See Separate Agenda](#)
 - 10:30 a.m.-** RDA Board Meeting (followed by Regular Session)
Regular Session, Call to Order in Council Chambers, City Hall
The Council will recess at 12:00 noon and reconvene at 1:30 p.m.
[See Separate Agenda](#)
 - 1:30 p.m. - Reconvene, Hear Afternoon Ceremonial Items, and continue the Regular Session
 - 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)**
- **Pledge of Allegiance**
- **Orders of the Day**

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

- * **ITEMS 9.1, 9.2, 9.3 AND 9.4 TO BE CONSIDERED IN A JOINT CITY COUNCIL/ REDEVELOPMENT AGENCY BOARD SESSION.**

ADJOURNMENT: This meeting will be adjourned in memory of Joe Scaglione, Public Works Principal Construction Inspector, a City employee of over 23 years.

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 Jim Zito for his years of dedication to the City of San José and District 8 community via the District 8 Community Roundtable. (Cortese)
TO BE HEARD IN THE EVENING
- 1.2 Presentation of a commendation to the Strong Neighborhoods Initiative staff acknowledging the National League of Cities recognition of the Strong Neighborhoods Initiative, and its receipt of the 2008 Gold Award for Municipal Excellence at the League’s Congress of Cities and Expositions in Florida on November 13, 2008. (Mayor)
- 1.3 Presentation of a proclamation declaring January 11, 2009 as “National Day of Human Trafficking Awareness” in the City of San José. (Police)
- 1.4 Recognition of the Fire Station 35 Project Team for their dedication to providing San José residents with an exceptional Public Safety facility that achieved LEED Silver Certification. (Public Works)
- 1.5 Presentation of a commendation to the Seven Trees Coalition for coming together to advance and advocate for important issues affecting the Seven Trees community. (Nguyen)
TO BE HEARD IN THE EVENING
(Rules Committee referral 12/3/08)
- 1.6 Presentation of the Energy Alternative Chanukah Menorah to the Mayor and City Council on behalf of the Simon Wiesenthal Center. (Mayor)
* (Rules Committee referral 12/10/08)

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
* [Deferred from 12/2/08 – Item 2.1(a) and 12/9/08 – Item 2.1(c)]
(Item continued on the next page)

2. CONSENT CALENDAR

2.1 Approval of Minutes. (Cont'd.)

Recommendation: Approval of minutes.

- (b) Special Meeting Minutes of the Joint City Council/County/Redevelopment Agency Board Meeting of September 15, 2008
 - * [Deferred from 12/2/08 – Item 2.1(b) and 12/9/08 – Item 2.1(d)]
- (c) Regular Minutes of September 16, 2008
 - * [Deferred from 12/2/08 – Item 2.1(c) and 12/9/08 – Item 2.1(e)]
- (d) Regular Minutes of September 23, 2008
 - * [Deferred from 12/9/08 – Item 2.1(a)]
- (e) Regular Minutes of September 30, 2008
 - * [Deferred from 12/9/08 – Item 2.1(b)]

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) [ORD. NO. 28458](#) – Rezoning certain real property situated at the southeast corner of Southwest Expressway and Leigh Avenue (1030 Leigh Avenue) to A(PD) Planned Development Zoning District. PDC07-083
- (b) [ORD. NO. 28460](#) – Amending provisions of Chapter 20.50, Chapter 20.90, Chapter 20.100 and Chapter 20.200, all of Title 20 of the San José Municipal Code, to streamline requirements for certain specified industrial uses within Industrial Zoning Districts and to make other related technical or clarifying changes.
- (c) [ORD. NO. 28461](#) – Rezoning certain real property on the south side of Hamilton Avenue approximately 320 feet easterly of Meridian Avenue (1560 Hamilton Avenue) to A(PD) Planned Development Zoning District. PDC07-046
- * (d) [ORD. NO. 28466](#) – Amending Ordinance No. 26136, which Ordinance approved a Development Agreement with Cisco Technology, Inc. relative to the development of real property in North San José and amending Ordinance No. 28339, which ordinance amended said Development Agreement to extend a certain occupancy deadline contained in the original Development Agreement and ratified the effectiveness of the original Development Agreement, in order to further amend the original Development Agreement, as amended, to modify a certain occupancy condition contained at Section 1.(c)(1) of the original Development Agreement and authorizing the City Clerk to execute the Second Amendment to Development Agreement.
- * (e) [ORD. NO. 28467](#) – Rezoning certain real property situated at on the westerly corner of Junction Avenue and Charcot Avenue (521 Charcot Avenue) to LI(PD) Planned Development Zoning District. PDC08-030

2. CONSENT CALENDAR

2.3 [Amend Lease with RNM First Street Center for Airport Administration Offices.](#)

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute the Fifth Amendment to the 1732 North First Street Office Lease with RNM First Street Center, L.P., to reduce the leased square footage from 95,406 to 57,328, to reduce the monthly per square foot rental rate from \$2.85 to \$2.63 for the first year, and increasing 3% per year thereafter, and to extend the term for 5 years from January 1, 2010 through December 31, 2014;
- (b) Exercise an option to extend the term for an additional 5 years from January 1, 2015 through December 31, 2019, at a monthly per square foot rental rate of \$3.05 for the first year, and increasing 3% per year thereafter, subject to appropriation of funds by the City Council.

CEQA: Resolution Nos. 67380 and 71451, PP08-182. (Airport)

2.4 [Settlement in Christine Rios et al. v. City of San José.](#)

Recommendation: Approve the settlement and authorize the City Attorney to negotiate and execute a Settlement Agreement and Release with Christine and Angel Rios providing for the settlement and dismissal of the lawsuit for the total amount of \$70,000, considered by the City Council during the Closed Session held on October 21, 2008.

