

CITY COUNCIL AGENDA

JANUARY 23, 2007

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
VACANT
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED, MAYOR

VACANT
MADISON P. NGUYEN
DAVID D CORTESE
JUDY CIRCO
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 on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

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

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

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

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

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**

9:32 a.m. - Closed Session, Call to Order in Council Chambers
Adjourn to Closed Session in Council Chambers Conference Room, W133
Absent Council Members: Cortese (Excused). Vacant: District 4 and 6.

1:34 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None. Vacant: District 4 and 6.

7:04 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Williams (Excused). Vacant: District 4 and 6.

- **Invocation (District 1)**

Chaplin Dave Bridgen, San José Police Department.

- **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 Item 3.2 deferred to 1/30/07.

- **Closed Session Report**

City Attorney Doyle disclosed the following Closed Session action(s) of January 23, 2007:

Closed Session Report (Cont'd.)

A. Authority to Pursue Rehearing and/or Rehearing “En Banc” by the Ninth Circuit:

Case Name: Fisher, et al. v. City of San José, et al.

Adverse Party or parties: Steven Fisher and Sandra Fisher

Substance of Litigation: Alleged civil rights violations resulting from the arrest of Steven Fisher.

Council Vote: Ayes: Campos, Chirco, Constant, Liccardo, Nguyen, Pyle, Williams; Reed.

Noes: None.

Disqualified: None.

Absent: Cortese.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation recognizing the Alternate Work Program Team Members for their consistent contribution to the program. (Transportation)
Mayor Reed and Director of Transportation James Helmer recognized and commended the Alternate Work Program Team Members for their outstanding contributions.
- 1.2 Presentation of the Waterford Crystal Bowl to the City of San José. The Waterford Crystal Bowl was presented to the City of San José on Thursday, September 9, 2006, in Dublin at the Mansion House, the official residence of the Lord Mayor. It was presented as a gesture of friendship and the deep bonds of our two cities at a reception and dinner hosted for the San José delegation that was in recognition of the 20th anniversary of the Sister City relationship. Dublin Lord Mayor Vincent Jackson presented the bowl to Council Member Williams and Council Member Pyle. (Williams/Pyle)
(Rules Committee referral 1/10/07)
Council Members Williams and Pyle presented a Waterford Crystal Bowl to the City of San José on behalf of Dublin Lord Mayor Vincent Jackson in recognition of the 20th anniversary of the “Sister City” relationship. Mayor Reed accepted the bowl on behalf of the City.
- 1.3 Presentation of a commendation to San José Police Department Southern Division Commander Captain Jack Farmer for his 30 years of protecting and serving the residents of San José. (Pyle/Chirco/Nguyen/Constant/Williams)
(Rules Committee referral 1/10/07)
Mayor Reed and Council Members Pyle, Chirco, Nguyen, Constant and Williams recognized and commended Commander Captain Jack Farmer for his 30 years of dedicated service to the City of San José residents.

1. CEREMONIAL ITEMS

- 1.4 Presentation of a commendation to Judy Santiago, Lurdes Rivera, Michael Gross and Richard Santos for continued service and dedication to the education of youth through the Alviso Santa Program. (Mayor)
(Rules Committee referral 1/10/07)
Mayor Reed recognized and commended Judy Santiago, Lurdes Rivera, Michael Gross and Richard Santos for their dedication to the youth of the “Alviso Santa Program”.
- 1.5 Presentation of a business appreciation commendation to Grainger Corporation in recognition of its corporate presence and operations in San José, the Capital of Silicon Valley. (Mayor)
(Rules Committee referral 01/17/07)
Deferred to 3/27/07, per Mayor Reed.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes:

- (a) Regular minutes of May 2, 2006
- (b) Regular minutes of May 9, 2006
- (c) Regular minutes of May 16, 2006
- (d) Minutes of Joint Council/San José Financing Authority of May 16, 2006
- (e) Regular minutes of May 23, 2006

Deferred to 1/30/07 per City Clerk.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 27913 – Rezoning certain real property situated on the south side of Story Road approximately 150 feet east of Adrian Way (2250 Story Road) to CP Commercial Pedestrian Zoning District. C06-096
[Deferred from 12/05/06 – Item 2.2(f)]

Ordinance No. 27913 adopted.

