

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, JUNE 16, 2009**

The Council of the City of San José convened in regular session at 9:00 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Chirco, Nguyen. (Excused)

Upon motion unanimously adopted, Council recessed at 9:02 a.m. to a Closed Session in Room W133, to confer with Legal Counsel with respect to (A) Existing litigation pursuant to Government Code subsection (a) of Section 54956.9: (1) Lefall, et al. v. City, et al.; Names of Parties Involved: Dion Lefall, George Louie, Gloria Vaughn, and Derrick Jackson for Themselves and On Behalf of All Others Similarly Situated, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV-094037; Amount of Money or Other Relief Sought: Damages according to proof; (2) In re: IAFF Local 230; Amount of Money or Other Relief Sought: Interest Arbitration; (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI; (2) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (3) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP; (5) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours,

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

Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (6) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP; (7) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (8) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association (SJPOA); (9) International Association of Firefighters (IAFF), Local 230; Nature of Negotiations: 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. (10) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: 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 11:55 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

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

Absent: Council Members - Nguyen. (Excused)

## **CLOSED SESSION REPORT**

City Attorney Doyle disclosed the following Closed Session actions of June 16, 2009:

### **A. Authority to Pursue Appellate Review in a Litigation Case:**

Case Name: In re IAFF Local 230

Substance of Settlement: Approval of Settlement of Interest Arbitration Matter Allowing for Civilianization of Assistant Fire Marshal Position.

## CLOSED SESSION REPORT (Cont'd.)

Council Vote: Ayes: Campos, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.  
Noes: None.  
Disqualified: None.  
Absent: Chirco, Nguyen. (Excused)

## INVOCATION

Rabbi Joshua Berkenwald, Congregation Sinai, recited "Darfur for Life" for the Invocation.

## PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with items 5.3 and 5.5 deferred to June 23, 2009. (10-0-1. Absent: Nguyen.)

## CONSENT CALENDAR

- 2.2 (a) **ORD. NO. 28581** – Establishing Rule 20A Underground Utility District along Coleman Avenue between West Hedding Street and Spring Street, North Market Street between West Julian Street and West St. James Street, and Devine Street between North San Pedro Street and North First Street.

Documents Filed: Proof of Publication of the title of Ordinance No. 28581, executed on June 9, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28581](#) was adopted. (10-0-1. Absent: Nguyen.)

- 2.2 (b) **ORD. NO. 28582** – Amending Section 23.04.156 of Chapter 23.04 of Title 23 of the San José Municipal Code to amend the requirements for Vertical Projecting Signs in the Urban Mixed Use Sign Zone, and make other related, nonsubstantive clarifying changes.

Documents Filed: Proof of Publication of the title of Ordinance No. 28582, executed on June 9, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28582](#) was adopted. (10-0-1. Absent: Nguyen.)

- (c) **ORD. NO. 28585** – Rezoning certain real property on the west side of South Winchester Boulevard approximately 550 feet southerly of Stevens Creek Boulevard (369 South Winchester Boulevard) to A(PD) Planned Development Zoning District. PDC08-052

Documents Filed: Proof of Publication of the title of Ordinance No. 28585, executed on June 9, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28585](#) was adopted. (10-0-1. Absent: Nguyen.)

- (d) **ORD. NO. 28586** – Rezoning certain real property situated on the southwest side of Camden Avenue, approximately 150 feet northwest of South Bascom Avenue (2270 Camden Avenue), to CN Commercial Neighborhood Zoning Dist. C09-012

Documents Filed: Proof of Publication of the title of Ordinance No. 28586, executed on June 9, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28586](#) was adopted. (10-0-1. Absent: Nguyen.)

- 2.3 (a) **Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on May 27, 2009 due to the death of a close family member. (Mayor)**  
**(Rules Committee referral 6/3/09)**
- (b) **Request for an excused absence for Council Member Nguyen from the Closed Session and Regular Meeting and Evening Session of the City Council on June 2, 2009 due to Authorized City Business: delegate of the American Council of Young Political Leaders in Australia. (Nguyen)**

Documents Filed: (1) Memorandum from Mayor Reed, dated May 27, 2009, requesting an excused absence due to the death of a close family member. (2) Memorandum from Council Member Nguyen, dated May 29, 2009, requesting approval of travel and an excused absence due to Official City Business.

Action: The excused absence for Mayor Reed, and the travel request and the excused absence for Council Member Nguyen were approved. (10-0-1. Absent: Nguyen.)