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

2.5 [Amend agreement for an integrated fire records management system.](#)

Recommendation: Adopt a resolution authorizing the Director of Finance to negotiate and execute the first and second amendment to the agreement with ACS Government Systems to first extend the term of the agreement from December 31, 2007 to December 31, 2010, for payment of invoices and second to expand the scope of services for Accounts Receivable and Mobile Inspections functionality including software, installation, training and professional services and increase total compensation not to exceed \$100,000, from \$263,652 to \$363,652. CEQA: Not a Project. (Finance)

2.6 [Amend agreement for Airport parking facilities.](#)

Recommendation: Adopt a resolution authorizing the Director of Finance to execute the second amendment to the [agreement](#) with Ampco System Parking, Inc. for Airport Parking Facilities Management to decrease the rate of compensation from 17.45% to 16.36% of total Airport parking revenues for the period November 8, 2008 to November 7, 2009. CEQA: Resolution Nos. 67380 and 71451, PP08-175. (Finance)

2. CONSENT CALENDAR

2.7 [Funding commitment for the InnVision Villa Project.](#)

Recommendation: Adopt a resolution authorizing the Director of Housing to negotiate and execute:

- (a) A conditional grant of up to \$600,000 to InnVision - The Way Home for the InnVision Villa, a 26-unit Single Room Occupancy housing project targeted to very low-income households;
- (b) An amendment to the terms of the existing Housing Department loan from being repayable to be forgivable at the end of the term; and,
- (c) An amendment to the affordability restriction to change the unit mix from 26 very low-income to 6 very low-income and 20 extremely low-income units, and extending the term of affordability by an additional 55 years.

CEQA: Negative Declaration, File No. PDC98-01-010. Council District 7. (Housing)

2.8 [Amend the Park Maintenance Agreement with Hitachi Global Storage Technologies, Inc.](#)

Recommendation: Approve the first amendment to the Park Maintenance [Agreement](#) with Hitachi Global Storage Technologies, Inc. to extend the term of the maintenance agreement beyond March 31, 2010 in the event that a Community Facilities District is not created to take over maintenance responsibilities for the three (3) areas designated as storm water detention facilities located within the future public parks associated with Planned Development Zoning No. PDC04-031, Master Planned Development Permit PD05-087 and Tentative Map No. PT05-108. CEQA: Resolution No. 72772. Council District 2. (Parks, Recreation and Neighborhood Services)

2.9 [Grant applications for Lower Guadalupe River and Highway 237 Bikeway.](#)

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

- (a) Submit a grant application to the State of California Resources Agency in the amount not to exceed \$350,000 for Environmental Enhancement and Mitigation Program grant funding for construction of the Lower Guadalupe River Trail (Skyport Drive to Airport Parkway) project.
- (b) Submit a grant application to the State of California Resources Agency in the amount not to exceed \$350,000 for Environmental Enhancement and Mitigation Program grant funding for repair and reconstruction of the Highway 237 Bikeway (Zanker Road to Coyote Creek) project.
- (c) Accept any grant funds and to negotiate and execute any and all documents relating to the grant funding from the State of California Resources Agency for the Lower Guadalupe River Trail (Skyport Drive to Airport Parkway) project and Highway 237 Bikeway (Zanker Road to Coyote Creek) project.

CEQA: Mitigated Negative Declaration, PP04-323. Council Districts 3 and 4. (Parks, Recreation and Neighborhood Services)

2. CONSENT CALENDAR

2.10 [Grant application for the Guadalupe Creek Trail.](#)

Recommendation: Adopt resolutions authorizing the City Manager to:

- (a) Submit a grant application in an amount not to exceed \$900,000 under the River Parkways Grant program administered by the State of California Resources Agency for the Guadalupe Creek Trail (Almaden Expressway to Meridian Avenue). [Resolution](#)
- (b) Submit a grant application in an amount not to exceed \$225,000 to the Santa Clara Valley Open Space Authority for the Project to serve as a 20% local fund match for the River Parkways Grant application to the Resources Agency. [Resolution](#)
- (c) Accept any grant funds awarded to the City and to negotiate and execute all necessary documents related to the grant awards.

CEQA: Negative Declaration, PP03-04-110. Council District 10. SNI: Hoffman/Via Monte. (Parks, Recreation and Neighborhood Services)

2.11 [Amend agreements related to the Santa Clara BART Station Area Plan.](#)

Recommendation: Adopt a resolution authorizing the Director of Planning, Building and Code Enforcement to negotiate and execute an amendment or continuation agreement, as appropriate, to the August 24, 2006 Cooperation and Funding Agreement between the City of Santa Clara, the City of San José, and the Santa Clara Valley Transportation Authority (VTA) to:

- (a) Extend the term of the agreement by one year to December 31, 2009;
- (b) Add tasks to the original scope of work, including climate change analysis and additional traffic analysis, necessary for completion of the environmental impact report (EIR) for the Santa Clara Station Area Plan project; and
- (c) Increase the amount of funding for the project in the agreement by \$25,000 to support additional costs associated with preparation of the EIR for the project, for a total City contribution not to exceed a total of \$75,000.

CEQA: Exempt. Council Districts 3 and 6. (Planning, Building and Code Enforcement/Transportation)

2.12 [State Homeland Security Grant Program.](#)

Recommendation: Adopt an appropriation ordinance and funding sources resolution amendments in the General Fund:

- (a) Establish a city-wide appropriation to the Police Department for the State Homeland Security Grant Program in the amount of \$43,898;
- (b) Increase the estimate for Earned Revenue from the Federal Government by \$43,898.