- (b) ORD. NO. 27911 – Rezoning certain real property situated in the West Evergreen Strong Neighborhoods Initiative Area and located generally on both sides of Towers Lane, between Aborn Road and Amberly Lane, to R-1-8 Single-Family Residence District. CC06-058

Ordinance No. 27911 adopted.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (c) ORD. NO. 27956 – Allowing the use of the City’s right of way by providers of video services under certain specified conditions.
Ordinance No. 27956 adopted.

- (d) ORD. NO. 27958 – Rezoning certain real property situated at the southwest corner of Winchester Boulevard and Payne Avenue (1301 South Winchester) to A(PD) Planned Development Zoning District. PDC06-103
Ordinance No. 27958 adopted.

- (e) ORD. NO. 27959 – Rezoning certain real property situated in the R-2 Two-Family Residence Zoning District (103 N. 26th Street) to A(PD) Planned Development Zoning District. PDC06-041
Ordinance No. 27959 adopted.

- (f) ORD. NO. 27960 – Rezoning certain real property situated on the northwest corner of Aborn and King Roads (1685 Aborn Road) to A(PD) Planned Development Zoning District. PDC06-059
Ordinance No. 27960 adopted.

- (g) ORD. NO. 27961 – Rezoning certain real property situated at east side of San Felipe Road, approximately 700 feet northerly of Silver Creek Road to A(PD) Planned Development Zoning District to allow up to 22 single-family detached residences on a 17.98 gross acre site. PDC06-092
Ordinance No. 27961 adopted.

2.3 Approval to amend an agreement for legal services related to debt secured by Airport revenues.

Recommendation: Adoption of a resolution authorizing the City Attorney to negotiate and execute an eighth amendment to the agreement with Orrick, Herrington & Sutcliffe LLP for legal services related to debt secured by Airport revenues, increasing the compensation by \$70,000 for a total amount not to exceed \$170,000 and extending the term to December 31, 2007. CEQA: Not a Project. (City Attorney’s Office)

Resolution No. 73601 adopted.

2. CONSENT CALENDAR

2.4 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):
- (1) Increase the estimate for Earned Revenue by \$130,000.
 - (2) Establish an appropriation to the Public Works for the San Antonio Avenue Traffic Signal Modification Project (PSM #475) in the amount of \$62,000.
 - (3) Establish an appropriation to the Public Works for the OEA Audit Services Project (PSM #476) in the amount of \$68,000.

Ordinance No. 27962 adopted.

Resolution No. 73602 adopted.

- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the San Antonio Avenue Traffic Signal Modification Project as more specifically described in the memorandum from the Redevelopment Agency, dated November 13, 2006.

CEQA: Exempt, File No. PP06-210. Council District 5. SNI: Mayfair. (City Manager's Office)

Resolution No. 73603 adopted.

2.5 Approval of actions related to the Public Art Project at San Felipe and Yerba Buena Roads.

Recommendation: Adoption of the following Appropriation Ordinance Amendments in the Construction Tax Fund: Parks Purposes Council District 8:

- (a) Increase the Council District 8 Public Art appropriation by \$22,000.
- (b) Decrease the Ending Fund Balance by \$22,000.

CEQA: Exempt, PP06-068. Council District 8. (Economic Development/City Manager's Office)

Ordinance No. 27963 adopted.

2.6 Approval of an agreement for Public Art Projects for the Block 8 Development.

Recommendation:

- (a) Approval of an agreement between City Front Square LLC and the City of San José for the Office of Cultural Affairs to administer the public art projects for the Block 8 development, for a total amount not to exceed \$273,500 as follows: \$136,000 for Phase One, and \$137,500 for Phase Two of the public art projects;

Approved.

2. CONSENT CALENDAR

2.6 Approval of an agreement for Public Art Projects for the Block 8 Development (Cont'd.)

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:
- (1) Establish an appropriation to the Office of Economic Development for the Public Art in Private Development Project in the amount of \$136,000.
 - (2) Increase the estimate for earned revenue by \$136,000.

CEQA: Not a Project. Council District 3. (Economic Development/City Manager's Office)

Ordinance No. 27964 adopted.

Resolution No. 73604 adopted.

2.7 Approval of an agreement for the ZeroOne Art and Technology Festival.

Recommendation: Approval of a grant agreement between the City of San José and ZeroOne - the Art and Technology Network to support transitional planning costs for *ZeroOne San José: A Global Festival of Art on the Edge*, to be conducted in June 2008 in San José, in a total amount not to exceed \$100,000. CEQA: Resolution No. 72767.

