



# CITY COUNCIL AGENDA

**DECEMBER 16, 2008**

## SYNOPSIS

PETE CONSTANT  
FORREST WILLIAMS  
SAM LICCARDO  
KANSEN CHU  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON P. NGUYEN  
JUDY CHIRCO  
NANCY PYLE

DAVID D CORTESE, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp). Council Meetings are televised live and rebroadcast on Channel 26.

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

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  
**Absent Council Members: None.**  
  
10:42 a.m.- RDA Board Meeting/Regular Session)  
**Absent Council Members: None.**  
  
1:30 p.m. - Reconvene, Continue Regular Session  
**Absent Council Members: None.**  
  
7:03 p.m. - General Plan Hearings/Public Hearings, Council Chambers, City Hall  
**Absent Council Members: None.**
- **Invocation (Mayor)**  
Keivan Tehrani, Director, Compassion Bridges and the Bay Area Coordinator for the National Network of Youth Ministries, provided the Invocation.
- **Pledge of Allegiance**  
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day and the Amended Agenda were approved with Ceremonial Item 1.7 added to the afternoon session.
- **Closed Session Report**  
Mayor Reed reported that Shivaun Nurre was appointed Interim Independent Police Auditor.

# 1. CEREMONIAL ITEMS

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- 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)  
**Heard in the evening.**  
**Mayor Reed and Vice Mayor Cortese recognized and commended Jim Zito for his years of commitment to the City of San José and the District 8 Community Roundtable.**
- 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)  
**Mayor Reed recognized and commended the Strong Neighborhoods Initiative for 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.**
- 1.3 Presentation of a proclamation declaring January 11, 2009 as “National Day of Human Trafficking Awareness” in the City of San José. (Police)  
**Mayor Reed and Police Chief Robert Davis recognized January 11, 2009 as “National Day of Human Trafficking Awareness” in the City of San José.**
- 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)  
**Mayor Reed and Council Member Williams recognized and commended 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.**
- 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) (Rules Committee referral 12/3/08)  
**Heard in the evening.**  
**Mayor Reed and Council Member Nguyen recognized and commended the Seven Trees Coalition for coming together to advance and advocate for important issues affecting the Seven Trees community.**
- 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)  
**The Energy Alternative Chanukah Menorah was presented to Mayor Reed and City Council on behalf of the Simon Wiesenthal Center.**

# 1. CEREMONIAL ITEMS

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- 1.7 Presentation of a commendation to Hitachi, Inc. for their presence and for providing economic vitality to the City of San José. (Mayor/Williams)  
(Orders of the Day)

**Mayor Reed and Council Member Williams recognized and commended Hitachi, Inc. for their presence in the City of San José by providing economic vitality to the community.**

## SPECIAL CEREMONIAL ITEM

Heard in the Evening.

- \* **Mayor Reed and the Council Members recognized and commended Vice Mayor Cortese and Council Member Williams for their invaluable service to the Mayor, City Council, City Staff and the citizens of the City of San José.**

**Deacon Sal Alvarez thanked Vice Mayor Cortese and Council Member Williams for their excellent service to the community.**

# 2. CONSENT CALENDAR

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## 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
- (d) Regular Minutes of September 23, 2008
- (e) Regular Minutes of September 30, 2008

**Approved.**

## 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

**Ordinance No. 28458 adopted.**

- (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.

**Ordinance No. 28460 adopted.**

## 2. CONSENT CALENDAR

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### 2.2 Final adoption of ordinances (Cont'd.)

- (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  
**Ordinance No. 28461 adopted.**
- (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.  
**Ordinance No. 28466 adopted.**
- (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  
**Ordinance No. 28467 adopted.**

### 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)

**Resolution No. 74716 adopted.**

## 2. CONSENT CALENDAR

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### 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)

**Approved.**

### 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)

**Resolution No. 74717 adopted.**

### 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)

**Resolution No. 74718 adopted.**

### 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.
- (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)

**Resolution No. 74719 adopted.**

## 2. CONSENT CALENDAR

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### 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)

**Approved.**

### 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)

**Resolution No. 74720 adopted.**

### 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 No. 74721 adopted.**

*(Continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.10 Grant application for the Guadalupe Creek Trail (Cont'd.)