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

2. CONSENT CALENDAR

2.13 [Grant award for Internet Crimes Against Children Task Force.](#)

Recommendation: Adopt an appropriation ordinance and funding sources resolution amendments in the General Fund:

- (a) Increase the existing City-Wide appropriation to the Police Department for the Internet Crimes Against Children Task Force Grant in the amount of \$125,000;
 - (b) Increase the Earned Revenue Estimate from the State of California by \$125,000.
- CEQA: Not a Project. (Police/City Manager's Office)

2.14 [Amend the agreement for design services for New City Hall In-Building Wireless Reinforcement Design Project.](#)

Recommendation: Approve the first amendment to the consultant [agreement](#) with RTKL Associates, Inc. for engineering design services for the New City Hall In-Building Wireless Reinforcement Design project to correct a typographical error and properly set forth the term of the agreement as being from December 31, 2008 to December 31, 2009 at no cost to the City. CEQA: Not a Project. (Public Works/Information Technology)

2.15 [Amend consultant services agreement for the Seven Trees Community Center and Branch Library.](#)

Recommendation: Approve the first amendment to the [agreement](#) for consultant services for the Seven Trees Community Center and Branch Library with Rob Wellington Quigley, FAIA, modifying the scope of services and increasing the amount of compensation by \$120,000, for a total agreement amount not to exceed \$3,237,000. CEQA: Mitigated Negative Declaration, PP06-175. Resolution approved by Council on September 11, 2007. Council District 7. (Public Works/Library/Parks, Recreation and Neighborhood Services)

2.16 [Fiscal Actions for Redevelopment Agency Capital Projects.](#)

Recommendation:

- (a) 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:
 - (1) Increase the estimate for Earned Revenue by \$254,404.
 - (2) Increase the appropriation to the General Services Department for the Children's Discovery Museum Exhibit Shop Infrastructure and Safety Improvements Project (PSM 533 Amendment #1) in the amount of \$36,635.
 - (3) Establish an appropriation to the Department of Public Works for the Santa Clara Street Green Mobility Sidewalk Improvement Project (PSM 555) in the amount of \$188,769.
 - (4) Establish an appropriation to the Department of Transportation for the Rocketship Mateo Sheedy Elementary School Improvements (PSM 558) in the amount of \$29,000.

(Item continued on the next page)

2. CONSENT CALENDAR

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

Recommendation:

- (b) Adopt resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:
- (1) The Santa Clara Street Green Mobility Sidewalk Improvement Project as more specifically described in the memorandum from the Redevelopment Agency, dated October 28, 2008. [Resolution](#)
 - (2) The Rocketship Mateo Sheedy Elementary School Improvements Project as more specifically described in the memorandum from the Redevelopment Agency, dated October 16, 2008. [Resolution](#)
- CEQA: Children's Discovery Museum Exhibit Shop Infrastructure and Safety Improvements Project: Resolution No. 72767, File No. PP08-082; Santa Clara Green Mobility Sidewalk Project: Exempt, File No. PP08-085; and Rocketship Mateo Sheedy Elementary School Improvements: Exempt, File No. PP06-171. Council District 3. (Public Works/Transportation/General Services/City Manager's Office)

2.17 [2008-2009 Weed Abatement Report.](#)

Recommendation: Adopt a [resolution](#):

- (a) Accepting the 2008-2009 Hazardous Vegetation Commencement Report compiled by the Santa Clara County Department of Agriculture and Resource Management;
- (b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the report are a nuisance; and
- (c) Directing the Santa Clara County Department of Agriculture and Resource Management to mail notices of a public hearing before the City Council, on January 27, 2008 at 1:30 p.m., on the report to property owners of affected real properties, pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Exempt, File No. PP06-196. (Planning, Building and Code Enforcement)

2.18 [Cooperation Agreement for the Vasona Light Rail Transit Corridor.](#)

Recommendation:

- (a) Approve an [agreement](#) with the Santa Clara Valley Transportation Authority for the transfer of properties supporting City facilities constructed by the Vasona Light Rail Transit Project; and
- (b) Adopt a resolution authorizing the Director of Public Works to execute all related documents and deed acceptances necessary to complete the transactions.

CEQA: Not a Project. Council Districts 3 and 6. SNI: Burbank/Del Monte/Delmas Park. (Public Works/Transportation)

2. CONSENT CALENDAR

2.19 [State Route 237 Freeway Maintenance Agreement.](#)

Recommendation: Adopt a resolution authorizing the Director of Transportation to execute the State Route 237 (from Calabazas Creek to Coyote Creek) Freeway Maintenance [Agreement](#) between the State of California and the City of San José. CEQA: Route 237 EIR/EIS – Resolution Nos. 62428 – 62430, August 21, 1990. (Transportation)

2.20 [Excused absence for Councilmember Chirco.](#)

Recommendation: Request for an excused absence for Councilmember Chirco from the regular meeting of the Rules and Open Government Committee of December 3, 2008 due to personal business. (Chirco)
(Rules Committee referral 12/3/08)

2.21 [Actions related to Councilmember Liccardo's Travel Out of State.](#)

Recommendation:

- (a) Designate Councilmember Liccardo as the City's representative to the Silicon Valley Leadership Group Advocacy Trip on May 4-7, 2009.
- (b) Approve travel by Councilmember Liccardo to Washington, D.C. on May 4-7, 2009 to represent the City at the Silicon Valley Leadership Group Advocacy Trip.
Source of Funds: Mayor/Council Travel Fund.

