



CITY COUNCIL AGENDA

APRIL 7, 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**
9:02 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Chirco. (Excused)

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Chirco. (Excused)

7:09 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Chirco. (Excused)

- **Invocation (District 4)**
Vice Abbot Jian Ling of the Chung Tai Zen Center provided the Invocation.

- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance accompanied by students from Village Elementary School of Campbell.

- **Orders of the Day**
The Orders of the Day and the Amended Agenda were Approved, with Item 11.3 deferred to 4/21/09 at the request of Council Member Liccardo.

- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation to the Early Care and Family Literacy Department of the San José Library declaring the month of April as “Month of the Young Child” in the City of San José. (Chirco)
Mayor Reed and Vice Mayor Chirco commended the Early Care and Family Literacy Department of the San José Library and recognized the month of April as “Month of the Young Child” in the City of San José.
- 1.2 Presentation of a commendation to Yennie Shyu for winning the Lions International Peace Poster Contest. (Chu)
Heard in the Evening.
Mayor Reed and Council Member Chu recognized and commended Yennie Shyu for winning the Lions International Peace Poster Contest.
- 1.3 Presentation of a commendation to the recipients of the Keep San José Beautiful Steering Committee “Community Improvement Awards” in recognition for their commitment to volunteer their time to beautify a property in San José. (Nguyen)
Heard in the Evening.
Mayor Reed and Council Member Nguyen recognized and commended the recipients of the Keep San José Beautiful Steering Committee “Community Improvement Awards” in recognition for their commitment to volunteer their time to beautify a property in San José.
- 1.4 Presentation of a commendation to Mark Tran for winning the “Audience Choice Awards” at the 19th Annual San José Cinequest Film Festival. (Kalra/Nguyen) (Rules Committee referral 4/1/09)
Mayor Reed and Council Members Kalra and Nguyen recognized and commended Mark Tran for winning the “Audience Choice Awards” at the 19th Annual San José Cinequest Film Festival.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of February 3, 2009.
- (b) Regular Minutes of February 10, 2009.
- (c) Special Closed Session Minutes of February 17, 2009.
- (d) Regular Minutes of February 24, 2009.

Approved.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28512 – Amending Chapter 17.08 of Title 17 of the San José Municipal Code to update the City’s Special Flood Hazard Regulations.
Ordinance No. 28512 adopted.

- (b) ORD. NO. 28513 – Rezoning certain real property situated on the southeast corner of Morrill Avenue and Landess Avenue (2148 Morrill Avenue, 3102 Landess Avenue) to CP Commercial Pedestrian Zoning District. C07-084
Ordinance No. 28513 adopted.

- (c) ORD. NO. 28514 – Rezoning certain real property situated on the southeast corner of the intersection of The Alameda and Bush Street (746 The Alameda) to A(PD) Planned Development Zoning District. PDC08-062
Ordinance No. 28514 adopted.

- (d) ORD. NO. 28515 – Rezoning certain real property situated on the north side of Camden Avenue approximately 300 feet east of Paso Los Cerritos (APN: 57-16-053) from the R-1-5 Single Family Residence Zoning District to the A(PD)
Ordinance No. 28515 adopted.

- (e) ORD. NO. 28516 – Rezoning certain real property situated on the west side of Rosemar Avenue, north of Juliet Park Drive to A(PD) Planned Development Zoning District. PDC06-063
Ordinance No. 28516 adopted.

- (f) ORD. NO. 28517 – Amending Title 16 of the San José Municipal Code, Gaming Control Regulatory Program, to clarify and enhance the scope, terms, conditions, and procedures of regulations of cardrooms and funding sources, and to make technical changes to the title.
Ordinance No. 28517 adopted.

- (g) ORD. NO. 28518 – Rezoning certain real property situated at the west side of North Eleventh Street approximately 300 feet north of East Santa Clara Street (55 N. 11th Street) to A(PD) Planned Development Zoning District. PDC08-005
Ordinance No. 28518 adopted.

- (h) ORD. NO. 28519 – Rezoning certain real property situated on the north side of Michigan Avenue approximately 350 feet easterly of North 1st Street (APN 015-05-082) to A(PD) Planned Development Zoning District. PDC06-018
Ordinance No. 28519 adopted.

