

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, FEBRUARY 3, 2009**

The Council of the City of San José convened in regular session at 9:30 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chirco, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (c) with respect to anticipated litigation in three (3) matter(s) of initiation of litigation. (B) to confer with Counsel – Anticipated Litigation (Claim Not Filed). Significant exposure to litigation pursuant to subsection (b) of Section 54956.9 of the Government Code: Number of matters to be discussed: 1; (C) to confer with Legal Counsel pursuant to: Government Code Section 54956.9, subsection (a) with respect to existing litigation: (1) Rodriguez, et al. v. City, et al.; Names of Parties Involved: Regina Rodriguez, Justin Cruz, City of San José, Does 1-20, inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV-091321; Amount of Money or other Relief Sought: Damages according to proof; (2) Bernal v. City, et al; Names of Parties Involved: Mike C. Bernal, Susan R. Bernal, Nanetta Bernal, Lilian Bernal Auvinen, Katherine Lira, Diana Bernal-Tuyor, Mike A. Bernal, Gary James Bernal, Domenico Loverde, Tomas J. Martinez, Authur Paul Lira, Jr., Jeremiah Lira, Sommer Kai Espinosa, Lucia A. Bernal, Guillermo Espinosa, City of San José, and Does 1-25; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-116141; Amount of Money or other Relief Sought: Damages according to proof; (3) Luong v. City, et al.; Names of Parties Involved: Hang Luong, City of San José, Officer Tedros Habib and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-109346; Amount of Money or other Relief Sought: Damages according to proof; (4) City v. Maxim Integrated Products, Inc.; Names of Parties Involved: City of San José, Maxim Integrated Products, Inc., Does 1-50, inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV-132486; Amount of Money or other Relief Sought: Damages according to proof; (5) City v. Filipino American Senior

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**CLOSED SESSION (Cont'd.)**

Opportunities Development Council, Inc.; Names of Parties Involved: The City of San José, Filipino-American Senior Opportunities Development Council, a California Corporation, dba Filipino-American Senior Opportunities Development Council, Inc., and dba Filipino American Community Development Council, Inc.; Ben Menor aka Benny B. Menor, and individual; and Does 1-100, inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 1-06-CV-066845; Amount of Money or other Relief Sought: Damages according to proof; (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Maintenance Supervisory Personnel (AMSP); Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: City of San José – Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary. (2) Association of Engineers & Architects (AEA); Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and Association of Engineers & Architects (AEA). (3) International Association of Firefighters (IAFF), Local 230; Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement Between City of San José and International Association of Firefighters (IAFF), Local 230. (4) International Union of Operating Engineers, Local No. 3 (OE#3); Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement Between City of San José and International Union of Operating Engineers, Local No. 3 (OE#3). How to obtain a copy of existing contract or MOA: web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 10:40 a.m. and reconvened at 1:30 p.m. in the Council Chambers.

Present: Council Members - Campos, Chirco, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Absent: Council Members - None.

**INVOCATION**

Father Jon Pedigo of St. Julie’s Church offered the Invocation. (District 2)

**PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 3.3 was deferred to February 10, 2009. (11-0.)

## CLOSED SESSION REPORT

### A. Authority to Initiate Litigation:

City Attorney Doyle disclosed the following Closed Session actions of February 3, 2009:

Authority to initiate litigation was given in two (2) matters. The names of the action/s/ and the defendant/s/, as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action/s/ are formally commenced.

Council Vote: Ayes: Campos, Chirco, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle, Reed.

Noes: None.  
Disqualified: None.  
Absent: None.  
Vacant: None.

## CEREMONIAL ITEMS

### 1.2 **Presentation of a proclamation declaring February 6<sup>th</sup>, 2009 as “National Wear Red Day” in the City of San José. (Campos/Kalra)** **(Orders of the Day)**

Action: Mayor Reed and Council Members Campos and Kalra recognized February 6<sup>th</sup>, 2009 as “National Wear Red Day” in the City of San José, as part of the American Heart Association “Go Red for Women” campaign.

### 1.1 **Presentation of a commendation to FIRST 5 of Santa Clara County Executive Director, Jolene Smith. (Chirco)** **(Rules Committee referral 01/28/09)**

Action: Mayor Reed and Vice Mayor Chirco recognized and commended FIRST 5 of Santa Clara County Executive Director, Jolene Smith, and Early Care And Education Commission Member, Corazon Tomalinas, for their significant contributions to the City of San José.