(Liccardo)

(Rules Committee referral 12/3/08)

2.22 [Excused absences for Councilmember Constant.](#)

Recommendation: Request for excused absences for Councilmember Constant from the regular meetings of the Rules and Open Government Committee of February 4, 2009, April 8, 2009, June 3, 2009, August 12, 2009, October 14, 2009 and December 9, 2009 due to authorized City Business: Santa Clara County LAFCO Meetings. (Constant)

* (Rules Committee referral 12/10/08)

2.23 [Work2future Board Nomination.](#)

Recommendation: As recommended by the Rules and Open Government Committee of December 10, 2008, approve the appointment of David J. Mutuszak, Director of the Santa Clara Regional Occupational Program – South, Gilroy, California, to serve as a public sector representative on the work2future Board of Directors. (Mayor)

* [Rules Committee referral 12/10/08 – Item F(1)]

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 – [December 3, 2008](#)

Mayor Reed, Chair

- (a) City Council
 - (1) Review December 9 2008 Final Agenda
 - (2) Review December 16, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Sacramento Update (Verbal Report). (City Manager's Office)
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Approve appointments of Vincent Edward Cantore, Gloria Jabaut, and Charlotte Louise Pizzo to the Housing and Community Development Committee. (Nguyen)
 - (2) Approve re-appointment of Paula Merloa (Resident Representative) and appointment of Michael Graves (Landlord Representative) to the Mobilehome Advisory Commission. (Nguyen)
 - (3) Approve appointment of Mary Egondy Uzoh to the Small Business Development Commission. (Nguyen)
 - (4) Approve appointment of Daniel Ray Newell, Paiman Komeilizadeh, and Christine Wright to the Disability Advisory Commission. (Pyle)
 - (5) Approve appointment of Larry Cope to serve on the work2future Board of Directors. (Mayor)

HEARD BY COUNCIL 12/9/08

- (g) Rules committee Reviews, Recommendations and Approvals
 - (1) Report on Election and interview results and action on appointment of Retiree Representatives to the Police and Fire and Federated Retirement Boards.
 - (a) Report from the City Clerk.
 - (b) Report from the City Attorney.
 - (2) Disability Earnings Ordinance for Public Safety Officers in the City of San José. (Cortese)
- (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) Correspondence from the Task Force.

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – December 3, 2008

Mayor Reed, Chair (Cont'd.)

- (i) (3) Significant Public Records Act Requests
- (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

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

3.4 Report of the Rules and Open Government Committee – [November 12, 2008](#)

Mayor Reed, Chair

- (a) City Council
 - (1) Review November 18, 2008 Final Agenda
 - (2) Review November 25, 2008 Draft Agenda
 - None – Meeting Cancelled
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Sacramento Update (Verbal Report). (City Manager's Office)
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Approve re-appointment of Joyce Puopolo, Helen Wang and Minh Duong to the Small Business Development Advisory Commission. (Nguyen)
- (g) Rules committee Reviews, Recommendations and Approvals
 - (1) Approve the Auditor's Monthly Report of Activities for October 2008. (City Auditor)
 - (2) Accept resignation of Phaedra Ellis-Lampkins and approve appointment of Mary Creasman as her replacement to the Envision San José 2040 Task Force. (Liccardo)
HEARD BY COUNCIL 11/18/08
 - (3) Place on the November 18, 2008 City Council agenda a verbal report and discussion on lessons related to City and Agency officials participation in the Chicago City-to-City Trip Report Out. (Mayor)
HEARD BY COUNCIL 11/18/08
- (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.

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.4 Report of the Rules and Open Government Committee – November 12, 2008 Mayor Reed, Chair (Cont'd.)

- (i) (3) Significant Public Records Act Requests
- (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

* (Deferred from 12/9/08 – Item 3.2)

3.5 Report of the Rules and Open Government Committee – [November 19, 2008](#) Mayor Reed, Chair

- (a) City Council
 - (1) Review November 25, 2008 Final Agenda
None – Meeting Cancelled
 - (2) Review December 2, 2008 Draft Agenda
 - (3) Review Study Sessions
 - (a) Approve December 5, 2008 Study Session Agenda.
 - (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
 - (c) Legislative Update
 - (1) State
 - (a) Sacramento Update (Verbal Report). (City Manager's Office)
 - (2) Federal
 - (d) Meeting Schedules
 - (1) Approval to set a Special City Council Meeting on January 20, 2009 to interview applicants to City Commissions. (City Clerk)
 - (2) Approval of Revised Council Study Session Schedule for Jan-June 2009. (City Manager's Office)
 - (3) Approval to set a Green Vision Study Session on February 6, 2009. (City Manager's Office)
 - (e) The Public Record
 - (f) Appointments to Boards, Commissions and Committees
 - (1) Recommend appointment of Kaushik Joglekar to the Early Care and Education Commission. (Chirco)
 - (2) Recommend re-appointments of Kulwant Singh and David Parker and approve appointments of Andrae Macapinlac, Matthew Salcido and Donald Young to the Human Rights Commission. (Chu)
 - (3) Recommend re-appointment of Bobby Yount to the remainder of a vacant, unexpired term on the Arts Commission. (Williams)
 - (4) Recommend appointment of Robert Bailey, Hassan Kahn and Dan Wagner to the Advisory Commission on Rents. (Campos)
 - (5) Recommend appointment of Patrick Hall and Bob Gill to the Senior Citizens Commission. (Constant)
- HEARD BY COUNCIL 12/2/08**
- (g) Rules committee Reviews, Recommendations and Approvals
 - (1) Accept status report on the Streetlight Shutoff Program. (Transportation/Police)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.5 Report of the Rules and Open Government Committee – November 19, 2008 (Cont'd.) Mayor Reed, Chair

- (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.
- (j) Open Forum
- (k) Adjournment

* (Deferred from 12/9/08 – Item 3.3)

3.6 [2009 Legislative Guiding Principles, Priorities and Advocacy Issues.](#)

Recommendation: As recommended by the Rules and Open Government Committee of December 10, 2008, approve the 2009 Legislative Guiding Principles, Priorities and Advocacy Issues for the first year of the two-year Legislative Session in Sacramento and the 111th Congress. (City Clerk)

* [Rules Committee referral 12/10/08 – Item G(2)]

4. COMMUNITY & ECONOMIC DEVELOPMENT

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

4.2 [Agreement between EHC Lifebuilders and its Creditors.](#)

Recommendation: Adopt a [resolution](#):

- (a) Authorizing the Director of Housing to Negotiate and Execute a Forbearance and Release Agreement between EHC, Comerica Bank, the County of Santa Clara, and the City in order to facilitate the sale of the identified EHC properties;
- (b) Authorizing the Director of Housing to Negotiate and Execute a conditional grant agreement with Mid-Peninsula Housing Corporation in an amount not to exceed \$1.4 million for the transfer of existing affordability restrictions at EHC's Gifford Avenue, 5th Street, and East Younger Avenue properties to Mid-Peninsula's Country Hills property, located at 124 Rancho Drive, to be paid from the proceeds of the sale of property;

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Agreement between EHC Lifebuilders and its Creditors. (Cont'd.)