2. CONSENT CALENDAR

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

Recommendation: Final adoption of ordinances.

- (i) ORD. NO. 28520 – Rezoning certain real property on the southwest corner of Hostetter Road and Frost Drive (1728 Hostetter Road) to A(PD) Planned Development Zoning District. PDC08-022

Ordinance No. 28520 adopted.

- (j) ORD. NO. 28522 – Adopting the proposed Fifth Amendment to the Strong Neighborhoods Initiative Project Area Redevelopment Plan; and making certain findings.

Ordinance No. 28522 adopted.

2.3 Agreement with TSA for Terminal B Checked Baggage Explosive Detection System.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an Other Transaction Agreement with the Transportation Security Administration (TSA), an agency of the United State Department of Homeland Security, to establish the respective obligations and other responsibilities of the City and the TSA regarding the Terminal B In-Line Checked Baggage Explosive Detection System and to provide for funding by the TSA of ninety percent (90%) of allowable costs of the baggage screening system not to exceed a maximum potential total reimbursement of \$22,339,800, for a term from the date of execution through completion and acceptance of the project.

CEQA: Not a Project. (Airport)

Resolution No. 74847 adopted.

2.4 Settlement in City v. Maxim Integrated Products, Inc.

Recommendation: Approve settlement and authorize the City Attorney to execute a Settlement Agreement and Mutual Release relating to the City of San José's claim against Maxim Integrated Products, Inc. ("Maxim"), for sanitary sewer and San José/Santa Clara Water Pollution Control Plant connection fees upon payment by Maxim of \$532,000 and upon Maxim's agreement to accept connection approval for, and an Industrial Wastewater Discharge Permit limit of, 200,000 gallons per day, as considered by the City Council during the Closed Session held on February 3, 2009. CEQA: Not a Project. (City Attorney's Office)

Approved.

2.5 Settlement in Grason v. City.

Recommendation: Approve settlement and authorize payment to Kenneth Grason in the amount of \$360,000 pursuant to a Settlement Agreement and Release, as considered by the City Council during Closed Session held on March 17, 2009. CEQA: Not a Project. (City Attorney's Office)

Approved.

2. CONSENT CALENDAR

2.6 Certification of the Results of the District 7 Recall Election Held March 3, 2009.

Recommendation: Adopt a resolution declaring the results of the March 3, 2009 District 7 Recall Election pursuant to Elections Code Sections 11328 and 15400. (City Clerk)

Resolution No. 74848 adopted.

2.7 Water Recycling Projects Grant.

Recommendation: Adoption of a resolution authorizing the submittal of an application to the United States Bureau of Reclamation for approximately \$16 million stimulus funding through 2009 American Recovery and Reinvestment Act for water recycling projects. CEQA: Not a Project. (Environmental Services)

Dropped per Administration.

2.8 Downtown High-Rise Second Mortgage Program.

Recommendation: Adopt a resolution authorizing the Director of Housing to reallocate certain funds from the March 2008 Notice of Funding Availability to make second mortgage loans in an aggregate amount not to exceed \$700,000 to homebuyers of high-rise condominium projects in downtown San José. CEQA: Not a Project. Council District 3. (Housing)

Resolution No. 74849 adopted.

2.9 Agreement for the Los Gatos Creek Trail Project.

Recommendation: Approve a first amendment to the grant agreement with Santa Clara Valley Transportation Authority to continue and extend the grant agreement from September 30, 2006 to June 30, 2009, for receipt of Measure B Bicycle Program funds in the amount of up to \$500,000 for the feasibility and environmental studies completed for the Los Gatos Creek Trail Reach 5 Project. CEQA: Mitigated Negative Declaration, File No. PP06-112. Council Districts 3 and 6. SNI: Delmas Park Burbank/Del Monte. (Parks, Recreation and Neighborhood Services)

Approved.

2. CONSENT CALENDAR

2.10 Piercy Park Master Plan and Turnkey Agreement.

Recommendation:

- (a) Approve the Piercy Park Master Plan;
- (b) Approve a Turnkey Parkland Agreement for Tentative Map No. PT07-047 with KB Home South Bay, Inc. (“Developer”) to construct park improvements and dedicate approximately 0.8 acres of parkland to the City on the future Piercy Park site; and

Approved.