- (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 No. 74722 adopted.**

- (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)

**Accepted.**

### 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)

**Resolution No. 74723 adopted.**

### 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)

**Ordinance No. 28468 adopted.**

**Resolution No. 74724 adopted.**

## 2. CONSENT CALENDAR

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### 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)

**Ordinance No. 28469 adopted.**

**Resolution No. 74725 adopted.**

### 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)

**Approved.**

### 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)

**Approved.**

### 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.

*(Continued on the next page)*

## 2. CONSENT CALENDAR

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

- (a) (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.

**Ordinance No. 28470 adopted.**

**Resolution No. 74726 adopted.**

- (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 No. 74727 adopted.**

- (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 No. 74728 adopted.**

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.
- (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)

**Resolution No. 74729 adopted.**

## 2. CONSENT CALENDAR

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### 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  
**Approved.**

- (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)

**Resolution No. 74730 adopted.**

### 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)

**Resolution No. 74731 adopted.**

### 2.20 Excused absence for Council Member Chirco.

**Recommendation:** Request for an excused absence for Council Member Chirco from the regular meeting of the Rules and Open Government Committee of December 3, 2008 due to personal business. (Chirco)

(Rules Committee referral 12/3/08)

**Excused.**

### 2.21 Actions related to Council Member Liccardo's Travel Out of State.

**Recommendation:**

- (a) Designate Council Member Liccardo as the City's representative to the Silicon Valley Leadership Group Advocacy Trip on May 4-7, 2009.
- (b) Approve travel by Council Member 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)

**Approved.**

## **2. CONSENT CALENDAR**

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### **2.22 Excused absences for Council Member Constant.**

**Recommendation:** Request for excused absences for Council Member 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)

**Excused.**

### **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)]

**Approved.**

## **3. STRATEGIC SUPPORT SERVICES**

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### **3.1 Report of the City Manager, Debra Figone (Verbal Report) No Report.**

### **3.2 Report of the Rules and Open Government Committee – December 3, 2008 Mayor Reed, Chair Accepted.**

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

### **3.4 Report of the Rules and Open Government Committee – November 12, 2008 Mayor Reed, Chair Accepted.**

### **3.5 Report of the Rules and Open Government Committee – November 19, 2008 Mayor Reed, Chair Accepted.**

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

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#### **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 111<sup>th</sup> Congress. (City Clerk)

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

**Approved, with direction to Staff to return to the Rules and Open Government Committee with priorities and talking points.**

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

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#### **4.1 Report of the Community & Economic Development Committee Council Member 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, 5<sup>th</sup> 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.
- (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, 5<sup>th</sup> 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.
- (h) Authorizing the Director of Housing to negotiate and execute a \$500,000 predevelopment loan to Charities Housing Development Corp. or its designated affiliate, for the redevelopment of the Markham Terrace site.

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

**Deferred to 1/27/09 Per Administration.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 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)

**Resolution No. 74732 adopted.**

**Noes: Oliverio.**

### 4.4 Funding commitment for site acquisition for the First and Rosemary Family Apartments Project.

**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)

**Resolution No. 74733 adopted.**

**Noes: Oliverio.**

### 4.5 Funding commitment for site acquisition for the First and Rosemary Senior Apartments Project.

**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)

**Resolution No. 74734 adopted.**

**Noes: Oliverio.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 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.

**Resolution No. 74735 adopted.**

**Noes: Oliverio.**

- (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)

**Ordinance No. 28471 adopted.**

**Resolution No. 74736 adopted.**

**Noes: Oliverio.**

### 4.7 Willow Glen Community Benefit and Improvement District Hearing and Election.

**Recommendation:**

- (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;

**The public hearing was held and ballots tabulated.**

**Approved.**

**Noes: Campos**

- (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;

**Approved.**

**Noes: Campos.**

*(Continued on the next page)*

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

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

- (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)

**Resolution No. 74747 adopted.**

**Noes: Campos.**

## **5. NEIGHBORHOOD SERVICES**

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### **5.1 Report of the Neighborhood Services and Education Committee Council Member Chirco, Chair**