Council District 3. (Economic Development)

Approved.

2.8 Approval of actions related to the Inaugural San José King-Of-The-Mountain Ride.

Recommendation: Adoption of a resolution authorizing the Office of Economic Development to direct the Office of Economic Development to develop, produce and conduct the Inaugural San José King-Of-The-Mountain Ride on City streets on February 17, 2007, as a City event. (Economic Development)

Resolution No. 73605 adopted.

2.9 Approval to award open purchase order #14 for FY 2006-2007.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #14 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's Memorandum to Council for specific CEQA clearance determinations on each recommended action.

(Finance)

Approved.

2. CONSENT CALENDAR

2.10 Approval to purchase Satellite Phones and Services.

Recommendation: Authorize the Director of Finance to execute:

- (a) A purchase order for 39 satellite phones and accessories from Remote Satellite Systems International, Inc., in the amount of \$210,423.76, including initial set-up, training, desktop set installation assistance, sales tax and shipping; and
- (b) Purchase orders for additional satellite phones and accessories as may be required for a period of 2 years, subject to appropriation of funds.

CEQA: Not a Project. (Finance/Emergency Services)

Approved.

2.11 Approval to amend an agreement for consulting services for the Integrated Billing System and Call Center.

Recommendation: Approval of the third amendment to the agreement for consulting services between the City of San José and Langham Consulting Services, Inc., for Quality Assurance services for the Integrated Billing System (IBS) through the end of Phases 1.1, 1.2 and 2.1, plus continued additional services related to developing a strategy for improving Customer Call Center performance, extending the term of the agreement from November 30, 2006 to September 30, 2007 and increasing total compensation by \$126,000 to a not-to-exceed amount of \$315,000. CEQA: Not a Project. (Finance/Information Technology)

Approved.

2.12 Approval to refund construction loan interest for the Las Mariposa For-sale Affordable Housing Project.

Recommendation: Adoption of a resolution authorizing a refund of construction loan interest in the amount of \$16,917 to Ketzal Community Development Corporation (KETZAL), borrower for the Las Mariposas for-sale Affordable Housing Project located at 2177 Alum Rock Avenue, San José. CEQA: Negative Declaration, PDC 99-12-096. Council District 5. (Housing)

Resolution No. 73606 adopted.

2.13 Approval of an agreement for auditing services for the Municipal Health Services Program.

Recommendation: Adoption of a resolution authorizing the City Manager to execute an agreement with Clifton Gunderson to maintain the fiscal integrity of the City of San José's Municipal Health Services Program and ensure compliance with federal legislation and regulations of the Centers for Medicare and Medicaid Services, for a term from January 23, 2007 to June 30, 2007 in an amount not to exceed \$107,126. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Resolution No. 73607 adopted.

2. CONSENT CALENDAR

2.14 Approval of an agreement to prepare a Geotechnical Investigation Report for the Guadalupe River Trail Reach 6 Project.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a cost-sharing agreement with the Santa Clara Valley Water District (SCVWD) for preparation of a Geotechnical Investigation Report to define underlying soil conditions enabling the City to design the TRAIL: Guadalupe River Reach 6 Project, in the amount of \$35,287, and the SCVWD to define the preferred approach and design of flood management improvements, in the amount of \$71,406 for a total cost sharing agreement not to exceed \$106,693. CEQA: Mitigated Negative Declaration, PP04-03-102. Council Districts 3 and 6. SNI: Washington. (Parks, Recreation and Neighborhood Services)

Resolution No. 73608 adopted.

2.15 Approval of actions related to the 2006-2007 Weed Abatement Report.

Recommendation: Adoption of a resolution:

- (a) Overruling any and all objections to the 2006-2007 Hazardous Vegetation Commencement Report; and
- (b) Requesting that the Santa Clara County Department of Agriculture and Resource Management abate the seasonal and/or recurrent public nuisances on those properties identified in the Report 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. 73609 adopted.

2.16 Approval of an agreement related to the ECOMM Microwave Interoperability Communications Project.

Recommendation: Approval of an agreement with Environmental Science Associates to provide a full range of environmental project services for all project phases to ensure compliance with National Environmental Policy Act, California Environmental Quality Act and all related statutes for the period from December 31, 2007 to January 31, 2009, for an amount not to exceed \$202,314, contingent on available grant funding. CEQA: Not a Project. (Police)

Approved.