- (c) Adopt a resolution authorizing the City Manager, or designee, to negotiate and execute a park maintenance agreement between the City and the Homeowner Association, which will be created at a later date by the Developer for the residential units identified on Tentative Map No. PT07-047, to maintain the Piercy Park Site as outlined in Planned Development Rezoning PDC06-102 and Planned Development Permit PD07-054.

CEQA: Negative Declaration, File No. PDC06-102 and addenda thereto, File No. PP08-192. Council District 2. (Parks, Recreation and Neighborhood Services)

Resolution No. 74850 adopted.

2.11 Quitclaim of Assessor Parcel No. 660-19-007.

Recommendation: Adopt a resolution authorizing the Director of Public Works to execute, on behalf of the City, a deed quitclaiming any property interest or first right of refusal which the City may have in Assessor Parcel No. 660-19-007 (3761 Yerba Buena Road), and that was granted to a prior owner. CEQA: Not a Project. Council District 8. (Public Works)

Resolution No. 74851 adopted.

2.12 Agreement with WLC Architects for Fire Station No. 2.

Recommendation: Approve the first amendment to the agreement with Wolf/Lang/Christopher Architects, Inc. for architectural consultant services for the Fire Station No. 2 Rebuild Project extending the term of the agreement from June 30, 2009 to September 30, 2010, and increasing the total compensation by \$40,000 from \$558,000 to an amount not to exceed \$598,000. CEQA: Exempt, File No. PPO5-220. Council District 5. (Public Works)

Approved.

2. CONSENT CALENDAR

2.13 Work2Future lease amendment.

Recommendation: Approve an amendment extending for five (5) years a lease with Del Monte Partners for office space located at 7800 Arroyo Circle in Gilroy, California occupied by Work2Future, at a monthly rental rate of \$10,097 for the first extension year with annual increases of approximately 1.5% to a maximum rent of \$10,717 per month during the final year of the lease, and including with five (5) one-year options with each year's option rent increased at an annual rate of 1.5%. CEQA: Not a Project. (Public Works)

Approved.

2.14 Agreement for architectural consultant services for Bascom Library and Community Center project.

Recommendation: Approve the first amendment to the agreement for consultant services for the Bascom Library and Community Center 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 \$2,562,640. CEQA: Exempt, File No. PP07-081. Council District 6. (Public Works/Library/Parks, Recreation and Neighborhood Services)

Approved.

2. CONSENT CALENDAR

2.15 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 \$333,440.
 - (2) Increase the appropriation to the Department of Public Works for the Non-Project specific DPW Services Project (PSM 393 Amendment #2) in the amount of \$28,000.
 - (3) Decrease the appropriation to the Department of Public Works for the Santa Clara Street Green Mobility Sidewalk Improvement Projects (PSM 555) in the amount of \$28,000.
 - (4) Increase the appropriation to the Housing Department for the SNI – Multi-Family Home Improvement Program (PSM 470 Amendment #3) in the amount of \$200,025.
 - (5) Increase the appropriation to the General Services Department for the Children’s Discovery Museum Exhibit Shop Infrastructure and Safety Improvements Project (PSM 533) in the amount of \$48,415.
 - (6) Establish the appropriation to the Department of Public Works for the Autumn Street Extension Project – Staff and Third Party Real Estate Services (PSM 570) in the amount of \$75,000.
 - (7) Establish the appropriation to the Department of Public Works for the McLaughlin Neighborhood Park – Staff and Third Party Real Estate Services (PSM 571) in the amount of \$10,000.

Ordinance No. 28523 adopted.

Resolution No. 74852 adopted.

- (b) Adopt a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Children’s Discovery Museum Exhibit Shop Infrastructure and Safety Improvements Project as more specifically described in the memorandum from the Redevelopment Agency, dated April 24, 2008.

