



# CITY COUNCIL AGENDA

**MAY 18, 2010**

## 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

*The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.*

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](http://www.sanjoseca.gov/clerk/agenda.asp). Council Meetings are televised live and rebroadcast on Channel 26.

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

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

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

- **Call to Order and Roll Call**
  - 9:31 a.m.** - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: Chirco. (Excused)**
  - 1:30 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: None.**
  - 7:05 p.m.** - General Plan Hearings, Council Chambers, City Hall  
- Public Hearings, Council Chambers, City Hall  
**Absent Council Members: None.**
- **Invocation (District 5)**  
**Joseph George Middle School Drum Corps presented the Invocation.**
- **Pledge of Allegiance**  
**Mayor Reed and the students from Rosemary Elementary School (District 1) led the Pledge of Allegiance.**
- **Orders of the Day**  
**The Orders of the Day and the Amended Agenda were approved, with Item 2.3(a) deferred to 05/25/10 and noting that although a Mitigated Negative Declaration for a Conditional Use Permit for the expansion of a gas station at the southeast corner of McKee Road and 33rd Street indicated that the hearing on that appeal would be heard this evening (05/18/10), subsequently the item will be renoticed and heard on 06/15/10.**
- **Closed Session Report**  
**No Report.**

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to the following recipients of the City of San José's Champions of Arts Education Awards: Jeff Bordona: Manager of Youth, Family & School Audiences, San José Museum of Art; Aimée Ipson-Pflederer: Visual & Performing Arts Coordinator, Santa Clara County Office of Education; Mitsu Kumagai: Youth & Arts Program Manager, Arts Council Silicon Valley; and Joseph George Middle School, Alum Rock Union School District. (Economic Development)  
**Heard in the evening.**  
**Mayor Reed and Council Member Liccardo recognized and commended the recipients of the City of San José's Champions of Arts Education Awards.**
- 1.2 Presentation of a proclamation declaring the week of May 16-22, 2010 as Public Works Week. (Public Works)  
**Mayor Reed and Director of Public Works Katy Allen recognized the week of May 16 through May 22, 2012 as "Public Works Week".**
- 1.3 Presentation of a proclamation declaring the month of May 2010 as "Historic Preservation Month" in the City of San José. (Chirco)  
**Mayor Reed and Vice Mayor Chirco recognized the month of May 2010 as "Historic Preservation Month" in the City of San José.**
- 1.4 Presentation of the winners of the Historical San José 2010 Photography Contest sponsored by the Historic Landmarks Commission. (Chirco)  
**Dropped.**
- 1.5 Presentation of commendations recognizing District 9 Stars Patty Nation, Lorna MacKintosh, and Dave and Ginger Manley. (Chirco)  
**Heard in the evening.**  
**Mayor Reed and Vice Mayor Chirco recognized and commended the District 9 Stars Patty Nation, Lorna MacKintosh and Dave and Ginger Manley.**
- 1.6 Presentation of a commendation to the 2010 Silver Creek High School Japan Bowl Teams for their achievements at the 2010 National Japan Bowl Competition. (Herrera)  
**Mayor Reed and Council Member Herrera recognized and commended the 2010 Silver Creek High School Japan Bowl Teams for their achievements at the 2010 National Japan Bowl Competition.**
- 1.7 Presentation of a commendation to the volunteers of Mormon Helping Hands Day. (Mayor)  
**Heard in the evening.**  
**Mayor Reed recognized and commended the volunteers of "Mormon Helping Hands Day".**
- 1.8 Administer Oaths of Office to Districts 2 and 4 and Citywide Youth Commissioners. (City Clerk)  
**Heard in the evening.**  
**Assistant City Clerk Dennis Hawkins administered the Oaths of Office to the District 2, District 4 and Citywide Youth Commissioners. Mayor Reed and Council Members Kalra and Chu congratulated the Youth Commissioners.**

# 1. CEREMONIAL ITEMS

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- 1.9 Presentation of a proclamation declaring May 12, 2010 as “National Lab Day” in the City of San José in recognition of the nationwide initiative to build local communities of support that will foster ongoing collaborations among volunteers, students and educators. (Kalra)  
**Mayor Reed and Council Member Kalra recognized May 12, 2010 as “National Lab Day” in the City of San José.**

# 2. CONSENT CALENDAR

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## 2.1 Approval of Minutes.