2.17 Approval of a change order credit for the Airport North Concourse Building Site Preparation and Excavation (Package 1).

Recommendation: Approval of Contract Change Order Number 9 for a credit in the amount of \$628,429.64 with Desilva Gates Construction for the Norman Y. Mineta San José International Airport North Concourse Building Site Preparation and Excavation (Package 1). CEQA: Resolution Nos. 67380 and 71451, PP04-03-092. (Public Works)

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Reed, Chair

Recommendation: Approval of minutes.

- (a) Council Study Session on Telecommunications Policy Priorities and AT&T's Project Lightspeed minutes of May 11, 2006
- (b) 2006-2007 Proposed Operating Budget Study Sessions minutes of May 8, 2006 – May 19, 2006

Deferred to 1/30/07 per City Clerk.

3.2 Report of the Rules and Open Government Committee – January 10, 2007 Mayor Reed, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review January 23, 2007 Draft City Council Agenda
 - (a) Adds to the January 23, 2007 Draft City Council Agenda
 - (2) Add New Items to January 16, 2007 Agenda
NONE – MEETING CANCELLED
 - (3) List of Reports Outstanding
- (c) Legislative Update
 - (1) State
 - (a) Approval of City-Sponsored Legislation-Customer Facility Charges
See Item 3.7 for Council Action taken.
 - (2) Federal
- (d) Meeting Schedules
 - (1) Approve City Council-Santa Clara Valley Water District Board Joint Study Session on Watershed Issues (Environmental Services)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules committee Reviews, Recommendations and Approvals
- (h) Review of Significant Public Records Act Requests
- (i) Review of Council Policy Updates per Sunshine Reforms
- (j) Open Forum
- (k) Adjournment

Deferred to 1/30/07 per Mayor Reed and Orders of the Day.

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

3. STRATEGIC SUPPORT SERVICES

3.4 Acceptance of report related to Bond Programs.

Recommendation: Accept report on cost projections and policy options related to the completion of the Safe Neighborhood Parks and Recreation, the Neighborhood Libraries, and Public Safety bond programs, and provide direction to staff regarding the policy options for addressing unanticipated escalating construction costs. CEQA: Not a Project. (City Manager's Office)

(Deferred from 12/05/06 – Item 3.10)

Deferred to 1/30/07.

3.5 Discussion of Closed Session Procedures.

Recommendation: Presentation and discussion of rules and procedures in conducting closed sessions of the City Council. (City Attorney's Office)
(Rules Committee referral 1/10/07)

City Attorney Richard Doyle presented the rules and procedures in conducting Closed Sessions of the City Council. No action by the City Council was required.

3.6 Adoption of a resolution in opposition to SB49 (Migden).

Recommendation: Adoption of a resolution in opposition to SB 49 (Migden), which would prohibit a local agency or redevelopment agency from providing financial assistance to a sports stadium project that involves the relocation of a professional sports franchise from the territorial jurisdiction of one local agency to another within the same market area, as specified. (Cortese)

(Rules Committee referral 1/10/07)

Resolution No. 73610 adopted.

3.7 Approval of City-Sponsored Legislation, Customer Facility Charges.

Recommendation: Authorization for the introduction of state legislation repealing the 1999 legislation that authorized the City to collect customer facility charges from Airport rental car customers and instead include San José in the law that currently applies to all other airports in the state except San José, San Francisco and San Diego, with plans to use this revenue for the purpose of funding interim rental car common use busing costs and financing the planned consolidated rental car facility and “a common use transportation system” (such as an on-Airport automated people mover or a bus system) as part of the reconstruction of the Airport. CEQA: Not a Project. (Airport)

[Rules Committee referral 1/17/07 – Item 3.2(C)(1)(a)]

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Report of the Community & Economic Development Committee**
Council Member Pyle, Chair
No Report.

4.2 Public Hearing on the reorganization/annexation of Piedmont No. 52.

Recommendation: Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Piedmont No. 52 on an approximately 1.14 gross acre County Pocket consisting of 3 parcels on the southwesterly side of Old Piedmont Road, approximately 100 feet northwest of Rowley Drive and detachment of the same from the appropriate special districts properties including Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459 (Related Rezoning C06-039) (Zoned A-Agricultural upon annexation pursuant to SJMC Section 20.120.310). Council District 4. (Planning, Building and Code Enforcement)

Heard in the evening.

Resolution No. 73613 adopted.