CEQA: Non-Project Specific DPW Services: Not a Project; SNI – Multi Family Home Improvement Program: Exempt, PP09-054; Children’s Discovery Museum Exhibit Shop Infrastructure and Safety Improvements Project: Use of San José Downtown Strategy 2000 Final EIR, Resolution No. 72767 Adopted on June 21, 2005 File No. PP08-082; Autumn Street Extension Project – Staff and Third Party Real Estate Services: Not a Project; McLaughlin Neighborhood Park – Staff and Third Party Real Estate Services: Not a Project. (Public Works/General Services/Housing/City Manager’s Office)

Resolution No. 74853 adopted.

2. CONSENT CALENDAR

2.16 Excused absences for Vice Mayor Chirco.

Recommendation: Request for excused absences for Vice Mayor Chirco.

- (a) Request for an excused absence from the Regular Meeting of the Rules and Open Government Committee on March 18, 2009 due to Authorized City Business.
- (b) Request for an excused absence from the Closed Session and Regular Meeting of the City Council on March 24, 2009 due to Illness.

(Chirco)

(Rules Committee referral 3/25/09)

Excused.

2.17 Excused absence for Councilmember Chu.

Recommendation: Request for an excused absence for Councilmember Chu from the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on April 16, 2009 due Authorized City Business: League of California Cities Board Meeting in Sacramento, CA. (Chu)

Excused.

2.18 Project Diversity Screening Committee appointments.

Recommendation: As recommended by the Rules and Open Government Committee on March 11, 2009 and March 25, 2009:

- (a) Re-appoint Trudy Ellerbeck and Rick Partridge to the Project Diversity Screening Committee.
- (b) Appoint Maria A. Trejo, Buu Thai, Victor Nakamoto, and Al Reinig to the Project Diversity Screening Committee.

(Mayor/Nguyen/Pyle)

(Rules Committee referral 3/11/09 – Item 9.1 and 3/25/09 – Item 9.1)

Approved.

2.19 Actions Related to Historic Landmark Nomination and Initiation.

Recommendation: Adopt a resolution to:

- (a) Initiate proceedings to nominate and consider the residence located at 55 North 11th Street as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.
- (b) Set a public hearing on Tuesday, May 19, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structure.
- (c) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.

CEQA: Not a Project. SNI: 13th Street. Council District 3.

(City Council referral 3/24/09 – Item 4.7)

Resolution No. 74854 adopted.

2. CONSENT CALENDAR

2.20 COPS Hiring Recovery Program.

Recommendation: Authorize the City Manager and Chief of Police to apply for grant funds through the COPS Hiring Recovery Program (CHRP). CEQA: Not a Project.

(Police)

(Rules Committee referral 4/1/09)

Authorized.

2.21 Operation Prom Dress Designation.

Recommendation: As recommended by the Rules and Open Government Committee on March 25, 2009:

(a) Approve Operation Prom Dress as a City Council sponsored Special Event; and

(b) Approve and accept donations from various individuals, businesses or community groups to support the Operation Prom Dress.

(City Clerk)

[Rules Committee referral 3/25/09 – Item 10.4]

Approved.

2.22 Disaster and Emergency Preparedness Conference.

Recommendation: As recommended by the Rules and Open Government Committee on April 1, 2009:

(a) Approve the District 10 Disaster and Emergency Preparedness Conference as a City Council sponsored Special Event; and

(b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(City Clerk)

[Rules Committee referral 4/1/09 – Item 10.1]

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone: (1) Announced the appointment of Teresa Deloach Reed as Assistant Fire Chief; (2) Reported on progress made with History San José and the Administration's plan to return to Council with a new operating agreement within the next few months; (3) Highlighted two information memoranda circulated this week, addressing an unprecedented decline in County property tax revenues and reporting impacts to retirement funds.

Mayor Reed reported that he will be issuing a press release and requesting that the Council discuss updated budget projections on April 14.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – March 11, 2009

Mayor Reed, Chair
Accepted.

3.3 Report of the Public Safety, Finance and Strategic Support Committee – March 19, 2009

Councilmember Nguyen, Chair
Accepted.

