



CITY COUNCIL AGENDA

MARCH 17, 2009

SYNOPSIS

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
ROSE HERRERA
JUDY CHIRCO, VICE MAYOR
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

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

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

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

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

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

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

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

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

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

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

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

- **Call to Order and Roll Call**
 - 9:30 a.m.** - Closed Session, Call to Order in Council Chambers
Absent Council Members: Chirco, Chu, Constant, Kalra. (Excused)
 - 1:32 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: Chu, Constant, Kalra. (Excused)
 - 7:00 p.m.** - Public Hearings, Council Chambers, City Hall
Absent Council Members: Chu, Constant, Kalra. (Excused)
- **Invocation (District 3)**
San José Taiko, Japanese-American Drumming and Rhythm Artists, performed a traditional Japanese composition in honor of St. Patrick's Day.
- **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 Items 3.2 and 3.3 deferred to 3/24/09.

- **Closed Session Report**
City Attorney Doyle disclosed the following Closed Session actions of March 17, 2009:

A. Authority to Seek Review by the California Supreme Court in a Litigation Case:

Case Name: County of Santa Clara, et al. v. The Superior Court of Santa Clara County and Janice Naymark, et al, Real Parties in Interest

Adverse Party or Parties: County of Santa Clara, et al.

Substance of Litigation: Plaintiffs seeking injunctive relief regarding alleged California Public Records Act violations

Council Vote: Ayes: Campos, Herrera, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Noes: None.
Disqualified: None.
Absent: Chirco, Chu, Constant, Kalra. (Excused)
Vacant: None.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to Central Concrete and Supply Company for over 60 years of service in San José and their commitment to green technology. (Mayor/Liccardo/Economic Development)
Mayor Reed and Council Member Liccardo recognized and commended the Central Concrete and Supply Company for its 60 years of service in the City of San José and for their commitment to green technology.
- 1.2** Presentation of a commendation to the American Legion in recognition of the Legion’s 90 years of services to veterans. (Mayor)
Heard in the evening.
Mayor Reed and Council Member Herrera, who is also a Veteran, recognized and commended the American Legion in acknowledgment of their 90 years of services to Veterans.
- 1.3** Presentation of a proclamation declaring the month of March 2009 as “Women’s History Month” in the City of San José. (Herrera/Campos/Chirco/Pyle)
(Rules Committee referral 3/11/09)
Mayor Reed, Vice Mayor Chirco and Council Members Herrera, Campos and Pyle recognized the month of March 2009 as “Women’s History Month” in the City of San José.

1. CEREMONIAL ITEMS

- 1.4 Presentation of proclamation declaring March 18, 2009 as “Silicon Valley Science and Engineering Fair Day” in the City of San José to highlight the importance studies in both science and engineering are to improving the future of San José and Santa Clara County.
(Pyle)
(Rules Committee referral 3/11/09)
Mayor Reed, Council Member Pyle and former Council Member Williams recognized March 18, 2009 as “Silicon Valley Science and Engineering Fair Day” in the City of San José.
- 1.5 Presentation of a Proclamation declaring the week of March 22-28, 2009, as “Disaster Service Workers Week” in the City of San José. (Mayor)
(Rules Committee Referral 3/11/09)
Mayor Reed and Director of Office of Emergency Services Kimberly Shunk acknowledged the week of March 22 through March 28, 2009 as “Disaster Service Workers Week” in the City of San José.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of December 2, 2008.
- (b) Three Year General Fund Deficit Elimination Plan Study Session Minutes of December 5, 2008.
- (c) Regular Minutes of December 9, 2008.
- (d) Regular Minutes of December 16, 2008.
- (e) Joint Council/San José Financing Authority Minutes of December 16, 2008.

Approved.

2.2 Final adoption of ordinances.

There were none.