**Recommendation:** Approval of Minutes.

- (a) Regular Minutes of March 2, 2010.
- (b) Airport Economic and Budget Issues Study Session Minutes of March 8, 2010.
- (c) Regular Minutes of March 9, 2010.
- (d) Regular Minutes of March 16, 2010.
- (e) Regular Minutes of March 23, 2010.
- (f) Regular Minutes of March 30, 2010.

**Approved.**

## 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28743 – To provide for a temporary Business Tax Suspension Program for taxpayers with thirty-five or fewer employees that enter into a new lease or renew an existing lease between January 1 – September 1, 2010 and pay past due obligations owed the City as provided in the ordinance.

**Ordinance No. 28743 adopted.**

## 2.3 Approval of Council Committee Reports.

**Recommendation:** Approval of Council Committee Reports.

- (a) Transportation and Environment Committee Report of May 3, 2010. (Liccardo)  
**Deferred to 05/25/10 per Orders of the Day.**
- (b) Rules and Open Government Committee Report of April 28, 2010. (Mayor)
- (c) Rules and Open Government Committee Report of April 21, 2010. (Mayor)
- (d) Community and Economic Development Committee of April 26, 2010. (Pyle)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.4 Mayor and Council Excused Absence Requests.

**Recommendation:**

- (a) Request for an excused absence for Vice Mayor Chirco from the Regular Meeting of the Neighborhood Services and Education Committee on May 13, 2010 due to Personal Appointment. (Chirco)  
(Rules Committee referral 5/12/10)

**Dropped per Vice Mayor Chirco.**

### 2.5 City Council Travel Reports.

**There were none presented.**

### 2.6 Award of Contract for SJ-19 Recycled Water Airport Main Extension.

**Recommendation:**

- (a) Reject all bids for the SJ-19 Recycled Water Airport Main Extension project.
- (b) Accept the report on re-bid of the project and award of contract for SJ-19 Recycled Water Airport Main Extension project to the low bidder, Bay Pacific Pipelines, Inc., for the term of May 25, 2010 to August 27, 2010, in an amount not to exceed \$473,000, and approve a project contingency in the amount of \$75,000.

CEQA: Exempt, File PP10-20. (Environmental Services)

**Approved.**

### 2.7 Grant Applications for Pre-Development for Bio-Methane Fuel and AFV Manufacturing Facilities.

**Recommendation:** Adopt a resolution authorizing the City Manager to submit two grant proposals to the California Energy Commission, Alternative and Renewable Fuel and Vehicle Technology Program, for up to \$1,000,000 each to conduct pre-development planning for:

- (a) A biomethane transportation fuel production facility on Water Pollution Control Plant lands.
- (b) An alternative fuel vehicle manufacturing facility in San José.

CEQA: Not a Project, File #PP10-068 Grant Application. (Environmental Services)

**Resolution No. 75370 adopted.**

### 2.8 Software License Maintenance Agreement with Oracle, Inc.

**Recommendation:** Adopt a resolution authorizing the Director of Finance to:

- (a) Negotiate and execute purchase orders with Oracle, Inc. pursuant to the master terms and conditions agreed upon between the parties on February 28, 2005 for software update and license support for a one year term, at a total cost of \$419,359.
- (b) Approve a contingency not-to-exceed \$20,000 to cover any unanticipated additional maintenance requirements during the initial one year term, subject to the appropriation of funds.

## 2. CONSENT CALENDAR

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### 2.8 Software License Maintenance Agreement with Oracle, Inc. (Cont'd.)