3.4 Total Health and Disease Management Contract.

Recommendation: Adopt a resolution to:

- (a) Authorize the City Manager to negotiate and execute a Total Health and Disease Management (THDM) service agreement with MedExpert International, Inc., through June 30, 2010, for a total cost of the initial agreement period to not exceed \$304,010 (\$42,420 for the remainder of FY 08-09 and \$261,590 for FY 09-10).
- (b) Authorize the City Manager to execute two options to extend the term of the Agreement through fiscal year 2012 and increase the annual amounts not to exceed \$296,940 for Option 1 (FY 2010-2011) and not to exceed \$296,940 for Option 2 (FY 2011-2012), subject to the appropriation of funds by the City Council.
- (c) Authorize the City Manager to negotiate and execute Confidentiality and Indemnification Agreements with MedExpert International, Inc., Kaiser Permanente, Blue Shield of California, and UnitedHealth Company in order to implement the THDM.

CEQA: Not a Project. (Human Resources)

Resolution No. 74855 adopted.

3.5 A's Stadium in San José.

Renumbered to Item 9.1.

3.6 Resolution Confirming and Indicating Current Support of Land Use Designation on Former San José Medical Center Site.

Recommendation: As referred by the Rules and Open Government Committee on March 11, 2009, consider a resolution confirming and indicating current Council support for the existing General Plan and zoning designations on the former San José Medical Center site (675 East Santa Clara Street). (Mayor/Liccardo)

[Rules Committee referral 3/11/09 – Item 10.2]

Resolution No. 74856 adopted, with an amendment to include every HCA-owned parcel in the area bound between South 12th, South 17th, St. James and East Santa Clara Streets.

3. STRATEGIC SUPPORT SERVICES

3.7 Downtown Entertainment Zone Demographic Study.

Recommendation: As referred by the Public Safety, Finance and Strategic Support Committee on March 23, 2009:

- (a) Accept the City Manager's response to the City Council's referral on how and whether the City can accurately survey the demographics characteristics of people in the Downtown Entertainment Zone.
- (b) City Council consideration on how it would like to proceed with respect to conducting a Demographic Study in the Entertainment Zone.

(City Manager)

[Public Safety, Finance & Strategic Support Committee referral 3/23/09 – Item 3.2]

Deferred to 4/21/09 per Administration.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – March 23, 2009 Councilmember Pyle, Chair

Accepted.

4.2 Sidewalk Café Update.

Recommendation: As referred by the Community and Economic Development Committee of February 23, 2009, accept the status report and consider continuation of the sidewalk café permit program on a permanent basis and eliminate the automatic expiration dates that would sunset the program under the most recent ordinance revision that took effect on May 30, 2008. CEQA: Exempt. (Planning, Building and Code Enforcement) [Community and Economic Development referral 2/23/09 – Item (c)(2)]

(Deferred from 3/10/09 – Item 4.5)

Accepted.

4.3 Tree Removal Permit Process and Fee Analysis for Cost Recovery Model.

Recommendation: Direct the City Manager 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 the City Council Policy 6-30: Public Outreach, relating to Tree Removal Permit; and
- (c) 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 from 3/17/09 – Item 4.2 and 3/24/09 – Item 4.2)

Deferred to 4/21/09 in the Evening per District 1.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Public Hearing and actions related to the Stevens Creek Signage Area.

Recommendation: Conduct a Public Hearing and approve an ordinance amending Sections 23.02.800 and 23.02.1220 of Chapter 23.02 of Title 23 of the San José Municipal Code, amending Sections 23.04.010 and 23.04 and adding a new Section 23.02.365, to create the Stevens Creeks Boulevard Signage Area, establish regulations therefore, and make related clarifying changes. CEQA: Resolution No. 65459, File No. PP08-273. (Planning, Building and Code Enforcement)

Deferred for 30 Days Per District 1.

4.5 City Landmark Designation.

Recommendation: As recommended by the Historic Landmarks Commission, formally nominate former Fire Station Number One for City Landmark designation and recommend that the City Council adopt a resolution to:

- (a) Initiate proceedings to consider Fire Station Number One, located at 201 N. Market Street, as City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.
- (b) Set a public hearing on June 9, 2009 at 1:30 p.m.
- (c) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.

CEQA: Not a Project. Council District 3. (Planning, Building and Code Enforcement)

Dropped per Administration. To Return to Rules and Open Government Committee 4/8/09.