2.3 Lease of Airport premises with JetBlue Airways.

Recommendation:

- (a) Adopt a resolution authorizing the Director of Aviation to negotiate and execute a lease of Airport premises with JetBlue Airways for terminal space at Mineta San José International Airport (“Airport”) on a month-to-month term, effective August 1, 2008 through June 30, 2012, at a space rental rate calculated pursuant to the terms of the signatory airline lease and operating agreement and subject to the twenty-five percent (25%) premium on all non-signatory airline rates and charges as provided in the signatory airline lease and operating agreement, with annual income to the City of \$333,360.84.

Resolution No. 74832 adopted.

2. CONSENT CALENDAR

2.3 Lease of Airport premises with JetBlue Airways (Cont'd.)

- (b) Adopt a resolution authorizing the Director of Aviation to negotiate and execute future leases for terminal space with non-signatory airlines operating at the Airport, at a space rental rate calculated pursuant to the terms of the signatory airline lease and operating agreement and subject to the twenty-five percent (25%) premium on all non-signatory airline rates and charges as provided in the signatory airline lease and operating agreement.

CEQA: Resolution Nos. 67380 and 71451, PP 09-017. (Airport)

Resolution No. 74833 adopted.

2.4 Initiate Proceedings for Annexations/Reorganizations.

Recommendation:

- (a) Adopt a resolution initiating proceedings and setting a public hearing on April 7, 2009 at 7:00 p.m. for the reorganization/annexation of territory designated as Berryessa No. 68 which involves the annexation to the City of San José of an approximately 15.3 gross acre County Pocket consisting of 2 parcels on the southwest corner of Capitol Avenue and Hostetter Road, implementation of the annexation would result in the detachment of properties within the annexation area from West Valley Sanitation, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. (Bianchi, Clara Trustee; Santa Clara Valley Transit Authority, owners). CEQA: Resolution No. 65459. Council District 4.

Dropped per Administration.

- (b) Adopt a resolution initiating proceedings and setting a public hearing on April 7, 2009 at 7:00 p.m. for the reorganization/annexation of territory designated as Story No. 61, which involves the annexation to the City of San José of 3.21 gross acres of land located at the north side of Story Road, 780 feet westerly of Machado Lane, and the detachment of the same from the appropriate special districts including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 5.

(Planning, Building and Code Enforcement)

Resolution No. 74834 adopted.

2.5 Installation of Bike Lanes and Route Signage on Bird Avenue.

Recommendation: Adopt a resolution repealing Resolution No. 74995 and authorizing the installation of bike lanes and bike route signage on Bird Avenue from Virginia Street to Malone Road. CEQA: Exempt, File No. PP08-293. Council District 6. SNI: Greater Gardner. (Transportation)

Resolution No. 74835 adopted.

2. CONSENT CALENDAR

2.6 Curb Ramp Improvements in Low-to-Moderate Income Areas Project.

Recommendation: Report on bids and award of contract for the 2008-09 Curb Ramp Improvements in Low-to-Moderate Income Areas Project to the low bidder, Robert A. Bothman Inc., in the amount of \$658,257, and approval of a contingency in the amount of \$65,826. CEQA: Exempt, File No. PP08-186. Council Districts 3, 5 and 6. SNI: East Valley 680, Mayfair, Delmas Park, Spartan/Keyes, Five Wounds/Brookwood Terrace, Washington, Gateway East, Burbank/Del Monte and 13th Street. (Transportation)

Approved.

2.7 Actions Related to Mayor Reed's Travel to Boston, MA.

Recommendation:

(a) Approve travel by Mayor Reed to Boston, MA on October 21-23, 2009 to attend the San José/Silicon Valley Chamber of Commerce City-to-City Trip. Source of Funds: Mayor & Council Travel Fund.

Approved.

(b) Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on October 21, 2009 due to Authorized City Business: 2009 San José/Silicon Valley Chamber of Commerce Annual City-to-City Trip in Boston, MA.

(Mayor)

(Rules Committee referral 3/04/09)

Excused.

2.8 Excused Absence for Vice Mayor Chirco.

Recommendation: Request for an excused absence for Vice Mayor Chirco from the Closed Session and Regular City Council Meeting on March 10, 2009 due to illness.