4.3 Public hearing on the reorganization/annexation of Story No. 62.

Recommendation: Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Story No. 62 on an approximately 0.82 gross acre County Pocket consisting of 2 parcels on the west side of Fleming Avenue 350 feet northerly of Warner Avenue and detachment of the same from the appropriate special districts properties including Central Fire Protection and Area No. 01 (Library Services) County Service (Ramos Family Trust; Gutierrez, Ermesto, Owners). CEQA: Resolution No. 65459 (Related Rezoning C06-079). Council District 5. (Planning, Building and Code Enforcement)

Heard in the evening.

Resolution No. 73614 adopted.

4.4 Public hearing on the reorganization/annexation of Monterey Park No. 108.

Recommendation: Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Monterey Park No. 108 on an approximately 8.58 gross acre area consisting of 9 parcels on both sides of Perrymount Avenue, southwesterly of Stone Avenue and detachment of the same from the appropriate special districts properties including County Lighting County Service, Central Fire Protection, Area No. 01 (Library Services) County Service, and County Sanitation District 2-3 (Numerous Owners). CEQA: Resolution No. 65459 (Related Rezoning C06-048). Council District 7. (Planning, Building and Code Enforcement)

Heard in the evening.

Resolution No. 73615 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Public hearing on the reorganization/annexation of Monterey Park No. 109.

Recommendation: Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Monterey Park No. 109 on an approximately 4.37 gross acre area consisting of 2 parcels on the Northwesterly corner of Curtner Avenue and Stone Avenue and detachment of the same from the appropriate special districts properties including County Lighting County Service, Central Fire Protection, Area No. 01 (Library Services) County Service, and County Sanitation District 2-3 (Blank, Christine; Owner). CEQA: Resolution No. 65459 (Related Rezoning C06-051). Council District 7. (Planning, Building and Code Enforcement)

Dropped per Administration.

4.6 Public hearing on the reorganization/annexation of Evergreen No. 196.

Recommendation: Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Evergreen No. 196 on an approximately 1.13 gross acre County Pocket located on the west side of Kettmann Road, approximately 75 feet southerly of Dashwood Avenue and detachment of the same from the appropriate special districts properties including Central Fire Protection and Area No. 01 (Library Services) County Service (Bic Pho, Owner). CEQA: Resolution No. 65459 (Related Rezoning C06-052). Council District 8. (Planning, Building and Code Enforcement)

Heard in the evening.

Resolution No. 73616 adopted.

4.7 Public hearing on the reorganization/annexation of Evergreen No. 197.

Recommendation: Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Evergreen No. 197 on an approximately 1.33 gross acre County Pocket consisting of 2 parcels on the east side of San Felipe Road, 450 feet southerly of Larkspur Canyon Drive and detachment of the same from the appropriate special districts properties including Central Fire Protection and Area No. 01 (Library Services) County Service (Santa Clara Valley Water District; Dias, Lance, Owners). CEQA: Resolution No. 65459 (zoned A-Agricultural upon annexation pursuant to SJMC Section 20.120.310). Council District 8. (Planning, Building and Code Enforcement)

Heard in the evening.

Resolution No. 73617 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.8 Public hearing on the reorganization/annexation of Evergreen No. 198.

Recommendation: Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Evergreen No. 198 on an approximately 1.57 gross acre County Pocket consisting of 1 parcel on the east side of San Felipe Road, 560 feet northerly of Scenic Meadow Lane and detachment of the same from the appropriate special districts properties including Central Fire Protection and Area No. 01 (Library Services) County Service (Ceraolo R A & A 1998 Trust, Owner). CEQA: Resolution No. 65459 (zoned A-Agricultural upon annexation pursuant to SJMC Section 20.120.310). Council District 8. (Planning, Building and Code Enforcement)

Dropped per Administration.

4.9 Approval of initial actions, including setting public hearing, for the following annexations.

Recommendation:

- (a) Adoption of a resolution initiating proceedings and setting a public hearing on February 27, 2007 at 7:00 p.m. for the reorganization of territory designated as Penitencia No. 74 which involves the annexation to the City of San José of 3.3 gross acres of land consisting of 4 parcels located on the east side of Noble Lane, approximately 200 feet north of Noble Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Chase, Katheryn and Steven; Medeiros, José; Viswanathan, Tenkasis and Vij; Mancias, Paul; Owners). CEQA: Resolution No. 65459. Council District 4. (Planning, Building and Code Enforcement)

Resolution No. 73618 adopted.