## CONSENT CALENDAR

Upon motion by Council Member Campos, seconded by Vice Mayor Chirco and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

- 2.3 Approve a continuation and third amendment to the agreement with Engineering Economics, Inc., for consultant services for quality assurance commissioning of the planned North Concourse project and Central Plant Expansion project at the Norman Y. Mineta San José International Airport, to increase compensation by \$30,000 from \$224,062 for a total maximum compensation not to exceed \$254,062, and to extend the term January 1, 2009 through December 31, 2009. CEQA: Resolution Nos. 67380 and 71451, PP 08-0260. (Airport)**

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated January 12, 2009, recommending approval of an amendment to an agreement with Engineering Economics, Inc.

Action: Approval of a continuation and third amendment to the agreement with Engineering Economics, Inc., for consultant services for the planned North Concourse project and Central Plant Expansion project at the Norman Y. Mineta San José International Airport, increasing compensation and to extend the term of the contract were approved. (11-0.)

- 2.4 Adopt a resolution to:**

- (a) Approve the City of San José three-year Airport Concession Disadvantaged Business Enterprise (ACDBE) participation plan update in accordance with the regulations of the United States Department of Transportation (USDOT);**
- (b) Approve the three-year ACDBE participation target of 9.61% for all Airport concessions, other than car rentals, for the City's fiscal years 2009 through 2011;**
- (c) Approve the determination that it is not feasible to establish a Market Area or a three-year ACDBE participation target for car rental concessions for the City's fiscal years 2009 through 2011 at this time; and**
- (d) Authorize the City Manager, or her designee, to make revisions and/or submit revisions of the three-year ACDBE participation plan update to the Federal Aviation Administration (FAA) that are necessary to comply with applicable federal regulations and to achieve the objectives of the program.**

**CEQA: Resolution Nos. 67380 and 71451, PP 08-190. (Airport)**

Documents Filed: (1) Memorandum from Director of Aviation William F. Sherry, dated January 12, 2009, recommending adoption of a resolution. (2) Memorandum from Rudy Rodriguez, Small Business Development Commission, in support of the ACDBE 3-year participation plan.

**2.4 (Cont'd.)**

Public Comments: James Charles spoke in support of the proposal, urging a higher participation rate for the Airport Concession Disadvantaged Business Enterprise (ACDBE).

Action: Upon motion by Council Member Chu, seconded by Council Member Constant and carried unanimously, [Resolution No. 74777](#), entitled: “A Resolution of the Council of the City of San José Approving the City of San José Three-Year Airport Concessions Disadvantaged Business Enterprise Participation Plan Update for Non-Rental Car Concessions in Accordance with the Regulations of the United States Department of Transportation”, was adopted. (11-0.)

**2.5 Adopt a resolution of support for Administration activities necessary to coordinate the planning and hosting of the International City/County Management Association (ICMA) 2010 Annual Conference. CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: Memorandum from Deputy City Manager Ed Shikada, dated January 14, 2009, recommending adoption of a resolution.

Action: [Resolution No. 74778](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with National Hispanic University in An Amount Not to Exceed \$221,659 to Implement the Grant-Funded Early Childhood Education Program”, was adopted. (11-0.)

**2.6 (a) Approve a continuation and second amendment to the agreement with GlobalFluency, Inc., for national and international public relations services, extending the term from January 1, 2009 through August 31, 2009, and increasing compensation by \$100,000, of which \$33,000 will be provided from the San José convention and Visitors Bureau through a separate contribution agreement, for a total contract amount of \$450,000.**

**(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**

**(1) Increase the appropriation to the Office of Economic Development for Non-Personal/Equipment by \$33,000; and**

**(2) Increase the estimate for Other Revenue by \$33,000.**

**CEQA: Not a Project. (Economic Development/City Manager’s Office)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko and Budget Director Jennifer Maguire, dated January 12, 2009, recommending approval of an amendment and continuation agreement with GlobalFluency.

Council Member Campos pulled Item 2.6 from the Consent Calendar to express her opposition to the Plan, suggesting that funding could be put to better use.

Dan Fenton, San Jose Convention & Visitors Bureau CEO/Chairman of Team San José and Chief Development Officer Paul Krutko spoke in support of the proposal to approve a continuation and second amendment to the agreement with GlobalFluency, Inc.,

## 2.6 (Cont'd.)

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Pyle and carried unanimously, a continuation and second amendment to the agreement with GlobalFluency, Inc., for national and international public relations services, extending its term and increasing compensation provided from the San José Convention and Visitors Bureau through a separate contribution agreement, were approved, and [Ordinance No. 28488](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the General Fund for Non-Personal/Equipment; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, and [Resolution No. 74773](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2008-2009 to Adjust Revenues in the General Fund”, were adopted. (10-1-0. Noes: Campos.)