- (c) Exercise annual options to renew software update and license support with Oracle, Inc. subject to the annual appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a) Agreements and Contracts. (Finance)

**Resolution No. 75371 adopted.**

### 2.9 Guadalupe River Reach 6 Trail Project Grant Agreements.

#### **Recommendation:**

- (a) Approve a grant agreement with the State of California Natural Resources Agency for receipt of grant funds in the amount of \$700,000 under the California River Parkways grant program from the Proposition 50 State Bond Fund for the Guadalupe River Reach 6 Trail (Woz Way to Virginia Street) Project.
- (b) Approve a grant agreement with the State of California Natural Resources Agency for receipt of grant funds in the amount of \$123,574 from Proposition 13 State Bond Fund for the Guadalupe River Reach 6 Trail (Woz Way to Virginia Street) Project.
- (c) Approve a Memorandum of Unrecorded Grant Agreement to be recorded against City owned property for the Guadalupe River Reach 6 Trail (Woz Way to Virginia Street) Project as required by the State of California Natural Resources Agency as a condition of the grant agreements.

CEQA: Mitigated Negative Declaration, File No. PP04-03-102. Council District 3. SNI: Washington, Greater Gardner. (Parks, Recreation and Neighborhood Services)

**Approved.**

### 2.10 Agreement with California Department of Transportation for Freeway Maintenance.

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute a freeway maintenance agreement between the City of San José and the California Department of Transportation for State Highway 101 in the City of San José from Story Road to Capitol Expressway including the 101/Tully Road interchange.

CEQA: Mitigated Negative Declaration, File No. OA05-010. Council Districts 5, 7 and 8. SNI: K.O.NA.; Tully/Senter; West Evergreen. (Transportation)

**Resolution No. 75372 adopted.**

### 2.11 SB 918 (Pavley) to Require the State Department of Public Health to Develop and Adopt Uniform Water Recycling Criteria for Potable Water Reuse.

**Recommendation:** As recommended by the Rules and Open Government Committee on May 12, 2010, adopt a position of support for SB 918 (Pavley) to require the State Department of Public Health to develop and adopt uniform water recycling criteria for potable water reuse. (Environmental Services)

**Position of Support adopted.**

## 2. CONSENT CALENDAR

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### 2.12 AB 2138 (Chesbro) – Plastic Ocean Pollution Reduction, Recycling and Composting Act.

**Recommendation:** As recommended by the Rules and Open Government Committee on May 12, 2010, adopt a position of support for AB 2138 (Chesbro) – Plastic Ocean Pollution Reduction, Recycling and Composting Act. (Environmental Services)

**Position of Support adopted.**

### 2.13 Reappointments to Boards, Commissions and Committees.

**Recommendation:** As recommended by the Rules and Open Government Committee on May 12, 2010:

- (a) Reappoint Erik Karstan Smith and Jose Villanueva Castro, Jr to the Parks and Recreation Commission. (Pyle)
- (b) Reappoint Daniel Ray Newell and Otila Salazar Torres to the Disability Advisory Commission. (Pyle)
- (c) Reappoint Frank Sweeney and John Salad to the Airport Commission. (Chu)
- (d) Reappoint Erica Schaefer to the Early Care and Education Commission. (Chirco)
- (e) Reappoint Dana Peak and Stephen Cohen to the Historic Landmarks Commission. (Chirco)

**Approved.**

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the City Manager, Debra Figone (Verbal Report) City Manager Debra Figone provided a brief response to the Working Partnerships USA budget proposals that were unveiled at the press conference on Monday, May 17, 2010.

### 3.2 City of San José Executive Home Loan Program.

**Recommendation:**

- (a) As recommended by the Public Safety, Finance and Strategic Support Committee on April 15, 2010, accept the report containing recommended changes to the City of San José Executive Home Loan Program.
- (b) Adopt a resolution modifying the City of San Jose Executive Home Loan Program and repealing Resolution No. 69478.