- 2.4 Approve an ordinance amending Chapter 25.11 of Title 25 of the San José Municipal Code to add a new Part 12 to require an Airport Training Standards Program for employees of covered businesses at the Norman Y. Mineta San José International Airport and to amend Part 15 to provide for administration and enforcement of the Airport Training Standards Program. CEQA: Resolution Nos. 67380 and 71451, File No. PP09-107. (Airport)**

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated May 26, 2009, recommending approval of an ordinance.

Action: [Ordinance No. 28594](#), entitled: “An Ordinance of the City of San José Amending Chapter 25.11 of Title 25 of the San José Municipal Code to Add a New Part 12 to Require an Airport Training Standards Program for Employees of Covered Businesses at the Norman Y. Mineta San José International Airport and Amending Part 15 Sections 25.11.1510 and 25.11.1530 to Provide for Administration and Enforcement of the Employee Training Standards Program”, was passed for publication. (10-0-1. Absent: Nguyen.)

- 2.5 Report on bids and award of construction contract for the project entitled “San José/Santa Clara Water Pollution Control Plant, FY 2009-2010 Capital Improvement Program, Waste Heat Recovery Boiler A-1 Replacement,” to the low bidder, Bay City Boiler & Engineering Co. Inc., in the amount of \$136,000, and approval of a 10% contingency in the amount of \$13,600. CEQA: Exempt, PP09-079. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 25, 2009, recommending acceptance of a report on bids and award of a construction contract. (2) Letter from Treatment Plant Advisory Committee Chair Chuck Reed, dated June 11, 2009, stating concurrence with the Staff recommendations.

Action: The Report on bids and award of construction contract for the project entitled “San José/Santa Clara Water Pollution Control Plant, FY 2009-2010 Capital Improvement Program, Waste Heat Recovery Boiler A-1 Replacement,” to the low bidder, Bay City Boiler & Engineering Co. Inc., in the amount of \$136,000, with related contingency, was approved. (10-0-1. Absent: Nguyen.)

- 2.6 Accept report on bids and award of construction contract for the project entitled “San José/Santa Clara Water Pollution Control Plant, FY 2009-2010 Capital Improvement Program, Nitrification Gate and Channel Aeration Improvements Project,” to the low bidder, Pacific Infrastructure, in the amount of \$1,684,000, and approval of a 15% contingency in the amount of \$253,000. CEQA: Exempt, File No. PP09-067. (Environmental Services)**

## 2.6 (Cont'd.)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated May 26, 2009, recommending acceptance of a report on bids and award of a construction contract.

Action: The report on bids and award of construction contract for the project entitled “San José/Santa Clara Water Pollution Control Plant, FY 2009-2010 Capital Improvement Program, Nitrification Gate and Channel Aeration Improvements Project,” to the low bidder, Pacific Infrastructure, in the amount of \$1,684,000, with related contingency, was accepted. (10-0-1. Absent: Nguyen.)

## 2.7 **Adopt a resolution authorizing the Director of Housing to negotiate and execute an Interim Affordability Restriction with Tierra Encantada Development, LLC, to allow for the temporary rental of the for-sale affordable units at Tierra Encantada Townhomes, located near the corner of Alum Rock and McCreery Avenue. CEQA: Resolution No. 26679, File No. PDC02-029. Council District 5. SNI: Mayfair. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated May 21, 2009, recommending adoption of a resolution.

Action: [Resolution No. 74959](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute an Interim Affordability Restriction with Tierra Encantada Development, LLC for the Temporary Rental of the For-Sale Affordable Units at Tierra Encantada Townhomes”, was adopted. (10-0-1. Absent: Nguyen.)

## 2.8 (a) **Approve the Third Amendment to Parkland Agreement for Tentative Map No. PT04-015 between City of San José and Jackson Square, LLC, to extend the completion date to construct and dedicate Madden Park to the City.** (b) **Adopt a resolution authorizing the City Manager, or designee, to negotiate and execute a Fourth Amendment to the Turnkey Parkland Agreement for Tentative Map No. PT04-015 between the City and Jackson Square, LLC to defer completion of the park improvements and dedication of Madden Park from December 31, 2009 to June 30, 2010 in the event that additional time is required to complete the park improvements.** **CEQA: Mitigated Negative Declaration, Ordinance No. 27151. Council District 5. (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Council Member Campos, dated June 15, 2009, recommending approval of a third amendment to Parkland Agreement and adoption of a resolution. (2) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 26, 2009, recommending approval of a third amendment and adoption of a resolution.