- 2.7 (a) **Adopt a resolution authorizing the Director of Finance to:**
- (1) **Execute an agreement with Scheidt and Bachmann USA Inc., for the purchase of a Parking Access and Revenue Control System (PARCS) for the 2<sup>nd</sup>/San Carlos Garage, and upgrade existing PARCS systems at six City garages and one Redevelopment Agency garage, for a total cost of \$675,148 including all equipment, software, delivery, installation, training, sales tax, and first year of maintenance.**
  - (2) **Execute change orders in an amount not to exceed a \$67,500 contingency to cover unanticipated changes in the system design and/or installation.**
  - (3) **Exercise four one-year options for ongoing maintenance and support.**
- (b) **Adopt the following Appropriation Ordinance amendments in the General Purpose Parking Fund:**
- (1) **Increase the appropriation to the Department of Transportation for the Revenue Control Upgrade project by \$28,648.**
  - (2) **Decrease the Ending Fund Balance by \$28,648.**
- CEQA: Resolution No. 10947. Council District 3. (Finance/City Manager’s Office)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson and Budget Director Jennifer Maguire, dated January 12, 2009, recommending adoption of a resolution and appropriation ordinance amendments.

Action: [Resolution No. 74779](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Scheidt & Bachmann USA, Inc., for Parking Access and Revenue Control Equipment for the 2<sup>nd</sup> And San Carlos Garage and upgrade Existing PARCS Systems at Seven Downtown Garages”, and [Ordinance No. 28489](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the General Purpose Parking Fund for the Revenue Control Upgrade Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

- 2.8 (a) **Approve a second amendment to Turnkey Parkland Agreement for Tentative Map No. PT04-125 between the City and DKB Homes, LLC, to defer completion of the park improvements relating to the San Antonio Tot Lot from December 30, 2008 to June 30, 2009.**
- (b) **Adopt a resolution authorizing the City Manager to negotiate and execute a third amendment to the Turnkey Parkland Agreement for Tentative Map No. PT04-125 between the City and DKB Homes LLC to defer completion of the park improvements relating to the San Antonio Tot Lot from June 30, 2009 to December 30, 2009, in the event that additional time is required to complete the park improvements.**

**CEQA: Mitigated Negative Declaration, File No. PP08-134. Council District 5. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated January 12, 2009, recommending approval of an agreement and adoption of a resolution.

Action: [Resolution No. 74780](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Third Amendment to the Turnkey Parkland Agreement for Tentative Map No. PT04-125 with DKB Homes, LLC to Defer Completion of the Park Improvements Relating to the San Antonio Tot Lot from June 30, 2009 to December 30, 2009, in the Event that Additional Time is Required to Complete the Park Improvements”, was adopted. (11-0.)

- 2.9 (a) **Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund:**
- (1) **Increase the existing city-wide appropriation to the Police Department for the 2007 Super Urban Area Security Initiative (SUASI) – Police Grant in the amount of \$238,659;**
  - (2) **Increase the Earned Revenue Estimate from the Federal Government by \$238,659;**
  - (3) **Decrease the existing Police Department Non-Personal/Equipment appropriation in the amount of \$22,000.**
  - (4) **Decrease the Earned Revenue Estimate from Local Agencies by \$22,000.**
- (b) **Adopt a resolution authorizing the City Manager to execute a first amendment to the existing Memorandum of Understanding (MOU) with the City and County of San Francisco to provide an additional \$238,659 from the FY 2007 UASI grant, and to execute additional amendments as needed.**

**CEQA: Not a Project. (Police/City Manager’s Office)**

Documents Filed: Memorandum from Chief of Police Robert L. Davis and Budget Director Jennifer Maguire, dated January 12, 2009, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

**2.9 (Cont'd.)**

Action: [Ordinance No. 28490](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the General Fund for the 2007 Super Urban Area Security Initiative (SUASI) – Police Grant Project and for Non-Personal Equipment; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, [Resolution No. 74774](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting Forth the Estimated Sources of Funds for the Fiscal Year 208-2009 to Adjust Revenues in the General Fund”, and [Resolution No. 74781](#), entitled: “A Resolution of the Council of the City of San José Authorizing The City Manager to Execute an Amendment to the Memorandum of Understanding with the city and county of San Francisco for the FY 2007 Urban Area Security Initiative Grant”, were adopted. (11-0.)