(City Manager's Office)

**Deferred to 05/25/10 per Administration.**

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

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#### **3.3 Public Hearing on the Proposed Operating/Capital Budgets for the Fiscal Year 2010-2011, including Proposed Departmental Fees and Charges for the City of San José.**

**Recommendation:** Public Hearing on the Proposed Operating and Capital Budgets for the Fiscal Year 2010 -2011, the Proposed Five-Year Capital Improvement Program for 2011-2015, the Proposed Fees and Charges Report for the Fiscal Year 2010-2011. (City Manager's Office)

**Heard last in the Evening.**

**The Public Hearing was held.**

**One Hundred Nineteen speakers voiced concerns and provided solutions on the Proposed Operating and Capital Budgets for the Fiscal Year 2010 -2011, the Proposed Five-Year Capital Improvement Program for 2011-2015, the Proposed Fees and Charges Report for the Fiscal Year 2010-2011.**

#### **3.4 Bill of Rights for Children and Youth.**

**Recommendation:** Adopt a resolution supporting the Bill of Rights for Children and Youth developed by the San José Youth Commission. (Chirco)

[Rules Committee referral 5/5/10 – Item A(2)(a)]

**Heard in the Evening.**

**Resolution No. 75374 adopted.**

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

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#### **4.1 Public Hearing on an Ordinance to Specify Parking Requirements for Business Destination Areas.**

**Recommendation:** Conduct a public hearing and consider an ordinance amending Title 20 of the San José Municipal Code to amend: Table 20-190 (Parking Spaces Required by Land Use) in Section 20.90.60 and Section 20.90.220, both of Chapter 20.90, to specify a Parking Requirement for Business Destination Areas; and Chapter 20.200 to add a definition of Business Destination Areas. CEQA: Negative Declaration, File No. PP10-059. (Planning, Building and Code Enforcement)

Citywide

(Continued from 4/27/10 – Item 4.3)

**Dropped.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.2 Neglected Vacant or Abandoned Buildings Ordinance.

**Recommendation:** Approval of an ordinance amending San Jose Municipal Code Chapter 17.38, Neglected Vacant Houses to:

- (a) Change the title of the Chapter from “Neglected Vacant Houses” to “Maintenance and Rehabilitation of Neglected Vacant or Abandoned Buildings,” and expand the provisions of the existing ordinance to include any neglected vacant or abandoned buildings.
- (b) Require all vacant or abandoned buildings to be rehabilitated within 180 calendar days after the building is vacant, unless the building meets certain maintenance or other requirements specified in the ordinance.
- (c) Require all vacant or abandoned historic buildings or structures listed on the National Register of Historic Places, California Register of Historic Resources, or City of San Jose Register of Historic Landmarks to have an operating security alarm system approved by the City’s Director of Planning, Building and Code Enforcement, and clarify that vacant or abandoned historic buildings deemed unsafe by the Fire Marshal may be subject to additional fire alarm system requirements consistent with Section 311 of the California Fire Code.
- (d) Make other clarifying changes to the ordinance as described in the memorandum. CEQA: Exempt, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for the Protection of the Environment. (Planning, Building and Code Enforcement) (Deferred from 5/11/10 – Item 4.1)

**Ordinance No. 28745 passed for publication, as amended, City Attorney directed to clarify the language and incorporate for the second reading of the ordinance that rehabilitation in the Municipal Code state that the property is no longer considered a public nuisance.**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Grant for the Summer Nutrition Collaborative.

**Recommendation:** Adopt a resolution authorizing the City Manager to submit an application to the YMCA of Santa Clara Valley in an amount not to exceed \$1,200,000 to support the efforts of a Summer Nutrition Collaborative and to negotiate and execute a grant agreement accepting the grant and any collateral documents, and to execute amendments to the grant agreement to extend or modify the grant period or to accept additional grant funds up to twice the original amount under this grant. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services) (Deferred from 5/11/10 – Item 5.1)

**Resolution No. 75373 adopted.**

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 Amendment to the Airport Master Plan.

**Recommendation:** As recommended by the Transportation and Environment Committee on May 3, 2010, accept the report and approve a Major Amendment to the Airport Master Plan for the Norman Y. Mineta San José International Airport to:

- (a) Shift the plan horizon from 2017 to 2027.
- (b) Updated projected demand and facility requirements.
- (c) Modify specific components of the facility development program.