**No Report.**

### **5.2 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)

**Approved.**

### **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)

**Dropped. Schedule to be considered at 1/14/09 Rules and Open Government Committee Meeting.**

## 5. NEIGHBORHOOD SERVICES

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### 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.
- (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)

**Resolution No. 74737 adopted.**

### 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)

**Approved, with direction to Staff to return to Council within 90 days.**

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 Report of the Transportation and Environment Committee – December 1, 2008 Council Member Williams, Chair

**Accepted, with the clarification that Anthony Drummond is a member of District 2.**

### 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)

**Resolution No. 74738 adopted, with Staff directed to incorporate into the policy, a 300' notice for outreach for name changes for small to intermediate projects.**

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

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### **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)

**Ordinance No. 28472 passed for publication.**

### **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)]

**Resolution No. 74739 adopted.**

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

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### **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.

(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)]

**Approved.**

**\*\* The morning Council Session was adjourned at 12:03 p.m.**

### **7.2 Award contract for the Environmental Services Building Repair Project.**

**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.

**Approved.**

*(Continued on the next page)*

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

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

- (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)

**Resolution No. 74740 adopted.**

## **8. PUBLIC SAFETY SERVICES**

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### **8.1 Independent Police Auditor's 2008 Mid-Year Report.**

**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)

**Accepted.**

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

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### **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)

**Deferred to 1/13/09 per Administration.**

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

**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)

*(Action continued on the next page)*

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

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### **9.2 North San José Area Development Policy (Cont'd.)**

The memorandum from Mayor Reed and Council Members Liccardo and Chu, dated December 12, 2008 was approved, including the following:

- (1) Accept the Staff recommendation solely as to paragraphs (b) and (c) in the December 5, 2008 memorandum.
- (2) Direct City Attorney to work with the administration to draft an “Economic Emergency Amendment” to the North San José Area Development Policy to:
  - (a) Allow for the reservation of a maximum of 500 additional residential units, in the aggregate, within Phase I for any project(s) that meet all of the following criteria:
    - (1) Has a Planned Development Permit application on file as of the effective date of the amendment.
    - (2) Meets the objectives of the North San José Area Development Policy for site and building design, based on the existing scoring system.
    - (3) Agrees to adhere to the joint agreement between the City and the Santa Clara Unified School District regarding school impacts fees for projects within the boundaries of the Santa Clara Unified School District.
    - (4) Has demonstrated to the Administration a readiness and ability to proceed with the project by virtue of obtaining necessary financing commitments.
  - (b) Maintain the current residential cap of 8,000 units that receive Building Permits in Phase I.
  - (c) Expire on July 1, 2009.
- (3) Direct Staff to return in Spring 2009 with a strategy establishing priorities for redistribution of Phase I units of expired permits.

Noes: Oliverio.

### **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)]

**Approved.**

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

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### **9.4 Appointment of Council Member-Elect Rose Herrera.**

**Recommendation:** As referred by the Rules and Open Government Committee of December 10, 2008, appoint Council Member-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)]

**Heard last in the Evening.**

**Approved.**

- **Open Forum**  
David Wall and Ross Signorino congratulated and commended Vice Mayor Cortese and Council Member Williams for their years of dedicated service.
  
- **Adjournment**  
The Council of the City of San José adjourned the afternoon session at 3:11 p.m.

## **10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR**

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### **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

**Staff/Planning recommendation was tentatively approved.**

**END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR**

## 10. GENERAL PLAN PUBLIC HEARINGS

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- 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

**Staff/Planning recommendation was tentatively approved.**

- 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

**Continued to the 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).**

**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

**The memorandum from Vice Mayor Cortese, dated December 11, 2008, approving the Staff/Planning recommendation, was tentatively approved.**

## 10. GENERAL PLAN PUBLIC HEARINGS

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- 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)

**Resolution No. 74743 adopted.**

**END OF GENERAL PLAN PUBLIC HEARINGS`**

## 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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- 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)]

**Resolution No. 74744 adopted.**

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## 11. PUBLIC HEARINGS

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- 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.**