Recommendation: Adopt a resolution:

- (c) Approving the Relocation Impact Statement and Last Resort Housing Plan for EHC's Markham Terrace property at 2112 Monterey Road;
- (d) Approving the Relocation Impact Statement and Last Resort Housing Plan for EHC's properties at Gifford Avenue, 5th Street, and East Younger Avenue;
- (e) Authorizing the Director of Housing to expend up to \$2.1 million for the relocation of tenants at the Markham Terrace site;
- (f) Authorizing the Director of Housing to expend up to \$400,000 in short-term operational assistance to replace the loss of rental income at Markham Terrace during tenant relocation;
- (g) Authorizing the Director of Housing to negotiate and execute an amendment to the existing agreement with Associated Right of Way Relocation consultants by \$450,000, from \$129,000 to \$579,000 to implement the EHC relocation plans; and,
- (h) Authorizing the Director of Housing to negotiate and execute a \$500,000 predevelopment loan to Charities Housing Development Corp. (Charities Housing), or its designated affiliate, for the redevelopment of the Markham Terrace site.

CEQA: Exempt, File No. PP08-270. Council Districts 3 and 7. (Housing)

* **RECOMMEND DEFERRAL TO 1/27/09 PER ADMINISTRATION**

4.3 [Funding commitment for site acquisition for the Orvieto Family Apartment.](#)

Recommendation: Adopt a [resolution](#) approving a funding commitment of up to \$3,680,000 of Low and Moderate Income Housing Funds (20% Funds) to the ROEM Development Corporation, or its legal affiliate, for a land acquisition loan for future development of the 92-unit Orvieto Family Apartments, an affordable multifamily rental project located at the Southeast corner of Montecito Vista Way and Montecito Vista Drive, to be made available to extremely low-income and very low-income households.

CEQA: EIR Resolution No. 72768 adopted June 21, 2005, File Number PDC07-101. Council District 7. (Housing)

4.4 [Funding commitment for site acquisition for the First and Rosemary Senior Apartments Project.](#)

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

Recommendation: Adopt a [resolution](#) approving a funding commitment for site acquisition of up to \$6,300,000 of 20% Housing Funds to the ROEM Development Corporation or its legal affiliate, for a land acquisition loan for the development of the 184-unit First and Rosemary Family Apartments, an affordable multifamily rental project located at the Southeast corner of Rosemary and North First Streets, to be made available to extremely low-income, very low-income, and low-income households. CEQA: EIR Resolution No. 72768 adopted June 21, 2005, File No. PDC07-101. Council District 3. (Housing)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 [Funding commitment for site acquisition for the First and Rosemary Family Apartments Project.](#)

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

Recommendation: Adopt a [resolution](#) approving a funding commitment for site acquisition of up to \$3,700,000 from the 20-percent Low and Moderate Income Housing Fund to the ROEM Corporation, or its legal affiliate, for a land acquisition loan for the development of the 106-unit First and Rosemary Senior Apartments, an affordable multifamily rental project on a 1.06-gross acre site located at the southeast corner of Rosemary and North First Streets, to be made available to extremely low-income and very low-income households. CEQA: EIR Resolution No. 72768 and Addendum thereto, PDC07-101. Council District 3. (Housing)

4.6 [IIG Program Grant Award for Kings Crossing Affordable Housing Family Rental Development.](#)

Recommendation:

- (a) Adopt a [resolution](#):
 - (1) Authorizing the Director of Housing to accept a \$4,495,840 Infill Infrastructure Grant Program award from the California Department of Housing and Community Development to fund infrastructure improvements necessary for the Kings Crossing affordable housing family rental project.
 - (2) Authorizing the Director of Housing to negotiate and execute all necessary documents.
 - (b) Adopt the following amendments to the 2008-2009 Appropriation Ordinance and Funding Sources Resolution in the Multi-Source Housing Fund (Fund 448):
 - (1) Create the Infill Infrastructure Grant Program appropriation by \$4,495,840.
 - (2) Increase the estimate for Grant Revenue in the amount of \$4,495,840.
- CEQA: Resolution No. 74196, File No. PDC07-015. Council District 3. (Housing/City Manager's Office)

4.7 [Willow Glen Community Benefit and Improvement District Hearing and Election.](#)

Recommendation:

[Resolution](#)

- (a) Conduct a public hearing and election for the establishment of the Willow Glen Community Benefit and Improvement District and authorize the City Clerk to tabulate ballots;
 - (b) Authorize the City Clerk to cast a ballot on behalf of the City Council in favor of the establishment of the Willow Glen Community Benefit and Improvement District and the imposition of an assessment upon the two City-owned parcels within the proposed District, APN 429-17-036 and APN 429-17-107;
 - (c) Direct the City Clerk to report the results of the tabulation of ballots;
- (Item continued on the next page)*

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.7 Willow Glen Community Benefit and Improvement District Hearing and Election. (Cont'd.)

Recommendation:

(d) If the proposed District is approved by property owners, adopt a resolution taking certain actions relating to the establishment of the Willow Glen Benefit and Improvement District including the adoption of the Management Plan and Engineer's Report and setting the assessment as detailed therein.