**2.8 (Cont'd.)**

Action: [Resolution No. 74960](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Negotiate and Execute a Fourth Amendment to Turnkey Parkland Agreement for Tentative Map No. PT04-015 with Jackson Square, LLC to Defer Completion of Park Improvements and Dedications of Madden Park from December 31, 2009 to June 30, 2010, in the Event that Additional Time is Required to Complete the Park Improvements”, was adopted. (10-0-1. Absent: Nguyen.)

**2.9 Approve an ordinance amending Chapter 24.02 of Title 24 of the San José Municipal Code to extend the period before building plan check submittal or approval must be updated to meet the current building codes; and to increase the period of extension time the Chief Building Official is authorized to approve for building permits and plan check submittals. CEQA: Exempt. SNI: All. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Planning, Building and Code Enforcement Director Joseph Horwedel, dated May 26, 2009, recommending approval of an ordinance.

Mayor Reed pulled Item 2.9 from the Consent Calendar to commend Director of Planning, Building and Code Enforcement Joseph Horwedel and his Staff for their dedication and hard work.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, [Ordinance No. 28595](#), entitled: “An Ordinance of the City of San José Amending Sections 24.02.340 and 24.02.355 of Chapter 24.02 Title 24 of the San José Municipal Code to Allow for the Further Extension of Plan Checks and Building Permits”, was passed for publication. (10-0-1. Absent: Nguyen.)

**2.10 Approve an ordinance amending Sections 15.26.100, 15.26.120, 15.26.130, 15.26.140, 15.26.145 and 15.26.180 of Chapter 15.26 of Title 15 of the San José Municipal Code (Underground Utility Fee Ordinance), to allow annual automatic adjustment of the underground utility fee and reimbursement to developers for completion of underground utility projects and to make technical changes. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 26, 2009, recommending approval of an ordinance.

Action: [Ordinance No. 28596](#), entitled: “An Ordinance of the City of San José Amending Sections 15.26.100, 15.26.120, 15.26.130, 15.26.140 , 15.26.145 and 15.26.180 of Chapter 15.26 of Title 15 of the San José Municipal Code to Allow Annual Automatic Adjustment of the Underground Utility Fee and Reimbursement to Developers for Completion of Underground Utility Projects and to Make Technical Changes”, was passed for publication. (10-0-1. Absent: Nguyen.)

**2.11 Adopt resolutions approving, confirming and adopting the Annual Budget Reports for Fiscal Year 2009-2010 for City of San José Maintenance Districts 1, 2, 5, 8, 9, 11, 13, 15, 18, 19, 20, 21 and 22 and levying the assessments therein. CEQA: Exempt, File No. PP09-099. Council Districts 2, 3, 4 and 8. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 26, 2009, recommending adoption of resolutions.

Action: [Resolution No. 74961](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 1 (Los Paseos) for Fiscal Year 2009-2010 and Levying Assessments”; [Resolution No. 74962](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 2 (Trade Zone Boulevard – Lundy Avenue) for Fiscal Year 2009-2010 and Levying Assessments”; [Resolution No. 74963](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 5 (Orchard Parkway – Plumeria Drive) for Fiscal Year 2009-2010 and Levying Assessments”; [Resolution No. 74964](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 8 (Zanker - Montague) for Fiscal Year 2009-2010 and Levying Assessments”; [Resolution No. 74965](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 9 (Santa Teresa – Great Oaks) for Fiscal Year 2009-2010 and Levying Assessments”; [Resolution No. 74966](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 11 (Brokaw Road from Junction Avenue to Old Oakland Road) for Fiscal Year 2009-2010 and Levying Assessments”; [Resolution No. 74967](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 13 (Karina – O’Nel) for Fiscal Year 2009-2010 and Levying Assessments”; [Resolution No. 74968](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 15 (Silver Creek Valley) for Fiscal Year 2009-2010 and Levying Assessments”; [Resolution No. 74969](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 18 (The Meadowlands) for Fiscal Year 2009-2010 and Levying Assessments”; [Resolution No. 74970](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 19 (River Oaks Area Landscaping) for Fiscal Year 2009-2010 and Levying Assessments”; [Resolution No. 74971](#); entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 20 (Renaissance – North First Landscaping) for Fiscal Year 2009-2010 and Levying Assessments”; [Resolution No. 74972](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 21 (Gateway Place – Airport Parkway) for Fiscal Year 2009-2010 and Levying Assessments”; and [Resolution No. 74973](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 22 (Hellyer Avenue – Silver Creek Valley Road) for Fiscal Year 2009-2010 and Levying Assessments”, were adopted. (10-0-1. Absent: Nguyen.)