- (b) Adoption of a resolution initiating proceedings and setting a public hearing on February 27, 2007 at 7:00 p.m. for the reorganization of territory designated as Story No. 60 which involves the annexation to the City of San José of 3.4 gross acres of land consisting of 3 parcels located on the northwest side of Watters Drive, approximately 60 feet northerly of Story Road, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service (Vaughn, Charles; McMullen, Keith and Beverly; Pfeil, Robert; Owners). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)

Resolution No. 73619 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.9 Approval of initial actions, including setting public hearing, for the following annexations (Cont'd.)

- (c) Adoption of a resolution initiating proceedings and setting a public hearing on February 27, 2007 at 7:00 p.m. for the reorganization of territory designated as Story No. 61 which involves the annexation to the City of San José of 3.4 gross acres of land consisting of 4 parcels located on the north side of Story Road, approximately 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 (Reyes, Jesus and Maria; Silva, Luis and Barbara; Nguyen, Hoan; Martinez Trust; Owners). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)
Dropped per Administration.
- (d) Adoption of a resolution initiating proceedings and setting a public hearing on February 27, 2007 at 7:00 p.m. for the reorganization of territory designated as Story No. 63 which involves the annexation to the City of San José of 4.3 gross acres of land consisting of 3 parcels located on the southeast side of Story Lane, approximately 870 feet northeasterly of Clayton Road, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service (Nagashima, Ben and Alice Trustee; Nagashima, Janet; Nguyen, Phuong Mai; Owners). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)
Heard in the evening.
Resolution No. 73620 adopted.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee Council Member Chirco, Chair No Report.

5.2 Approval to name a plaza.

Recommendation: As recommended by the Parks and Recreation Commission, name a plaza in the Guadalupe River Park and Gardens as “Rotary Heritage Plaza”. (City Clerk)
Heard in the evening.
Approved.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee – December 4, 2006 Council Member Campos, Chair

- (a) Update on Transportation Infrastructure Maintenance Needs Master Plan (Transportation)
The Committee accepted the report.
- (b) Progress Report on BART to Silicon Valley Project. (Transportation)
See Item 6.2 for Council Action taken.
The Committee accepted the report.
- (c) Final Report on Taxi Program (Transportation, Airport, Police Department)
See Item 6.3 for Council Action taken.
The Committee accepted the report.
- (d) Oral Petitions
None were presented.
- (e) Adjournment
(Deferred from 1/9/07 – Item 6.1)
The meeting was adjourned at 3:24 p.m.

The Building Better Transportation Committee Report and the Actions of December 4, 2006, were accepted.

6.2 Acceptance of Status Report on the BART Extension to San José/Silicon Valley.

Recommendation:

- (a) Acceptance of staff's presentation and status report on the BART extension to San José/Silicon Valley.
Report Accepted.
- (b) Direction to staff to schedule a Council Study Session on the BART Project for March 2007.
CEQA: Not a Project. Council Districts 3, 4 and 6. SNI: Five Wounds/Brookwood Terrace, University, 13th Street, Burbank/Del Monte, Delmas Park. (Transportation)
[Building Better Transportation Committee referral 12/4/06 – Item (b)]
(Deferred from 1/9/07 – Item 6.4)
To be considered for approval at the 1/24/07 Rules Committee.

6. TRANSPORTATION & AVIATION SERVICES

6.3 Approval to amend an agreement with On-Demand Dispatch Services at the Airport.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the On-Demand Dispatch Services Agreement with Taxi San José, Inc. to eliminate the increase in compensation for the second year of the agreement, retroactive to October 1, 2006. CEQA: Resolution Nos. 67380 and 71451, PP06-212. (Airport/Transportation)

[Building Better Transportation Committee referral 12/4/06 – Item (c)]
(Deferred from 1/9/07 – Item 6.5)

Resolution No. 73611 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 3:33 p.m. to consider Items 9.1, 9.2, 9.3 and 9.4 in a Joint Session.

9.1 Acceptance of the Quarterly Status Report on the Citywide Capital Improvement Program.

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

Report Accepted.

Staff requested to provide an information memorandum on Educational Park.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 Approval of actions related to the Airport Obstruction Study.