CEQA: Exempt, File No. PP08-097. Council District 6. (Public Works)

* **TO BE HEARD NO EARLIER THAN 7:30 P.M.**

5. NEIGHBORHOOD SERVICES

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

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 and 12/2/08 – Item 5.2)

5.3 Discussion on and consideration of a Citywide Inclusionary Housing Ordinance.

Recommendation: Discussion on and consideration of a Citywide Inclusionary Housing Ordinance. (City Attorney's Office)

* **DROP, SCHEDULE TO BE CONSIDERED AT 1/14/09 RULES AND OPEN GOVERNMENT COMMITTEE MEETING**

5.4 [Grant application for the Guadalupe River Park & Garden Circuit Pathways, Native Plants Installation and Interpretive Signage Project.](#)

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

(a) Submit a grant application in an amount not to exceed \$2,500,000 under the River Parkways Grant program administered by the State Resources Agency for the Guadalupe River Park & Gardens Circuit Pathways, Native Plants Installation and Interpretive Signage project.

(Item continued on the next page)

5. NEIGHBORHOOD SERVICES

5.4 Grant application for the Guadalupe River Park & Garden Circuit Pathways, Native Plants Installation and Interpretive Signage Project. (Cont'd.)

Recommendation:

- (b) Accept any grant funds and to negotiate and execute all necessary documents related to the grant award.

CEQA: Negative Declaration, PP08-253. Council District 10. SNI: Hoffman/Via Monte. (Parks, Recreation and Neighborhood Services)

5.5 [Negotiation of a lease agreement with East Side Union High School District.](#)

Recommendation:

- (a) Authorize staff to conduct an exclusive negotiation with East Side Union High School District for a lease agreement of the former Berryessa Library building at 3311 Noble Avenue.
- (b) If the lease negotiations are not successful, direct staff to return to Council with actions to demolish the building and improve for parking to serve Noble Park and the new Berryessa Branch Library.

CEQA: Not a Project. Council District 4. (Public Works)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – [December 1, 2008](#) Councilmember Williams, Chair

- (a) Verbal Report on Status of Committee Workplan. (City Manager's Office)
- (b) Update on Storm Water Municipal Regional Permit. (Environmental Services)
- (c) Report on Zero Waste Goals and Waste-to-Energy Projects. (Environmental Services)
SEE ITEM 7.1 FOR COUNCIL ACTION TO BE TAKEN
- (d) Terminal Area Improvement Program (TAIP) Quarterly Report. (Airport/Public Works)
- (e) Report on Airport Door-to-Door Shuttle Model. (Airport)
- (f) Approval of Revised Public Streetlighting Policy. (Transportation)
SEE ITEM 6.4 FOR COUNCIL ACTION TO BE TAKEN
- (g) Regional Transportation. (Transportation)
 - (1) Regional Transportation Activities Report.
 - (2) Update on Regional Transportation Funding.
- (h) Quarterly Update on Performance Measures for Airport, Environmental Services, General Services, Transportation and Police Departments. (City Manager's Office)
- (i) Public Forum
- (j) Adjournment

6. TRANSPORTATION & AVIATION SERVICES

6.2 [Amend Street Naming Policy.](#)

Recommendation: Adopt a [resolution](#) amending City Council Policy 6-5 Street Naming and Renaming to allow a streamlined process for applications when the proposed change is not a serious, complicated matter, and will cause little or no disruption to existing businesses, residents or the post office; and allow per the discretion of the Director of Planning for such proposed street name changes to forego hearing by the Planning Commission and proceed directly to City Council. CEQA: Not a Project. (Planning, Building and Code Enforcement)

6.3 [Emergency Tree Services Ordinance.](#)

Recommendation: Approve an [ordinance](#) amending Chapter 13.28 of Title 13 of the San José Municipal Code to enable the City to invoice the property owner for emergency tree services performed on behalf of the adjacent property owner. CEQA: Not a Project. (Transportation)

6.4 [Revised Public Streetlighting Policy.](#)

Recommendation: Adopt a [resolution](#) to replace the current Streetlight Conversion Policy (Council Policy Number 4-2) with the proposed revised policy in its place. CEQA: Exempt, File No. PP08-222. (Transportation)
[Transportation and Environment Committee referral 12/01/08 – Item 6.1(f)]

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Zero Waste Strategic Plan.](#)

Recommendation:

- (a) Approve the Zero Waste Strategic Plan, which outlines strategies the City is considering to achieve zero waste to landfill by 2022 and convert waste to energy; and
 - (b) Approve the Proposed Zero Waste Workplan.
- CEQA: Exempt, File No. PP08-254. (Environmental Services)
[Transportation and Environment Committee referral 12/01/08 – Item 6.1(c)]

7.2 [Award contract for the Environmental Services Building Repair Project.](#)

[Supplemental – Letter from the Water Pollution Control Plant](#)

Recommendation:

- (a) Report on bids and award of contract for the construction of the Environmental Services Building Repair Project to the lowest responsible bidder, Zolman Construction & Development, Inc., in the amount of \$3,600,000, and approval of a contingency in the amount of \$540,000.

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 Award contract for the Environmental Services Building Repair Project. (Cont'd.)

Recommendation:

- (b) Adopt a resolution authorizing the City Manager to negotiate and execute the second amendment to the agreement with Allana Buick & Bers, Inc. for professional services related to the repair and modifications of the San José/Santa Clara Water Pollution Control Plant's Environmental Services Building, modifying the scope of services and increasing the compensation by an amount not to exceed \$200,000 for a total maximum amount not to exceed \$787,495, and extending the term of the agreement by five months to December 31, 2010.