4.6 Public Hearing on the Reorganization/Annexation of Story No. 61.

Recommendation: Conduct a Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Story No. 61 on an approximately 3.21 gross acre County island consisting located at the north side of Story Road, 780 feet westerly of Machado Lane, and detachment of the same from the appropriate special districts including Central Fire Protection, County Sanitation District 2-3, and Area No. 01 (Library Services) County Service (Multiple Owners). CEQA:

Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)

Heard in the Evening

Resolution No. 74866 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.7 Historic Landmark Nomination and Mills Act Historical Property Contract for the McMillan House.

Recommendation:

- (a) Conduct a public hearing and adopt a resolution designating the McMillan House on a 0.22-acre site the Reed City Landmark Historic District located at the west side of S. Sixth Street, approximately 250 feet south of E. William Street (525 S. Sixth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-176)

Resolution No. 74857 adopted.

- (b) Conduct a public hearing and adopt a resolution approving the Historical Property Contract (California Mills Act Contract No. MA08-008) between the City of San José and the owner of the McMillan House (Michael J. Reandeau). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

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

Resolution No. 74858 adopted.

4.8 Historic Landmark Nomination and Mills Act Historical Property Contract for the Lynwood Apartments.

Recommendation:

- (a) Conduct a public hearing and adopt a resolution designating the Lynwood Apartments on a 0.22-acre site in the Reed City Landmark Historic District located at the west side of S. Sixth Street, approximately 270 feet south of E. William Street (553 S. Sixth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-177)

Resolution No. 74859 adopted.

- (b) Conduct a public hearing and adopt a resolution approving the Historical Property Contract (California Mills Act Contract No. MA08-009) between the City of San José and the owner of the Lynwood Apartments (Michael J. Reandeau). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

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

Resolution No. 74860 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.9 Historic Landmark Nomination and Mills Act Historical Property Contract for the Kimura Residence.

Recommendation:

- (a) Conduct a public hearing and adopt a resolution designating the Kimura Residence on a 0.22-acre site located at the east side of N. Third Street, approximately 450 feet southerly of Jackson Street (556 N. Third Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-178)

Resolution No. 74861 adopted.

- (b) Conduct a public hearing and adopt a resolution approving the Historical Property Contract (California Mills Act Contract No. MA08-010) between the City of San José and the owner of the Kimura Residence (Lance Shoemaker & James Williams). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

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

Resolution No. 74862 adopted.

4.10 Historic Landmark Nomination and Mills Act Historical Property Contract for the Reverend G. A. Miller Residence.

Recommendation:

- (a) Conduct a public hearing and adopt a resolution designating the Reverend G. A. Miller Residence on a 0.136-acre site located at the east side of S. Sixth Street, approximately 150 feet north of W. San Fernando Street (80 S. Sixth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-179)

Resolution No. 74863 adopted.

- (b) Conduct a public hearing and adopt a resolution approving the Historical Property Contract (California Mills Act Contract No. MA08-011) between the City of San José and the owner of the Reverend G. A. Miller Residence (Marvin K. Williams). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

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

Resolution No. 74864 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.11 Actions related to Asset Management Principles and Key Activities.

Recommendation:

- (a) Adopt the proposed Asset Management Principles as detailed in Attachment A of the staff memorandum.
- (b) Approve the activities and timeline for asset management work to be conducted in 2009.
- (c) Direct the Administration and the City Attorney's Office to develop amendments to the Municipal Code, and return for City Council consideration to:
 - (1) Delegate authority to the City Manager to negotiate and execute agreements for property that the City Council has declared as surplus to the needs of the City, that is up to one-half (1/2) acre in size, and for which the compensation is \$250,000 or less;
 - (2) Increase the authority of the City Manager to negotiate and execute leases of City property having a maximum value of \$250,000; and
 - (3) Modify the process for sale of surplus property at auction to provide a more flexible competitive process.

Approved.