(Chirco)

(Rules Committee referral 3/11/09)

Excused.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone announced that Collin O'Mara, Clean Tech Strategist and a key member of the Green Vision Team, has accepted the nomination of Secretary of Natural Resources and Environmental Control in the State of Delaware; and noted that he will be leaving the City of San José in mid April.

3. STRATEGIC SUPPORT SERVICES

- 3.2 Report of the Rules and Open Government Committee – February 18, 2009**
Mayor Reed, Chair

Deferred to 3/24/09 per Orders of the Day.

- 3.3 Report of the Rules and Open Government Committee – February 25, 2009**
Mayor Reed, Chair

Deferred to 3/24/09 per Orders of the Day.

- 3.4 Report of the Public Safety, Finance and Strategic Support Committee**
Council Member Nguyen, Chair

No Report.

- 3.5 SB 26 (Simitian), Home-Generated Pharmaceutical Waste.**

Recommendation: As recommended by the Rules and Open Government Committee on March 11, 2009, adopt a position of support for SB 26 (Simitian), Home-Generated Pharmaceutical Waste. (Environmental Services)

[Rules Committee referral 3/11/09 – Item 6.1(b)]

Position of support adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Report of the Community & Economic Development Committee**
Council Member Pyle, Chair

No Report.

- 4.2 Tree Removal Permit Process and Fee Analysis for Cost Recovery Model.**

Recommendation: Planning Staff recommends that the City Council direct the Administration to develop and bring back to City Council for consideration:

- (a) Amendments to Title 13 of the Municipal Code to streamline the Tree Removal Process for trees located on single-family and duplex private properties.
- (b) Amendments to City Council Policy 6-30; Public Outreach, relating to Tree Removal Permits.
- (b) A fee to recover the Administration's costs associated with administering that streamlined tree removal process.

CEQA: Not a Project. (Planning, Building and Code Enforcement)

Deferred to 3/24/09 per Administration.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Annual Progress Report on Housing Element.

Recommendation: Accept the Annual Progress Report on the Implementation of the San José 2020 General Plan Housing Element covering the period from January 2008 through December 2008. CEQA: Not a Project. (Planning, Building and Code Enforcement/Housing)

Accepted.

4.4 Funding commitment for the San Carlos Bowl Seniors Project.

Recommendation: Adopt a resolution to:

- (a) Approve a request for early disbursement of \$603,435 of the existing funding commitment to San Carlos Willard Associates, L.P., or its designated affiliate, to finance the shared offsite development costs for the 100-unit San Carlos Bowl Seniors rental project located at 1523-1533 West San Carlos Street.
- (b) Authorize the Director of Housing to negotiate and execute all documents to effectuate this early disbursement.

CEQA: Exempt, PD04-103. Council District 6. SNI: Burbank/Del Monte. (Housing)
(Deferred from 3/3/09 – Item 2.3 and 3/10/09 – Item 4.6)

Resolution No. 74836 adopted.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee Council Member Campos, Chair

No Report.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – March 2, 2009 Council Member Liccardo, Chair

Accepted.

6. TRANSPORTATION & AVIATION SERVICES

6.2 Street Landscape Maintenance Program.

Recommendation: As recommended by the Transportation and Environment Committee on March 2, 2009:

- (a) Reconfirm the policy that only Type 1 landscaping be installed on City streets unless an alternate funding source has been identified for maintenance.
- (b) Direct Administration to consider as part of FY 2009-2010 Proposed Budget the funding needed to explore and develop alternate landscape maintenance funding sources.

(Transportation)

[Transportation and Environment Committee referral 3/2/09 – Item 6.1(3)(4)]

Approved.