CEQA: Airport EIR, Resolution Nos. 67380 and 71451, File No. PP10-024. (Airport)  
[Transportation and Environment Committee referral 5/3/10 – Item D(7)]

**Deferred to 06/8/10 per Administration.**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 Agreements with Carollo Engineers, CH2M Hill, and Black & Veatch for Capital Improvement Projects at the Water Pollution Control Plant.

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute first amendments to the master agreements with:

- (a) Carollo Engineers for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent.
- (b) CH2M Hill for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent.
- (c) Black & Veatch for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by four percent.

CEQA: Not a Project: Statutorily Exempt, File No. PP10-066(d), CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Environmental Services)

**Deferred to 06/15/10 per Administration.**

### 7.2 San José's Strategic Energy Action Plan.

**Recommendation:** As recommended by the Transportation and Environment Committee on May 3, 2010, approve the Strategic Energy Action Plan which establishes strategies and actions for achieving Green Vision Goals related to energy use reductions and increased use of renewables. CEQA: Not a Project, File No. PP10-068 Policy Adoption. (Environmental Services)

**Approved.**

## **8. PUBLIC SAFETY SERVICES**

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

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- **Open Forum**

- (1) **Speaking in opposition to the removal of trees from the TJ Martin/Jeffrey Fontana Parks by PG&E were Roberta Moore, Richard Stevens, Pier Maggiani, Vince Piazzisi, David James, Rosy Bowring, Linda Wilson and Jay Stevens.**

**Council Member Pyle responded to the Friends of the TJ Martin/Jeffrey Fontana Parks and noted that she would send the Attorney's letter and facts about the removal of trees to the group; and she was willing to meet with the group, as well.**

- (2) **Bill Chew stated that he was running for Mayor of San José and thanked everyone who nominated him.**
- (3) **Jim Piazzo, Green Earth Enterprise, reiterated his concerns about the difficulties in establishing a business in the City of San José. City Manager Debra Figone referred Mr. Piazzo to speak to a member of her staff.**
- (4) **Jose Francisco Medeiros explained he was evicted from his property and expressed concern that the City Council did not respond to his messages. Mayor Reed spoke to Mr. Medeiros after the afternoon session ended.**
- (5) **Kevin O'Keefe urged the City Council to repeal the fireworks ban and suggested ways to make fireworks safe for the residents.**

- **Adjournment**

**The Council of the City of San José adjourned the afternoon session at 3:22 p.m.**

- **Orders of the Evening**  
A Mitigated Negative Declaration for a Conditional Use Permit for the expansion of a gas station at the southeast corner of McKee Road and 33rd Street indicated that the hearing on that appeal would be heard this evening (05/18/10), subsequently the item will be renoticed and heard on 06/15/10.

## **10. GENERAL PLAN PUBLIC HEARINGS**

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### **10.1 Tentative approval of General Plan Consent Calendar items.**

**Recommendation:**

- (a) Tentative approval of a General Plan amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram land use designation from Non-Urban Hillside (Silver Creek Planned Residential Community) to Public/Quasi-Public (Silver Creek Planned Residential Community) on a 3-acre portion of a 21.1-acre site, located on the east side of Dove Hill Road, approximately 500 feet north of Hassler Parkway (4200 Dove Hill Road) (Kuehne Stanislaus and Eleanore Trustee & Et, owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

GP08-08-03 – District 8

[Continued from 4/27/10 – Item 10.1(a)]

**Continued to 06/15/10.**

### **10.2 Approve all General Plan amendment actions taken on April 27 and May 18, 2010.**

**Recommendation:** Adopt a resolution approving all General Plan amendment actions taken on April 27 and May 18, 2010. (Planning, Building and Code Enforcement)  
(Continued from 4/27/10 – Item 10.5)

**Resolution No. 75375 adopted.**

**END OF GENERAL PLAN HEARINGS**

# 11. PUBLIC HEARINGS

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## 11.1 Public Hearings on Consent Calendar.