CEQA: Exempt, PP08-157. (Public Works/Environmental Services)

8. PUBLIC SAFETY SERVICES

8.1 [Independent Police Auditor's 2008 Mid-Year Report.](#)

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

Recommendation:

- (a) Accept the Independent Police Auditor's 2008 Mid-Year Report. (Independent Police Auditor)
- (b) Administration's response to the Independent Police Auditor's 2008 Mid-Year Report. (City Manager's Office/Police)

TO BE HEARD NO EARLIER THAN 2:00 P.M.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- * *See Items 8.1 "Adoption of resolutions pertaining to the Agency's FY 2008-2009 Capital Budget and Five-Year Capital Improvement Program", 8.2 "Acceptance of the Annual Report of Financial Transactions of Community Redevelopment Agencies", and 8.3 "Agreement to expand the Enterprise Zone" on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting.*

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEMS 9.1, 9.2, 9.3 AND 9.4 IN A JOINT SESSION

9.1 Guidelines for Capital Improvement Projects with Annual Operating and Maintenance (O&M) Costs in the General Fund.

Recommendation: Accept staff's proposal to implement Budget Principle #8 pertaining to Capital Improvement Projects with annual operating and maintenance costs affecting the General Fund. CEQA: Not a Project. (City Manager's Office)

- * **RECOMMEND DEFERRAL TO 1/13/09 PER ADMINISTRATION**

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 North San José Area Development Policy.

Attachment – Memo from Mayor Reed and Councilmembers Liccardo and Chu

Recommendation: Council discussion on a development policy that allows projects to move forward on an “as ready” basis for North San José Area. (Planning, Building and Code Enforcement).

* (Deferred from 12/9/08 – Item 9.1)

9.3 City Council and Redevelopment Agency Committee Appointments.

Recommendation: As referred by the Rules and Open Government Committee of December 10, 2008, approve City Council and Redevelopment Agency Committee appointments. (Mayor)

* [Rules Committee referral 12/10/08 – Item A(1)(a)(1)]

9.4 Appointment of Councilmember-Elect Rose Herrera.

Recommendation: As referred by the Rules and Open Government Committee of December 10, 2008, appoint Councilmember-elect Rose Herrera, in the event of a vacant District 8 seat, for the remainder of the term.

* [Rules Committee referral 12/10/08 – Item A(1)(a)(2)]

TO BE HEARD LAST IN THE EVENING

- **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.

Recommendation:

- (a) [Amendment on approximately 8.5 acres on the southeast corner of Montague Expressway and O’Toole Avenue \(1010-1060 Rincon Circle\)](#). Tentative approval of a General Plan amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Industrial Park to Combined Industrial/Commercial on an 8.5-acre site located on the southeast corner of Montague Expressway and O’Toole Avenue (1010-1060 Rincon Circle) (Carr NP Properties, LLC and Equity Properties Tax Group, LLC, Owner/City of San José, Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0). CEQA: Addendum to the North San José Policies Update EIR, Resolution No. 72768.
GP08-04-01 – District 4

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10. GENERAL PLAN PUBLIC HEARINGS

- 10.2 [Text amendment to add a new Land Use/Transportation Diagram designation to the text of the San José 2020 General Plan to encourage vertical mixed-use development near transit while preserving commercial employment lands in San José.](#)

Recommendation: Tentative approval of a General Plan text amendment request to add a new Land Use/Transportation Diagram designation to the text of the San José 2020 General Plan to encourage vertical mixed-use development near transit while preserving commercial employment lands in San José. No land use change affecting any specific site is identified or included in the proposed General Plan text amendment. (City of San José, Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0). CEQA: Addendum to the San José 2020 General Plan EIR, Resolution No. 65459.
GP08-T-07 – Citywide

10.3 [Amendment on 2.37 acres on the north side of Parkmoor Avenue, approximately 1,070 feet west of Meridian Avenue, in the rear lot \(1555 Parkmoor Avenue\).](#)

Recommendation: Tentative deferral to Spring 2009 of a General Plan amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Medium High Density Residential (12-25 DU/AC) to General Commercial on a 2.37-acre site located on the north side of Parkmoor Avenue, approximately 1,070 feet west of Meridian Avenue, in the rear lot (1555 Parkmoor Avenue) (Chiechi Park West III/Hope Services, Owner/City of San José Housing Department, Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommend deferral to Spring 2009 General Plan Hearing (6-0-0). CEQA: Negative Declaration. SNI: Burbank/Del Monte.
GP08-06-01 – District 6

RECOMMEND CONTINUANCE TO SPRING 2009 GENERAL PLAN HEARING PER ADMINISTRATION

10.4 [Amendment on 0.69-acre and 0.92-acre portions of a 2.98-acre parcel on the west side of San Felipe Road, 600 feet southerly of Delta Road \(4203 San Felipe Road\).](#)

[Attachment – Memo from the Vice Mayor](#)

Recommendation: Tentative approval of a General Plan amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Low Density Residential (5 DU/AC) to Office on an approximately 0.69-acre portion and Private Open Space on an approximately 0.92-acre portion of a 2.98-acre parcel located on the west side of San Felipe Road, approximately 600 feet southerly of Delta Road (4203 San Felipe Road) (Dennis Wong, Owner / Reyad Katwan, Hawkstone, LLC, Applicant). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of Office on an approximately 0.69-acre portion and Private Open Space on an approximately 0.92-acre portion of a 2.98-acre parcel (6-0-0). CEQA: Negative Declaration.