- 2.10 (a) Approve an agreement with the San José Water Company for installation of water facilities to serve the new Seven Trees Community Center and Branch Library project, in the amount of \$386,960.**
- (b) Adopt a resolution delegating authority to the City Manager to negotiate and execute an agreement for the conveyance of a permanent easement to the San José Water Company for the above water facilities installation, and authorizing the Director of Public Works to execute all documents necessary to convey the easement and complete the transaction.**

**CEQA: Mitigated Negative Declaration, File No. PP06-175. Resolution approved by Council on September 11, 2007. Council District 7. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated January 12, 2009, recommending approval of an agreement and adoption of a resolution.

Action: An agreement with the San José Water Company for installation of water facilities to serve the new Seven Trees Community Center and Branch Library project was approved, and [Resolution No. 74782](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement for the Conveyance of a Permanent Easement to the San José Water Company for the New Seven Trees Community Center and Branch Library Project, and Authorizing the Director of Public Works to Execute any Additional Documents Necessary to Complete the Transaction”, was adopted. (11-0.)

**2.11 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:**

- (a) Increase the estimate for Earned Revenue by \$554,611.**
- (b) Increase the appropriation to the Department of Public Works for the Winchester Boulevard Signal Modification and Countdown Head Installation Project (PSM 477 Amendment #1) in the amount of \$539,611.**
- (c) Increase the appropriation to the Department of Transportation for the Spartan Keyes Sidewalk Improvement Project (PSM 547 Amendment #1) in the amount of \$15,000.**

**CEQA: Winchester Boulevard Signal Modification and Countdown Head Installation Project: Exempt, File No. PP06-210, PP06-171; Spartan Keyes Sidewalk Improvement Project: Exempt, File No. PP06-105. Council Districts 1, 6 and 7. SNI: Winchester, Spartan Keyes. (Public Works/Transportation/City Manager's Office)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Transportation James R. Helmer , and Budget Director Jennifer Maguire, dated January 12, 2009, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 28491](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Services for Redevelopment Capital Projects fund for the Winchester Boulevard Signal Modification and Countdown Head Installation Project and for the Spartan Keyes Sidewalk Improvement Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and [Resolution No. 74775](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting forth the Estimated Sources of Funds for the Fiscal Year 2008-2009 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted. (11-0.)

**2.12 Report on bids and award of contract for the "ADA Accessibility Ramps for the Citywide and Resurfacing Project 2009" to the lowest bidder of SpenCon Construction and approval of a contract amount of \$796,653.50, plus a contingency in the amount of \$79,665 for a total contract amount of \$876,318.50. CEQA: Exempt, File No. PP08-186. Council Districts 1, 2, 4, 5, 6, 7, 8, 9 and 10. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated January 12, 2009, recommending acceptance of a report on bids and award of a contract.

Action: The report on bids and award of contract for the "ADA Accessibility Ramps for the Citywide and Resurfacing Project 2009" to the lowest bidder, SpenCon Construction, and approval of a contract with a related contingency were approved. (11-0.)

**2.13 Request for an excused absence for Vice Mayor Chirco from the Special Council Meeting of January 20, 2009 due to a medical appointment. (Chirco)  
(Rules Committee referral 01/21/09)**

Documents Filed: Memorandum from Vice Mayor Chirco, dated January 14, 2009, requesting an excused absence due to a medical appointment.

Action: The absence for Vice Mayor Chirco was excused. (11-0.)

**2.14 Approve retroactive appointment to February 2, 2009 of Robert Leininger to serve on the County of Santa Clara's Measure "A" Independent Citizens' Oversight Committee, which will review the expenditure of proceeds for the Hospital Seismic Safety and Medical Facilities ("Measure A") General Obligation Bonds. CEQA: Not a Project. (Economic Development)  
(Deferred from 1/27/09 – Item 2.5)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated January 27, 2009, recommending approval of an appointment to the Independent Citizens' Oversight Committee.

Action: The retroactive appointment to February 2, 2009 of Robert Leininger to serve on the County of Santa Clara's Measure "A" Independent Citizens' Oversight Committee was approved. (11-0.)