- (d) Adopt a resolution declaring the sixteen (16) properties listed below and as detailed in Attachment B of the staff memorandum as surplus to the needs of the City, and authorizing the City Manager to sell or lease such properties in accordance with the Municipal Code, and any other City policies, as they may be amended from time to time, and in accordance with applicable state law:
 - (1) Hedding/Hwy 87, APN# 23037020.
 - (2) N. San Pedro St./W. Taylor, APN# 25905048.
 - (3) Clayton Ave./Rte. 87, APN# 25922029.
 - (4) Coleman Ave./Ryland, APN# 25922053.
 - (5) E. Reed St./S. 4th, APN# 47227106.
 - (6) Fallingtree Dr./Royal Tree, APN# 24403001.
 - (7) Bethany Ave./Largo Dr, APN# 58903004.
 - (8) Saron Dr./Sunset Ct, APN# 48121114.
 - (9) Sierra Grande Way/S. Capitol Ave., APN# 48443014.
 - (10) Sherwood Ave./Hamline, APN# 23021078.
 - (11) Bird Ave./Atlanta, APN# 26446179.
 - (12) N. Daniel Way/Forest Ave., APN# 27444002.
 - (13) Dove Hill Rd./Deans Pl., APN# 67681005.
 - (14) 502 Calero Ave., APN# 68731042.
 - (15) 1494 Ridgewood Dr., APN# 56912034.
 - (16) 20399 Almaden Rd., APN# 58313013.
- (e) Direct the Administration to review Council Policies 7-1, Below Market Rental; 7-3, Disposition of Surplus City Owned Real Properties; and 7-12, Free Use of Community Center Reuse Sites; for possible revisions based on the proposed Asset Management Principles.

CEQA: Not a Project. (Public Works/General Services)

Resolution No. 74865 adopted.

5. NEIGHBORHOOD SERVICES

- 5.1 Report of the Neighborhood Services and Education Committee – March 12, 2009**
Councilmember Campos, Chair
Accepted.

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Transportation and Environment Committee**
Councilmember Liccardo, Chair.
No Report.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Items 8.1 “Approval of an amendment to the agreement with Sonoma State University for archaeological services . . .”, 8.2 “Approval of Purchase and Sale Agreement for acquisition of 456 Autumn Court”, and 8.3 “Approval of the Report to Council on the Amendment to the Redevelopment Plans for the Merged Project Area Tax Increment Limit . . .” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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

9.1 A's Stadium in San José.

Recommendation: As referred by the Rules and Open Government Committee on March 11, 2009, consider the following actions:

- (a) Discuss actions that San José can take to prepare for the possibility that Major League Baseball (MLB) makes a decision allowing the Athletics (A's) to consider relocating to San José
- (b) Direct staff to prepare and return to Council with a Resolution indicating the desire of the City of San José to support the A's if MLB favors a relocation of the A's to San José; and, indicating that the City is willing to accommodate the A's on the site at Park Avenue and Autumn/Montgomery Streets.
- (c) Direct a team of City and Redevelopment Agency staff to assess what steps may need to be taken to prepare the site at Park Avenue and Autumn/Montgomery Streets for potential consideration, and develop an outreach program to neighboring residents and businesses.
- (d) Direct staff to provide a status report and recommendations for additional actions that may need Council authorization to the Community and Economic Development Committee within two months of the April 7th Council hearing followed by a discussion at the City Council.

(Mayor)

[Rules Committee referral 3/11/09 – Item 10.1(b)]

Heard in the Evening.

Renumbered from Item 3.5

Direction approved, as amended by the adoption of recommendations outlined in Mayor Reed's memorandum of April 2, 2009, and including suggestions by Council Member Campos to ask the Redevelopment Agency and City Manager to return with: (1) an overview of what improvements are needed to the property; (2) an appraisal of the property needed; (3) the amount that has been spent on the site already and remaining cost to complete the site acquisitions; and (4) the community outreach strategy.

Disqualified: Liccardo.

- Open Forum
None.
- Continue RDA Board Meeting (immediately following Open Forum)

- **Adjournment**
The Council of the City of San José adjourned the afternoon session at 3:32 p.m. in memory of two District 5 residents: Reynaldo James Flores, a giving man and dedicated parishioner, and Agnes Boales, an active leader and community member.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearings at this time.

11. PUBLIC HEARINGS

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. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Commissioner Zito Absent) of the conventional rezoning 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 1.0 gross acre site, as recommended by staff.