6.3 Airport Ground Transportation Program and Fee Adjustments.

Recommendation: As recommended by the Transportation and Environment Committee on March 2, 2009:

- (a) Adopt a resolution:
 - (1) Revising Ground Transportation administrative fees and charges for trips to and from the Airport to be effective on May 1, 2009.
 - (2) Readopting all other Airport Rates and Charges.
 - (3) Repealing Resolution No. 74655.
- (b) Direct the City Attorney's Office to draft an ordinance to grant the Director of Aviation the authority to stop accepting applications for door-to-door shuttles for providing On-Demand service at the Airport and to establish and implement controls on the access, staging and quantity of door-to-door shuttle vehicles serving the Airport, including alternate day or reduced day access options.

CEQA: Resolution Nos. 67380 and 71451, File No. PP09-009. (Airport)

[Transportation and Environment Committee referral 3/2/09 – Item 6.1(3)(6)]

Deferred to 3/24/09 per Administration.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Flood Hazard Ordinance Revision.

Recommendation: Approve an ordinance of the City of San José amending Chapter 17.08 of Title 17 of the San José Municipal Code to adopt floodplain management regulations that meet the provisions of Paragraphs 60.3(d) and 60.3(e) of the National Flood Insurance Program regulations, and adopt floodplain management regulations and terminology required by an audit by the State of California Department of Water Resources. CEQA: Exempt; File No. PP09-020. (Public Works)

Ordinance No. 28512 passed for publication.

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 Commercial Solid Waste System Redesign.

Recommendation: For Council consideration as discussed by the Transportation and Environment Committee on March 2, 2009:

- (a) Approve development of a Request for Proposals to solicit and award an exclusive franchisee to collect and process commercial solid waste, recyclables and organic materials for each of the two service districts for an initial term of ten years with two options to extend the term, the first for three years and the second for two years for a total of five years.
- (b) Include living wage and employee retention requirements in the Request for Proposals.
- (c) Direction to amend the City's Living Wage Policy to include exclusive commercial solid waste franchise services.

CEQA: Exempt, File No. PP08-247. (Environmental Services)

[Transportation and Environment Committee referral 3/2/09 – Item 6.1(3)(3)]

Deferred to 3/24/09 per District 4.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Council/Redevelopment Agency Board convened at 2:37 p.m. to consider Item 9.1 in a Joint Session.

9.1 FY2009-2010 Mayor's March Budget Message.

Recommendation: Review and discuss the FY 2009-2010 Mayor's March Budget Message. (Mayor)

The City Attorney agreed to provide an information memorandum outlining remedies available to the City to ensure homes in foreclosure are adequately maintained.

The City Manager agreed to provide information memoranda regarding:

- (1) **Fleet fuel efficiencies, as compared to other cities.**
- (2) **Business incubator statistics.**
- (3) **Staff efforts and programs to address the issue of home foreclosures.**

Action continued to 3/24/09.

The Joint Council/Redevelopment Agency Board was adjourned at 3:35 p.m.

- **Open Forum**
 - (1) **Former Council Member Forrest Williams invited the Mayor and City Council to the Silicon Valley Science and Technology Championship, Wednesday, March 18, 2009, South Hall, San José Convention Center.**
 - (2) **Bill James, (JPods), submitted information about applying performance standards to power generation and transportation infrastructure aka “personal rapid transit” networks.**
 - (3) **Ross Signorino wished the Mayor and City Council “Happy St. Patrick’s Day.”**

- **Adjournment**

The Council of the City of San José adjourned the afternoon session at 3:39 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Hearing at this time

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located on the northeast corner of Coleman Avenue and Taylor Street (702 Coleman Avenue) from R-2 Two Family Residence Zoning District and R-M Multiple Residence Zoning District to LI Light Industrial Zoning District to allow industrial use on a 1.01 gross acre site (Taylor Coleman Props LLC, Owner). CEQA: Resolution No. 65459. C09-001 – District 3

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Continued to 4/7/09 per Administration.