**2.15 Request for excused absences for Vice Mayor Chirco due to illness/ surgery from the following meetings:**

- (a) **Regular Meetings of the Rules and Open Government Committee of February 4, 11 and 18, 2009; and**
- (b) **Regular Meeting of the City Council on February 10, 2009; and**
- (d) **Regular Meeting of the Neighborhood Services & Education Committee on February 12, 2009; and**
- (c) **Study Session Meeting of the City Council on the Green Vision on February 17, 2009.**

**(Chirco)**

**(Rules Committee referral 01/28/09)**

Documents Filed: Memorandum from Vice Mayor Chirco, dated January 27, 2009, requesting excused absences due to illness/surgery.

Action: The absences for Vice Mayor Chirco were excused. (11-0.)

- 2.16 Request for an excused absence for Councilmember Constant from the Joint City Council/Redevelopment Agency San Pedro Square Study Session on January 20, 2009 due to illness. (Constant)  
(Rules Committee referral 01/28/09)**

Documents Filed: Memorandum from Council Member Constant, dated January 20, 2009, requesting excused absences due to illness.

Action: The absences for Council Member Constant were excused. (11-0.)

- 2.17 Approve travel for City Clerk Lee Price to Burlingame, CA on February 4-6, 2009 to provide training services at the Master Municipal Clerk Academy. Source of Funds: Continuing Education or Public Officials. (City Clerk)  
(Rules Committee referral 01/28/09)**

Documents Filed: Memorandum from City Clerk Lee Price, dated January 27, 2009, requesting approval of travel to Burlingame, CA on February 4-6, 2009 to provide training services at the Master Municipal Clerk Academy.

Action: The request for travel for City Clerk Lee Price was approved. (11-0.)

## **END OF CONSENT CALENDAR**

### **STRATEGIC SUPPORT SERVICES**

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

The City Manager reported on publication of the Mid-Year Budget Report, announcing that it will be fully reported on at the February 10, 2009 Council meeting.

- 3.2 Report of the Rules and Open Government Committee – January 14, 2009  
Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated January 14, 2009.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of January 14, 2009 were accepted. (11-0.)

- 3.3 Report of the Rules and Open Government Committee – January 21, 2009  
Mayor Reed, Chair**

Action: Deferred to February 10, 2009 per Orders of the Day.

**3.5 Accept report on City Government Performance. CEQA: Not a Project. (City Auditor's Office)**

Documents Filed: (1) City of San José Service Efforts and Accomplishments Report 2007-2008 ' An Annual Report on City Government Performance, a Report from the City Auditor', dated January, 2009. (2) Presentation of the City of San José Service Efforts and Accomplishments Report, dated February 3, 2009.

City Auditor Sharon Erikson presented the report on the City of San José's service efforts and accomplishments for 2007-2008 and responded to questions from Council.

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, the City of San José Service Efforts and Accomplishments Report 2007-08 Annual Report on City Government Performance was accepted. (11-0.)

**3.6 Report of the Rules and Open Government Committee – January 7, 2009  
Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated January 7, 2009.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of January 7, 2009 were accepted. (11-0.)

**3.7 Accept the Clean Tech Summit Recommendations as the City's 2009-2010 Clean Tech legislative priorities. (Mayor)  
(Rules Committee referral 01/28/09)**

Documents Filed: Memorandum from Mayor Reed, dated January 23, 2009, submitting the 2009-2010 Clean Tech Summit recommendations.

Mayor Reed outlined the City's legislative priorities in the areas of Clean Tech for 2009-2010.

Public Comment: Ross Signorino offered comments on Tesla's innovation as a clean tech company.

Action: Upon motion by Council Member Kalra, seconded by Council Member Liccardo and carried unanimously, the Clean Tech Summit Recommendations as the City's 2009-2010 Clean Tech legislative priorities were approved. (11-0.)

- 3.8 As recommended by the Rules and Open Government Committee of January 28, 2009, accept the report describing the criteria for ranking the City's legislative priorities for 2009. (City Manager's Office)  
[Rules Committee referral 01/28/09 – Item G(1)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated January 29, 2009, transmitting the recommendations of the Rules and Open Government Committee of January 28, 2009.

Intergovernmental Relations Director Betsy Shotwell responded to questions from Council.

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried unanimously, the Priority Ranking of 2009 Legislative Priorities Report was accepted as modified, with Tier 2 item "Elimination of the Alternative Minimum Tax (AMT) Penalty on Airport Bonds moved into Tier 1. (11-0.)