- 2.12 (a) **Approving the Downtown San José Property-Based Business Improvement District Annual Report for Fiscal Year 2009-2010 as filed or modified by Council;**
- (b) **Confirming the individual assessments as proposed or modified by Council, including the assessment on City owned property of approximately \$313,000 and the assessment on Redevelopment Agency property of approximately \$68,000;**
- (c) **Directing the City baseline services contribution in the amount of \$356,726, and assessment payment be made;**
- (d) **Directing the Director of Finance to deliver the assessment roll to the County for collection with the property taxes.**

**CEQA: Exempt: File No. PP09-120. Council District 3. (Public Works/Transportation)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Transportation James R. Helmer, dated May 26, 2009, recommending adoption of a resolution.

Groundwerx representative Elizabeth Mattson presented the annual report from Groundwerx' first year of operation. Assistant Director of Transportation Jim Ortbal spoke on approval of assessments of downtown properties.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74974](#), entitled: "A Resolution of the Council of the City of San José Approving the Downtown San José Property-Based Business Improvement District Annual Report for Fiscal Year 2009-2010 as Filed or Modified by the City Council; confirming the Individual Assessments as Proposed or Modified by the City Council, Including the Assessment on City-Owned Property of Approximately \$313,000 and the Assessment on Redevelopment Agency Property of Approximately \$68,000; Directing That the City Baseline Services Contribution in the Amount of \$356,726 and Assessment Payment be Made; and Directing the Director of Finance to Deliver the Assessment Roll to the County of Santa Clara for Collection with the Property Taxes", was adopted. (10-0-1. Absent: Nguyen.)

- 2.13 **Approve Council Member Nguyen's travel to Las Vegas, Nevada on July 9-11, 2009 to serve as a panelist at the 10<sup>th</sup> Biennial Asian Pacific American Labor Alliance (APALA) Convention. Source of Funds: Asian Pacific American Labor Alliance (APALA). (Nguyen) (Rules Committee referral 6/10/09)**

Documents Filed: Memorandum from Council Member Nguyen, dated June 4, 2009, requesting approval of travel.

Action: The travel request for Council Member Nguyen was approved. (10-0-1. Absent: Nguyen.)

- 2.14 Approve an ordinance amending Parts 2 and 3 of Chapter 15.10 of Title 15 of the San José Municipal Code to strengthen requirements related to water conservation and water shortages. CEQA: Exempt, File No. PP09-134. (City Attorney's Office) (Rules Committee referral 6/10/09)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 12, 2009, recommending approval of an ordinance.

Action: [Ordinance No. 28597](#), entitled: "An Ordinance of the City of San José Amending Parts 2 and 3 of Chapter 15.10 of Title 15 of the San José Municipal Code to Strengthen Requirements Related to Water Conservation and Water Shortages", was passed for publication. (10-0-1. Absent: Nguyen.)

- 2.15 Approve an ordinance repealing Section 11.12.040 of Chapter 11.12 of Title 12 of the San José Municipal Code and amending Section 11.12.050 of Chapter 11.12 of Title 12 to clarify the persons who are authorized to direct traffic within the public right of way. CEQA: Not a Project. (City Attorney's Office) (Rules Committee referral 6/10/09)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 11, 2009, recommending approval of an ordinance.

Action: [Ordinance No. 28598](#), entitled: "An Ordinance of the City of San José Repealing Section 11.12.040 of Chapter 11.12 of Title 12 of the San José Municipal Code and Amending Section 11.12.050 of Chapter 11.12 of Title 12 to Clarify the Persons Authorized to Direct Traffic", was passed for publication. (10-0-1. Absent: Nguyen.)

- 2.16 Approve an ordinance amending Section 4.76.200 of Chapter 4.76 of Title 4 of the San José Municipal Code to allow the disclosure of business tax records in certain specified circumstances. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 1, 2009, recommending approval of an ordinance.

Action: [Ordinance No. 28599](#), entitled: "An Ordinance of the City of San José Amending Section 4.76.200 of Chapter 4.76 of Title 4 of the San José Municipal Code to Allow the Disclosure of Business Tax Records Under Certain Specified Circumstances", was passed for publication. (10-0-1. Absent: Nguyen.)

**2.17 Approve an ordinance:**

- (a) **Authorizing the Director of Parks, Recreation and Neighborhood Services (PRNS) to waive outdoor event cancellation fees, under the conditions outlined in the ordinance, for events scheduled prior to October 31, 2009.**
- (b) **Authorizing the City Manager to extend the Director of PRNS authority for waiving outdoor event cancellation fees, through October 31, 2010, if economic conditions continue to warrant the waiver of the cancellation fees.**

**CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 3, 2009, recommending adoption of an ordinance.

Council Member Liccardo pulled Item 2.17 from the Consent Calendar to request clarification of the proposed ordinance.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 28600](#), entitled: "An Ordinance of the City of San José Waiving Certain Cancellation Charges for Outdoor Events on Facilities Managed by the Department of Parks, Recreation and Neighborhood Services", was passed for publication. (10-0-1. Absent: Nguyen.)