### **Recommendation:**

- (a) In the event the Council approves the General Plan amendment to add the Neighborhood Business District overlay designation to a portion of Winchester Boulevard tentatively approved on April 27, 2010 and included for adoption in Item 10.2, adopt a resolution to repeal Resolution No. 75235 designating that portion of Winchester Boulevard as a Targeted Business Area.

[Continued from 4/27/10 – Item 11.1(b)]

**Resolution No. 75376 adopted.**

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## 11. PUBLIC HEARINGS

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### 11.2 Administrative Hearing and Consideration of an Appeal of the Planning Commission's decision to approve a Conditional Use Permit.

**Recommendation:** Conduct an Administrative Hearing and consider an Appeal of the Planning Commission's decision to approve a Conditional Use Permit to expand a legal non-conforming use by adding 11 rooms to an existing 16-room guest house on a 0.29 gross acre site, in the R-M Multiple Residence Zoning District, located at/on the southeast corner of E Saint John Street and N 5<sup>th</sup> Street (98 N 5<sup>th</sup> Street) (Sabankaya Semih and Jeanne K Trustee & Et Al, Owner). SNI: 13<sup>th</sup> Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to uphold Planning Commission's decision to approve.

CP07-053 – District 3

**Resolution No. 75377 adopted, as amended, by the replacement memorandum from Council Member Liccardo, dated May 17, 2010:**

- (1) **Permit Expiration: Should a Code inspection reveal that construction has not commenced within one year of the issuance of this permit, a compliance hearing shall be held on the issue of whether Applicant has complied with the permit in making to the requisite improvements. Staff should strictly and immediately respond to any compliance.**
- (2) **Community Outreach:**
  - (a) **Applicant shall meet with the Horace Mann Neighborhood Association to develop a "Good Neighbor Agreement, which shall include provisions that set forth, at a minimum:**
    - (1) **A reliable phone number for neighbors to contact management of the facility to immediately address allegations of nuisance activity.**
    - (2) **"Lights Out" hours, i.e. in which management will require cessation of the playing of amplified music or other external noise during sleeping hours.**
    - (3) **A management plan for the Applicant to address nuisance behavior by residents, such as public drinking, littering and trespassing on neighbor's property, and similar to.**
    - (4) **A means for communicating with the neighborhood -- such as email lists, or a phone number of a neighborhood leader -- of any reports of problem activity emerging from the premises.**

### 11.3 Zoning Real Property located on the southeast corner of Airport Parkway and Old Bayshore Highway.

**Recommendation:** Consider an ordinance zoning the real property located at/on the southeast corner of Airport Parkway and Old Bayshore Highway (40 Airport Parkway) to support the relocation of a cardroom, and to construct a full service hotel and associated parking , including an off-street parking facility, on a 0.68 gross acre site. CEQA: North San José Development Policy Update EIR, Resolution No. 72768, adopted June, 2005.

PDC10-003 – District 3

# 11. PUBLIC HEARINGS

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## 11.3 Zoning Real Property located on the southeast corner of Airport Parkway and Old Bayshore Highway (Action Cont'd.)

Ordinance No. 28746 passed for publication, as amended, by the memorandum from Mayor Reed and Council Member Liccardo, dated May 14, 2010, approving the Staff recommendation with inclusion of the following offer made by the applicant, Garden City Casino:

- (1) The developer has offered to and shall reimburse the City for lighting, traffic calming or other safety improvements along and near the North First Street corridor (including within the Rosemary Gardens Neighborhood) up to a maximum of \$100,000.

- 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 receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10049	E/S of N White Rd, approx. 100' S of Kentridge Dr	4	Timothy Shieh Chen	8 Lots / 7 Units	SFD
10050	SE corner of E. Mission and N. Tenth Streets	3	Westmont Square LLC	62 Lots / 60 Units	SFD/MFA

- Notice of City Engineer's Award of Construction Projects  
None.

- Open Forum  
There were none presented.

- Adjournment  
The Council of the City of San José was adjourned at 11:10 p.m. in memory of Reverend Larry Summers Burroughs. (Constant)