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

- (a) Adopt a resolution, to take effect *immediately*, to update the existing Evergreen Development Policy, together with all revisions thereto, and adopt an Updated Evergreen-East Hills Development Policy. CEQA: Resolution to be adopted.  
**The public hearing was held.  
Resolution No. 74741 adopted.**
- (b) Approve an ordinance 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.  
**Ordinance No. 28473 passed for publication, amending Title 14 of the San José Municipal Code, Chapter 14.33.**
- (c) Approve an ordinance 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.  
**Ordinance No. 28474 passed for publication.  
CEQA Resolution No. 74742 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)

**The memorandum from Mayor Reed, Vice Mayor Cortese and Council Members Williams, Liccardo and Chu, dated December 10, 2008, was approved, as amended:**

- (1) **Approving Staff recommendations for the ordinances establishing the Evergreen-East Hills Traffic Impact Fee based on the prepared "The Evergreen-East Hills Traffic Impact Fee Study", dated November, 2008 and rescinding Ordinance No. 24899 and Ordinance No. 25658 which established the procedures and transportation methodology for transportation analysis in the Evergreen Development Policy area.**

*(Action continued on the next page)*

## 11. PUBLIC HEARINGS

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### 11.2 Public Hearing on Update of the Evergreen-East Hills Development Policy and proposed Evergreen-East Hills Traffic Impact Fee (Cont'd.)

- (2) Approve Staff recommendations to adopt a resolution to take effect *immediately*, to update the existing Evergreen Development Policy, together with all revisions thereto and to adopt an Updated Evergreen-East Hills Development Policy, with the following modifications:
  - (a) Eliminate the provision of affordable housing as one of the criteria for qualifying for “large project” status on the operative date of the City of San José’s inclusionary housing policy, or in any redevelopment area.
  - (b) Reinforce that development proposals for projects located inside redevelopment areas will continue to remain subject to the Redevelopment Agency’s requirements for affordable housing development and therefore will not be considered for large project status on the basis of incorporation of affordability.
  - (c) Stipulate that projects falling under the “Other Land Uses” (pages 15-16 of the Policy) category of any proposed capacity are encouraged to apply so long as they meet at least one of the two criteria below:
    - (1) They do not exceed the trip generation equivalency of a residential project of 35 units or less.
    - (2) They would otherwise qualify for large project status based on the criteria identified in the development policy and modified herein.
  - (d) As to the prioritization process identified by Staff (pages 28-29 of Policy) to be utilized in the event there is more demand for residential development in the policy area than the 500 residential pool allows for, make the following modifications:
    - (1) Add the following sentence to “Implementation Goals”: “In no case shall the total number of units distributed by application of these goals exceed the overall cap of 500 units established in this amendment”.
    - (2) Modify definition of “Community Services” to include both existing and future services, including those approved via City Council action such as found in masterplans, specific plans and SNI plans.
    - (3) Modify definition of “Mass Transit” to include “proximity to bus routes with frequent headway”.
  - (e) Add a statement about school impact that strongly encourages project applicants to talk with affected school districts during the review and processing of their applications by the City to ensure such parties are aware of pending development.
- (3) Direct the Administration to promptly consider and process pending applications. Such processing in no way constitutes project approval or any amount of allocations from the pool.
- (4) Staff to return to Council with an implementation update in one year.

## 11. PUBLIC HEARINGS

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

**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

**Memorandum from Council Member Liccardo, dated December 15, 2008, was approved, with the following conditions:**

- (1) **Rezoning shall not include 24 hour use and shall be closed between the hours of midnight and 6:00 a.m.**
- (2) **The driveway providing ingress/egress to Second Street shall be closed, to both automobiles and pedestrians and landscaped. Should the requirement for construction of any barrier and landscaping unduly delay the occupancy and operation of the business, the applicant shall conform to a construction schedule established by the City Manager, such that the construction of the barrier shall be complete by no later than May 1, 2009.**
- (3) **City Manager directed to submit a workload assessment to the Rules & Open Government Committee to determine whether zoning changes might better regulate bail bond businesses in the future.**