C09-001 – District 3

[Continued from 3/17/09 – Item 11.1(a)]

Ordinance No. 28524 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 Mabury 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 & ABC08-005 – District 3

(Continued from 2/24/09 – Item 11.2 and 3/17/09 – Item 11.2)

Dropped.

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 from 3/17/09 – Item 11.3)

Deferred to 4/21/09 per Orders of the Day.

- Notice of City Engineer's Pending Decision on Final Maps
- Notice of City Engineer's Award of Construction Projects Open Forum

Susan Abele and Connie Springer, representing Friends of the Cambrian Branch Library, spoke in opposition to reduction of branch library hours, and urged that

they be kept open at their current level to avoid restricting the public's access to library resources.

- **Adjournment**
The Council of the City of San José was adjourned at 9:19 p.m.

8. JOINT REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 3:22 p.m. to consider Items 8.1, 8.2 and 8.3 in a Joint Session.

8.1 Approval of an amendment to the agreement with Sonoma State University for archaeological services for the Japantown Main Corporation Yard project.

Recommendations:

- (a) Adoption of a resolution by the City Council accepting the Archaeological Treatment Plan for the former Japantown Corporation Yard and Parking Lot.
Resolution No. 74867 adopted.

- (b) Redevelopment Agency Board approval of an Amended and Restated Agreement with Sonoma State University, on behalf of the Anthropological Studies Center, increasing the amount by \$233,000 for a maximum total compensation of \$643,500, for continued archaeological services related to the former Japantown Corporation Yard and Parking Lot project, generally located at Sixth and Taylor Streets.

CEQA: Resolution No. 74384. [JAPANTOWN]

Approved.

8.2 Approval of a Purchase and Sale Agreement for acquisition of 456 Autumn Court.

Recommendations:

- (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency funding of construction of improvements for the proposed the Autumn Street Extension Project.
Resolution No. 74868 adopted.
Disqualified: Liccardo.

- (b) Approval by the Redevelopment Agency Board of a Purchase and Sale Agreement with Patricia S. Huddleston, in the amount of \$375,000 plus related closing costs, for acquisition of 456 Autumn Court to allow for development of the Autumn Street Extension Project.

CEQA: Resolution to be adopted. [JULIAN-STOCKTON] (Deferred 3/24/09, Item 6.1)

CEQA Resolution No. 74870 adopted.

CEQA Redevelopment Agency Resolution No. 5902 adopted.

Disqualified: Liccardo.

8.3 Approval of the Report to Council on the Amendment to the Redevelopment Plans for the Merged Project Area Tax Increment Limit and Bonded Indebtedness Limit Increases.

Recommendations: Public Hearing followed by Redevelopment Agency Board and City Council actions:

- (a) Adoption of resolutions by the City Council and Redevelopment Agency Board approving the Report to Council on the Amendment to the Redevelopment Plans for the Merged Project Area to increase the tax increment limit from \$7.6 billion to \$15 billion, to establish a single limit of \$7.6 billion for the bonded indebtedness that may be outstanding at any one time, and to modify the list of eligible public improvements in each Redevelopment Plan so that all Redevelopment Plans have consistent language relating to public improvements.

Resolution No. 74869 adopted.

Redevelopment Agency Resolution No. 5901 adopted.

- (b) Approval of an ordinance by the City Council adopting the proposed Amendment to the Redevelopment Plans in the Merged Project Area to increase the tax increment limit from \$7.6 billion to \$15 billion, to establish a single limit of \$7.6 million on the amount of bonded indebtedness that may be outstanding at any one time, and to modify the list of eligible public improvements in each Redevelopment Plan so that all Redevelopment Plans have consistent language relating to public improvements, and making certain findings.

CEQA: CEQA determination, File No. PP08-289, adopted by the Director of Planning, Building, and Code Enforcement, dated February 4, 2009. [MERGED]

(Continued from 3/24/09, Item 8.2)

Ordinance No. 28525 passed for publication, with a second reading to be held 4/21/09. Staff directed to return with responses to written objections received by the close of the Public Hearing by April 28, 2009. Consideration of the written objects must be heard prior to the second hearing of the ordinance adopting the Plan Amendments.

The Council of the City of San José and Redevelopment Agency Board was adjourned at 3:32 p.m.