Recommendation:

- (a) Direction to staff to refine the downtown development policy to set forth height restrictions on new high-rise development to protect existing and future commercial airline service at Norman Y. Mineta San José International Airport.
- (b) Direction to City and Agency staff to initiate amendments to the General Plan and other key policy documents to restrict maximum building heights of new development to elevations, which would not impact airline emergency procedures criteria and are otherwise acceptable to the Federal Aviation Administration (FAA).
- (c) Direction to the Administration to consider refinements to the development review process including:
 - (1) For projects subject to an FAA airspace determination, require that applicants have their federal submittals prepared by a licensed civil engineer and that a copy of the submittal be provided to the City; and,
 - (2) For projects subject to an FAA airspace determination, require that applicants submit to the City a construction survey prepared by a licensed civil engineer verifying project elevations and location coordinates prior to issuance of an occupancy permit; and,
 - (3) For any proposed modifications or additions to existing buildings that are subject to an FAA airspace determination, such as roof-top accessory structures, require that such proposals be processed as development permit amendments; and,
 - (4) Conduct outreach with the downtown development community to provide information and guidance on development height restrictions.
- (d) Direction to the Administration to follow up with the FAA to ensure that its databases are appropriately updated and corrected.
- (e) Report back to the Council in three years and after evaluating FAA and airline safety procedures and determine if any changes can be made (consistent with FAA procedures) to restore or increase downtown building heights

CEQA: Resolution No. 72767, File No. PP06-186. (City Manager's Office / Redevelopment Agency)

(Deferred from 12/05/06 – Item 9.1)

Item 9.2 dropped per Administration.

9.3 Authorization to execute acceptance of an Easement Agreement for a portion of the GRP Trail.

Recommendation: Adoption of a resolution authorizing the Director of Public Works to execute acceptance of an Easement Agreement for a portion of the Guadalupe River Park (GRP) Trail with Sobrato Interests II, Sobrato Interests III and Sobrato Development Company #792 (Sobrato) and authorizing the Director of Public Works to execute all documents necessary to complete the transaction. CEQA: Resolution No. 71373. District 3. (City Manager's Office/Redevelopment Agency)

Resolution No. 73612 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.4 Council confirmation of Vice Mayor Dave Cortese and appointment as Vice Chair of the Redevelopment Agency.

Recommendation:

- (a) Approval of the appointment of Dave Cortese as Vice Mayor.
 - (b) Approval of the appointment of Dave Cortese as Vice Chairperson of the Redevelopment Agency.
- (Mayor/Redevelopment Agency)

Approved.

The Redevelopment Agency Board portion of the meeting adjourned at 3:53 p.m.

- **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>
9881	SE terminus of Tierra Enchanta Way	5	Community Housing Developers	12 Units	SFA	Approve

- **Open Forum**

- (1) **Ross Signorino expressed opposition to burdening the San José Police Department with enforcing the illegal cutting of trees.**
- (2) **Robert Apgar voiced personal observations.**
- (3) **William Garbett complained about the response time from Fire Station 13.**
- (4) **Mark Trout expressed religious viewpoints.**

- **Adjournment**

The Afternoon Council Session was adjourned at 4:02 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of a Director initiated rezoning from County of Santa Clara to R-M Multiple Residence Zoning District for multi family residential purposes on an approximate 15.3 gross acre area consisting of 2 parcels on the southwest corner of Capitol Avenue and Hostetter Road (Bianchi, Clara Trustee; Santa Clara Valley Transit Authority, Owners). CEQA: Resolution No. 65459. (Related Annexation Berryessa No. 68). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (5-0-0-1).

C06-074 - District 4

[Continued from 10/24/06– Item 11.1(g) and 11/14/06 – Item 11.1(c)]

Ordinance No. 27965 passed for publication, with correction noted on staff report to be “southwest” corner of Capitol Avenue.

- (b) Consideration of an ordinance rezoning the real property located on the east side of Market Street approximately 223 feet north of east San Carlos Street from CG(PD) Planned Development Zoning District to the DC Downtown Primary Commercial Zoning District to allow multiple dwelling residential uses on 0.53 gross acre site (Urban West Michael Kriozere, Owner/Developer). CEQA: Addendum to EIR.

C06-115 - District 3

Continued to 2/27/07.