## **COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.2 Adopt the following resolutions in connection with the formation of a Convention Center Facilities District:**

- (a) **A resolution of intention to form a Convention Center Facilities District, to authorize the levy of special taxes pursuant to the City of San José Convention Center Facilities District financing procedure, to set a public hearing on Tuesday, March 10, 2009 at 1:30 p.m. regarding formation of the District and authorizing other related actions.**
- (b) **A resolution to incur bonded indebtedness of the proposed Convention Center Facilities District pursuant to the City of San José Convention Center Facilities District financing procedure in an amount not to exceed \$750,000,000.**

**CEQA: Resolution No. 72767. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated January 12, 2009, recommending adoption of resolutions in connection with the formation of a Convention Center Facilities District.

Debt Administrator Dave Persselin and Consultant Eileen Gallagher of Stone & Youngberg responded to questions from Council on the adequacy of the stabilization fund and timing of triggering the blinker tax.

Chief Development Officer Paul Krutko answered questions on composition of the advisory body.

## 4.2 (Cont'd.)

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74783](#), entitled: “A Resolution of the Council of the City of San José Declaring Intention to Establish Convention Center Facilities District No. 2008-1 and to Levy a Special Tax Therein to Finance Specified Acquisition, Construction, Reconstruction, Replacement, Rehabilitation and Upgrade of the San José Convention Center”, and [Resolution No. 74784](#), entitled: “A Resolution of the Council of the City of San José Declaring the Need to Incur Bonded Indebtedness to Finance Specified Acquisition, Construction, Reconstruction, Replacement, Rehabilitation and Upgrades of the San José Convention Center by Authority of Convention Center Facilities District No. 2008-1, City of San José, County of Santa Clara, State of California”, were adopted. (11-0.)

## 4.3 **Consideration of an ordinance rezoning the real property located on the southern portion of the block generally bounded by N. Fifth Street, E. Santa Clara Street, N. Sixth Street, and E. St. John Street from the A(PD) Planned Development Zoning District and R-M Multiple Residence Zoning Districts to the DC Downtown Primary Commercial Zoning District on a 1.76 gross acre site (First United Methodist Church, Owner). SNI: 13<sup>th</sup> Street. CEQA: Resolution No. 72767. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1).**

**C08-058 – District 3**

**(Per Rules Committee 1/21/09, Continued from 1/27/09 – Item 11.2)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C08-058, dated December 2, 2008, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated December 15, 2008, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on November 21, 2008 submitted by the City Clerk.

Mayor Reed opened the public hearing

Public Comment: Jim Crawford (First Methodist Church of San José) expressed his appreciation for City’s participation in this project and offered his vision for the multi-use facility slated for this site.

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28493](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southern Portion of Area Generally Bounded by North Fifth Street, East Santa Clara Street, North Sixth Street, and East Saint John Street to DC Downtown Primary Commercial Zoning District”, was passed for publication. (11-0.)

## NEIGHBORHOOD SERVICES

### 5.2 Review the report on the outcome of the initial public outreach for the Distinctive Neighborhood Program and provide comments for the continued development of the program. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Planning, Building and Code Enforcement Director Joseph Horwedel, dated January 12, 2009, submitting the Distinctive Neighborhood Program Report. (2) PowerPoint presentation on the Distinctive Neighborhood Program, dated February 3, 2009.

Department of Planning, Building, and Code Enforcement Planner Hadasa Lev introduced the Distinctive Neighborhood Program Report. Planner Lev and Director, Planning, Building and Code Enforcement Joseph Horwedel responded to questions from Council.

Public Comment: Judy Henderson (Preservation Action Council), Joan Bohnett, Lin Yi Lee and Matt Hood offered support for the Distinctive Neighborhood Program.

Council discussed a City-wide versus a neighborhood approach to the program.

Action: The report was received.

## 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>
10013	Northeast corner of North King Road and Dobbin Drive	3	San José Transit Village Partners, LLC	4 Lots	Multi-Family Attached	Approve

## **OPEN FORUM**

- (1) James Charles urged aggressive participation by San José's small business community in securing contract opportunities generated by the federal stimulus package.
- (2) David Wall offered suggestions on transforming the property formerly slated for Tesla Motors to sustainable agriculture.
- (3) Ross Signorino offered suggestions on water conservation and commended the City for its good credit rating.

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 3:32 p.m. in memory of Donna Fife, a long time resident and active community member of District 8. (Herrera)

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

rmk/02-03-09MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/clerk/agenda.asp> or <http://www.sanjoseca.gov/clerk/MeetingArchive.asp>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.