- (b) Consideration of an ordinance rezoning the real property located at the southeast corner of Morrill Avenue and Landess Avenue (2148 Morrill Avenue, 3102 Landess Avenue) from CO Commercial Office Zoning District on 0.8 acres (APN: 092-20-139) and R-2 Two Family Residence Zoning District on 0.16 acres (APN: 092-20-008) to CP Commercial Pedestrian Zoning District to allow commercial uses on a 0.96 gross acre site (Klifo Family Invs LLC, Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. C07-084 – District 4

Ordinance No. 28513 passed for publication.

- (c) Consideration of an ordinance rezoning the real property located at the southeast corner of the intersection of The Alameda and Bush Street (746 The Alameda) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow 2,800 square feet of commercial uses and up to eight residential units in a mixed-use development or, as an interim use, commercial uses in an existing 7,568 square foot building on a 0.24 gross acre site (746 The Alameda LLC, Owner). CEQA: Addendum to a Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). PDC08-062 – District 6

Ordinance No. 28514 passed for publication.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

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

- (d) Consideration of an ordinance of the City of San José rezoning the real property located at/on the north side of Camden Avenue, approximately 300 feet east of Paso Los Cerritos (APN: 575-16-053) from R-1-5 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 8 single-family residences on a 3.68 gross acre site (Corte De Rosa Homes LLC, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval with recommendation to work with applicant at the Planned Development permit stage to minimize cross slope grading for new roadway (7-0-0).
PDC07-078 – District 10

Ordinance No. 28515 passed for publication.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Administrative Hearing regarding an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity.

Recommendation: Conduct an Administrative Hearing and consider an appeal of the Planning Commission's decision to deny, as mandated by the Municipal Code, a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol at a new 2,379 square foot retailer/convenience store on a 0.53 gross acre site in the CP Commercial Pedestrian Zoning District, located on the southeast corner of North King Road and Maybury Road (788 North King Road) (Rosado, Leticia C. and Carmelo G., Owner). CEQA: Exempt. The Planning Commission recommends denial (4-1-1; Platten opposed; Zito absent), as mandated by the Municipal Code. 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 at the location.

CP08-035 & ABC08-006 - District 3

(Continued from 2/24/09 – Item 11.2)

Continued to 4/7/09 per District 3.

11.3 Rezoning real property located on the east side of South 10th Street.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the east side of S. 10th Street approximately 90 feet north of Margaret Street (684 S 10th Street) from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow three single-family detached residences on a 0.2 gross acre site (Rodriguez, Maritza, Owner). SNI: University. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval with recommendation for staff to work with applicant at the Planned Development permit stage to improve the site layout (4-2-1; Cahan & Jensen Opposed; Platten Absent).

PDC07-094 – District 3

Continued to 4/7/09 per District 3.

11. PUBLIC HEARINGS

11.4 Rezoning real property located on the west side of North 11th Street.

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of North 11th Street approximately 300 feet north of East Santa Clara Street (55 N 11th Street) from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District for a renovation and addition to (also relocation on-site for) an existing single-family residence, listed as a Structure of Merit on the Historic Resources Inventory, and construction of three (3) single-family attached residential units on a 0.19 gross acre site. SNI: 13th Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval for up to 3 units (existing plus 2 additional units) to provide more opportunity for parking on-site (6-0-1; Platten absent).

PDC08-005 – District 3

Continued to 3/24/09 in the afternoon per District 3.

11.5 Rezoning real property located on the north side of Michigan Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the north side of Michigan Avenue, approximately 350 feet easterly of North 1st Street (APN 015-05-082) from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District to allow up to 4 single family detached residences on a 0.48 gross acre site. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval with 1) no interior partitions in garage ground level; 2) and suggestion of working to reduce building foot print at planned development permit stage, and incorporate green building principles and native plantings; 3) and suggestion for city to review flood policy in Alviso to take into account potential effects of climate change (6-0-1; Platten absent).

PDC06-018 – District 4

Continued to 3/24/09 in the afternoon per Rules & Open Government Committee.