- (c) Consideration of an ordinance rezoning the real property located on the northeast corner of Monterey Road and Phelan Avenue from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow additional commercial uses on a 6.85 gross acre site (1660 Monterey Road) (Caputo Associates, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

PDC06-110 - District 7

Ordinance No. 27966 passed for publication.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Rezoning the real property located on the north side of Blackford Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the north side of Blackford Avenue, approximately 200 feet east of Rebecca Way (3801 Blackford Avenue), from the R-M Residential Zoning District to the A(PD) Planned Development Zoning District to allow construction of 20 single-family attached residences on a 0.97 gross acre site (Chui David K Trustee & Et Al, Owner; Leonard Hufton, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning commission recommended approval (5-1-0).

PDC06-066 – District 1

(Continued from 12/12/06 – Item 11.2)

Ordinance No. 27967 passed for publication.

11.3 Rezoning the real property located on the southwesterly side of Campbell Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the southwesterly side of Campbell Avenue, 950 feet northwesterly of Newhall Street (1179 Campbell Avenue), from LI-Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 40 single-family detached residences on a 2.67 gross acre site (Cobalt Associates, Owner). CEQA: Mitigated Negative Declaration.

PDC06-071 – District 6

(Continued from 12/12/06 – Item 11.5)

Dropped to be renoticed per Administration.

11.4 Rezoning the real property located on the terminus of Duckett Way.

Recommendation: Consideration of an ordinance rezoning the real property located on the terminus of Duckett Way, approximately 420 feet east of S. De Anza Boulevard from R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 19 new single family attached residential units and one single family residence on an 1.83 gross acre site (1566 Duckett Way) (P. Lenahan and M. Barshow, Owners; Barry Swenson Builders, Developer). CEQA: Mitigated Negative Declaration. The Director of Planning, Building and Code Enforcement and Planning Commission recommends to not adopt the rezoning ordinance (4-1-2).

PDC06-062 - District 1

(Continued from 12/5/06 – Item 11.4 and 12/12/06 – Item 11.7)

Continued to 2/6/07 per Mayor.

11. PUBLIC HEARINGS

11.5 Administrative hearing on consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit.

Recommendation: Administrative Hearing on consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit to allow the construction of an outdoor dining patio and storage building for an existing restaurant (Tomato Thyme) on a 0.40 gross acre site, in the CN Neighborhood Commercial Zoning District, located on the south side of Hamilton Avenue approximately 320 feet easterly of Meridian Avenue (1560 Hamilton Avenue) (John D. Smith, Owner). CEQA: Mitigated Negative Declaration.

CP02-008 - District 6

Continued to 3/6/07.

11.6 Administrative Hearing on consideration of an appeal of the Planning Commission's decision to conditionally approve a Wireless-Conditional Use Permit.

Recommendation: Administrative Hearing on consideration of an appeal of the Planning Commission's decision to conditionally approve a Wireless-Conditional Use Permit to allow an (existing) monopole and associated ground equipment on a 0.56 gross acre site, in the CG General Commercial Zoning District, located at/on the south side of Tully Road approximately 190 feet northeasterly of Lanai Avenue (1632 Tully Avenue) (Crown Castle, USA, Owner). CEQA: Exempt. The Director of Planning, Building and Code Enforcement recommends the City Council uphold the Planning Commission's decision to conditionally approve a Conditional Use Permit (File No. CP06-021) permit to allow wireless monopole antenna facility not to exceed 65 feet in height with associated equipment and to deny a development exception permit (V06-012) requested to allow the subject monopole to be in excess of the zoning ordinance height restrictions. CP06-021 & V06-012 - District 7

The appeal was upheld. Resolution No. 73621 adopted.

The memorandum from Council Members Nguyen and Cortese, dated January 19, 2007, was approved, with the following conditions:

- (1) **Applicant will remove the wagon wheel configuration that currently exists and will flush mount existing and proposed antennas.**
- (2) **Applicant will remove existing climbing pegs and existing barb wire fencing that surrounds the monopole to ensure safety.**
- (3) **Applicant will "slimline" and paint the monopole and antennas a light gray color to camouflage and minimize visibility.**

Noes: Campos.

- **Open Forum**
 - (1) **Jose Medeiros issued a complaint regarding his Workman's Compensation claim. The matter was referred to the City Manager.**
 - (2) **Joe Territo and Robert Long, weed abatement contractors, asked the Council to push back the weed abatement period to April 15, 2007, consistent with the County.**
 - (3) **David Wall summarized concerns expressed in a letter to the Council about a Senior Environmental Inspector in the Environmental Services Department.**
 - (4) **Robert Apgar expressed personal points of view.**

- **Adjournment**

The Council of the City of San José was adjourned at 8:00 p.m.