GP08-08-05 – District 8

10.5 **Approve all General Plan amendment actions on December 2, 2008 and December 16, 2008.**

Recommendation: Adopt a [resolution](#) approving all General Plan amendment actions taken on December 2 and December 16, 2008, and adoption of CEQA resolutions. (Planning, Building and Code Enforcement)

11. 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 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) Consider 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) and 11/18/08 – Item 11.1(a)]
[Supplemental – Memo from the Director of PBCE Resolution](#)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

- 11.2 [Public Hearing on Update of the Evergreen-East Hills Development Policy and proposed Evergreen-East Hills Traffic Impact Fee. The Evergreen-East Hills Development Policy area is defined as the land within San Jose's Urban Service Area Boundary, south of Story Road, east of U.S. Highway 101, and the area generally north of the intersection of U.S. Highway 101 and Hellyer Avenue, where the northern boundary of the Edenvale Development Policy Area ends. The Evergreen-East Hills Development Policy proposes to allow an additional 500 residential units, 500,000 square feet of commercial retail, and 75,000 square feet of office development in the EEHDP area, and to authorize a decreased level of service at four intersections \(Capitol Expressway and Nieman Blvd., San Felipe Rd. and Yerba Buena Ave.-North, San Felipe Rd. and Delta Rd., and Evergreen Commons and Tully Rd.\).](#)

[Attachment – Memo from Mayor Reed, Vice Mayor Cortese and Councilmembers Williams, Liccardo and Chu](#)

Recommendation: Conduct public hearing and consider approval of the following actions:

- (a) Adopt a [resolution](#), to take effect on March 15, 2009, to update the existing Evergreen Development Policy, together with all revisions thereto, and adopt an
(b) Updated Evergreen-East Hills Development Policy. [CEQA](#): Resolution to be adopted.

(Item continued on the next page)

- (b) Approve an [ordinance](#), to take effect on March 15, 2009, establishing the Evergreen-East Hills Traffic Impact Fee based on the prepared “The Evergreen-East Hills Traffic Impact Fee Study”, dated November, 2008. CEQA: Resolution to be adopted.
- (c) Approve an [ordinance](#), to take effect on March 15, 2009, rescinding Ordinance No. 24899 and Ordinance No. 25658 which established the procedures and transportation methodology for transportation analysis in the Evergreen Development Policy area. CEQA: Resolution to be adopted.

SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Council Districts 5, 7, and 8. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0). (Planning, Building and Code Enforcement)

TO BE HEARD FIRST IN THE EVENING

11.3 [Rezoning real property located at the northeast corner of North First Street and East Hedding Street.](#)

[Attachment – Memo from Councilmember Liccardo](#)

[Attachment – Staff Report](#)

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

Recommendation: Consider an [ordinance](#) rezoning the real property located at the northeast corner of North First Street and East Hedding Street (900 N. First Street) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow commercial uses and 24-hour operations for a bailbonds establishment on 0.67-gross acre site (Sarwat S. and Colette J. Fahmy, et al, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).

[PDC08-040](#) – District 3

11.4 [Rezoning real property located on the south side of East San Antonio Street.](#)

[Attachment – Staff Report](#)

Recommendation: Consider an [ordinance](#) rezoning the real property located on the south side of East San Antonio Street, approximately 950 feet east of South 24th Street (1338 E. San Antonio Street) from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 84 attached residential units on a 1.92 gross acre site (Neighborhood Housing Services Silicon Valley, Owner). SNI: Five Wounds/Brookwood Terrace. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).

[PDC08-038](#) – District 3

11.5 [ADMINISTRATIVE HEARING regarding an appeal of the Planning Commission's decision to deny a conditional use permit.](#)

[Attachment – Memo from Councilmember Constant](#)

Recommendation: Conduct an ADMINISTRATIVE HEARING and consider an appeal of the Planning Commission's decision to deny a conditional use permit and determination of public convenience or necessity to allow the off-sale of alcoholic beverages at a proposed grocery store (Fresh & Easy) located at the southeast corner of Saratoga Avenue and Payne Avenue. CEQA: Exempt. The Director of Planning, Building and Code Enforcement recommends the City Council overturn the mandatory denial by the Planning Commission and approve the subject Conditional Use Permit and make a Determination of Public Convenience or Necessity by finding that the required findings for a Determination of Public Convenience or Necessity can be made and that there is a significant overriding public benefit served by the proposed off-sale of alcohol. CP08-059 & ABC08-006 – District 1

11.6 [ADMINISTRATIVE HEARING regarding an appeal of the Planning Commission's decision to deny a conditional use permit.](#)

Recommendation: Conduct an ADMINISTRATIVE HEARING and consider an appeal of the Planning Commission's decision to deny a conditional use permit to allow the off-sale of alcohol (beer, wine and liquor) at an existing retail store within a shopping center on a 0.92 gross acre site in the CP-Commercial Pedestrian zoning district located on the northeast corner of Meridian Avenue and Branham Lane. CEQA: Exempt. The Director of Planning, Building and Code Enforcement recommends the City Council uphold the Planning Commission's decision to deny the subject Conditional Use Permit. CP08-050 – District 9

- **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> |
|--------------|---|-------------------------|---|--------------------|--|--------------------------|
| 9952 | Area generally bounded by Cottle Rd, Monterey Hwy, Highway 85 and Manasas Rd. | 2 | Hitachi Global Storage Technologies, Inc. | 13 Lots | Residential, Commercial, Industrial Park | Approve |
| 9986 | Northwest corner of Zanker Rd and East Tasman Dr. | 4 | Fairview Tasmén, LLC | 2 Lots / 704 Units | Multi-Family Attached | Approve |

- **Notice of City Engineer’s Award of Construction Projects**

- **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 Joe Scaglione, Public Works Principal Construction Inspector, a City employee of over 23 years.

**JOINT CITY OF SAN JOSÉ
CITY COUNCIL/FINANCING AUTHORITY
AGENDA**

1:30 P.M.

TUESDAY, DECEMBER 16, 2008

CHAMBERS

- 1. Call to Order**
- 2. Settlement Agreement with Green Valley Corporation.**

Recommendation: Adopt a resolution by the Financing Authority Board authorizing the City Attorney to execute a Settlement Agreement and Release with Green Valley Corporation, dba Barry Swenson Builder, for which the City will receive \$125,000.
CEQA: Not a Project. (City Attorney's Office)

- 3. Adjourn the San José Financing Authority.**

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.