**Ordinance No. 28475 passed for publication.**

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

**Recommendation:** Consider an ordinance rezoning the real property located on the south side of East San Antonio Street, approximately 950 feet east of South 24<sup>th</sup> 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

**Ordinance No. 28476 passed for publication, with additional parking available for bikes and to enhance the bike parking to two spaces for every four units.**

**Noes: Oliverio.**

## 11. PUBLIC HEARINGS

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### 11.5 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 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

**Resolution No. 74745 adopted to overturn the Planning Commission decision of denial and Conditional Use Permit was approved.**

### 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

**Resolution No. 74746 adopted to uphold the Planning Commission decision to deny Conditional Use Permit.**

- **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**  
None.

- **Open Forum**  
There were none presented.

- **Adjournment**  
The Council of the City of San José was adjourned at 10:30 p.m. 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**

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**1. Call to Order  
3:06 p.m.**

**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)  
**SJFA Resolution No. 90 adopted.**

**3. Adjourn the San José Financing Authority.  
The meeting was adjourned at 3:07 p.m.**

## **8. JOINT REDEVELOPMENT AGENCY ITEMS**

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**The Joint Redevelopment Agency Board convened at 10:54 a.m. to consider Items 8.1, 8.2, 8.3 and 8.4 in a Joint Session.**

### **8.1 Adoption of resolutions pertaining to the Agency's FY 2008-2009 Capital Budget and Two-Year Spending Plan.**

**Recommendations:** Adoption of resolutions by the City Council and Agency Board pertaining to the Agency's annual budgets and public improvements as follows:

- (a) Adoption of resolutions by the Redevelopment Agency Board:
  - (1) Amending the FY 2008-2009 Appropriations Resolution and Revenue Resolution to reflect various modifications to the FY 2008-2009 Revenue, Capital Budget; and,
  - (2) Adopting a Two-Year Spending Plan ending FY 2009-2010.

**Redevelopment Agency Resolution Nos. 5878 and 5879 adopted.**

- (b) Adoption of a resolution by the City Council making certain determinations regarding the expenditure of Agency funds on public improvements in the FY 2008-09 Capital Budget.

**Resolution No. 74714 adopted.**

### **8.2 Acceptance of the Annual Report of Financial Transactions of Community Redevelopment Agencies.**

**Recommendation:** Acceptance by the City Council and Agency Board of the Annual Report of Financial Transactions of community redevelopment agencies for FY 2007-08 for the purpose of forwarding the annual report to the State Controller, in accordance with Community Redevelopment Law, Section 33080.1.

**Accepted.**

### **8.3 Approval of amendments to Cooperation Agreements for the loan of Agency employees to the City.**

**Recommendation:** City Council and Redevelopment Agency Board approval of:

- (a) The second amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San Jose, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Senior Policy Advisor, Economic Development and Land Use by one year; and,
- (b) The second amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San Jose, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Schedule Coordinator by one year.

CEQA: Not a Project.

**Approved.**

## **8. JOINT REDEVELOPMENT AGENCY ITEMS**

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### **8.4 Actions related to a Cooperation Agreement between the City and Redevelopment Agency leading to expansion of the current Enterprise Zone.**

**Recommendations:** It is recommended that:

- (a) The City Council adopt a resolution authorizing the City Manager to negotiate and execute a Cooperation Agreement with the Redevelopment Agency, allowing the Executive Director of the Agency to complete and submit an application to the State Housing and Community Development Department to expand the current Enterprise Zone and authorizing the Redevelopment Agency to administer the Enterprise Zone on behalf of the City.

**Resolution No. 74715 adopted.**

- (b) The Redevelopment Agency Board adopt a resolution authorizing the Executive Director to negotiate and execute a Cooperation Agreement with the City of San Jose, allowing the Redevelopment Agency to complete and submit an application to the State Housing and Community Development Department and to administer the Enterprise Zone on behalf of the City, and making certain findings required by redevelopment law.

CEQA: [MERGED]

**Redevelopment Agency Resolution No. 5882 adopted.**

**The Council of the City of San José and Redevelopment Agency Board was adjourned at 10:56 a.m.**