11.6 Rezoning real property located on the southwest corner of Hostetter Road and Frost Drive.

Recommendation: Consideration of an ordinance rezoning the real property located on the southwest corner of Hostetter Road and Frost Drive (1728 Hostetter Road) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow the addition of a 400 square foot outdoor uncovered patio to an existing retail commercial building on a 0.63 gross-acre site (Frost LLC, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval with recommendations at the Planned Development permit stage to address landscape treatment/shrub border, trash receptacles with lids, signage regarding parking on street, and facilitate department of transportation review for possible permit parking on Frost Avenue (7-0-0).

PDC08-022 – District 4

Continued to 3/24/09 in the afternoon per Rules & Open Government Committee.

11. PUBLIC HEARINGS

11.7 Rezoning real property located at the west terminus of Fleming Avenue and Nob Hill Drive.

Recommendation: Consideration of an ordinance rezoning the real property located at the west terminus of Fleming Avenue and Nob Hill Drive from Unincorporated County to A(PD) Planned Development Zoning District to allow up to 6 single-family detached residences on a 1.25 gross acre site (Constructive Investments, Owner). CEQA: Mitigated Negative Declaration.

PDC06-007 – District 5

Dropped per Administration.

11.8 Rezoning real property located on the northeast corner of Juliet Park Drive and Rosemar Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the northeast corner of Juliet Park Drive and Rosemar Avenue (Tract 8735) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 17 single-family detached residences on a 26.4 gross acre site (Rosemar Enterprises Corp, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-0; Jensen opposed).

PDC06-063 – District 5

(Continued from 1/27/09 – Item 11.3, 2/10/09 – Item 11.2, and 3/10/09 – Item 4.2)

The memorandum from Council Member Campos, dated March 16, 2009, and the Staff supplemental conditions were approved, as follows:

- (1) **Approve the proposed Conventional Planned Rezoning to allow up to 13 single family detached residences on a 26.4 acre site. The development of each of these units is subject to a Planned Development Permit Amendment for each lot, which would be reviewed in detail against the General Plan Hillside Development Policies, Single Family Design Guidelines and Residential Design Guidelines and approved by the Planning Director.**
- (2) **Prior to the issuance of a Public Works clearance, the developer shall deposit funds with the City to be used for adding shoulder striping and a center line stripe on Rosemar Avenue. Funding may also be used to conduct outreach with the property owners fronting on Rosemar Avenue subject to the striping work.**
- (3) **Prior to the issuance of a grading permit, the developer shall have surveyed property owners on both sides of Rosemar Avenue between Fleming Avenue and Juliet Park Drive of interest in constructing additional paved areas located in the public right of way. The new paved areas would not be allowed where it required removal of trees, or any part of retaining walls, fences or irrigation systems. The developer would construct at the time of similar on-site work improvements.**

(Action continued on the next page)

11. PUBLIC HEARINGS

11.8 Rezoning real property located on the northeast corner of Juliet Park Drive and Rosemar Avenue (Cont'd.)

- (4) Development of any proposed lot with a single level houses shall only occur on the existing pad areas. Lots proposed on areas with grades in excess of 5% shall be developed as natural lots. Houses on such lots shall be processed individually through a Planned Development Permit Amendment. Such lots are allowed a single two car wide driveway and a two car garage. The house plans shall be designed to follow the existing slope of the land. Retaining walls shall not exceed 5 feet when located behind the building and 3 feet when located on the street side of the building or on the side of the building. Pony walls of up to 4 feet are allowed on the exterior of the building.

Ordinance No. 28516 passed for publication, as amended.

- 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>
9974	E/S of Radio Ave, 160' N of Lincoln Ct	6	Radio Homes, LLC	15 Lots/ 14 Units	SFAD	Approve

- Notice of City Engineer's Award of Construction Projects

None.

- Open Forum

- (1) Javier Prieto Velez pointed out that homeless people are living under the bridge at Capitol Expressway and Monterey Road. The speaker was referred to the City Manager.

- Adjournment

The Council of the City of San José was adjourned at 7:24 p.m.