**2.18 As recommended by the Rules and Open Government Committee on May 20, 2009, June 3, 2009 and June 10, 2009:**

- (a) **Appoint Veronica Ajawara to the Early Care and Education Commission to a term ending June 30, 2012. (Chirco)**
- (b) **Appoint Tania Nunez and Robert Abatecola to the Historic Landmarks Commission each to a term ending June 30, 2012. (Chirco)**
- (c) **Re-appoint Bobby Yount, Patricia McDonald and Richard Holden to the Arts Commission each to a term ending June 30, 2012. (Liccardo)**
- (d) **Appoint Keith Graham and Andres Quintero to the Airport Commission each for a term ending June 30, 2012. (Chu)**
- (e) **Appoint to the Library Commission David Hood to an unexpired term ending June 30, 2010 and Tina Morrill to a term ending June 30, 2012. (Oliverio)**
- (f) **Appoint to Mobilehome Advisory Commission Jacquie Heffner to an unexpired term ending December 31, 2010, Margaret Gregg to an unexpired term ending December 31, 2011 and Monica Shirer Lang to a term ending December 31, 2012. (Chu)**
- (g) **Re-appoint Pat Hall and Mike Davis and appoint Rene Lovato to the Senior Citizens Commission. (Constant)**
- (h) **Appoint Bob Carlson as a representative of Downtown Residents, Nick Nichols as a representative of Downtown Arts & Special Events, and re-appoint Jim Renelle as a representative of San José State University to the Downtown Parking Board. (Mayor/Liccardo) (Rules Committee referral 5/20/09, 6/3/09, and 6/10/09)**

## 2.18 (Cont'd.)

Documents Filed: Memorandum from City Clerk Lee Price, dated June 11, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Commission and Board appointments were approved. (10-0-1. Absent: Nguyen.)

### END OF CONSENT CALENDAR

## STRATEGIC SUPPORT SERVICES

- 3.11 Adopt a resolution amending the terms of the current agreement with the City Association of Management Personnel (CAMP), regarding foregoing the scheduled 1.5% general wage increase for 2009-2010, and authorizing the City Manager to execute the amended agreement. CEQA: Not a Project. (City Manager's Office) (Rules Committee referral 6/10/09)**

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated June 8, 2009, recommending adoption of a resolution.

City Manager Debra Figone gave an overview of the terms of the labor agreement and expressed appreciation to CAMP for their leadership, hard work and sacrifice.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74987](#), entitled: "A Resolution of the Council of the City of San José Approving an Amended Agreement Between the City of San José and the City Association of Management Personnel (CAMP), with a Term of July 1, 2009 to June 30, 2010", was adopted. (10-0-1. Absent: Nguyen.)

- 3.13 Approve an ordinance amending Chapter 3.28 of Title 3 of the San José Municipal Code to amend Sections 3.28.030.11 and 3.28.680 and to add new Sections 3.28.030.30 and 3.28.690 related to the effect of absence due to mandatory reduction in paid working time on contributions to the retirement fund and calculation of retirement benefit. CEQA: Not a Project. (City Attorney's Office) (Rules Committee referral 6/10/09)**

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated June 11, 2009, recommending approval of an ordinance.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera, and carried unanimously, [Ordinance No. 28603](#), entitled: "An Ordinance of the City of San José Approving Implementation of the Terms Contained in the City's Last, Best, Final Offer to the Operating Engineers, Local No. 3, Effective June 28, 2009", was passed for publication. (10-0-1. Absent: Nguyen.)

- 3.12 (a) **Adopt a resolution approving an agreement between the City and Operating Engineers, Local No. 3, and authorizing the City Manager to execute the agreement, effective June 28, 2009.**
- (b) **In the alternative, in the absence of an agreement, adopt a resolution approving the implementation of the terms, as described in the memorandums dated May 21, 2009 and June 1, 2009, for employees represented by Operating Engineers, Local No. 3, effective June 28, 2009.**

**CEQA: Not a Project. (City Manager's Office)  
(Deferred from 6/9/09 – Item 3.6)**

Documents Filed: (1) Memorandum from Director of Employee Relations Alex Gurza, dated May 21, 2009, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Employee Relations Alex Gurza, dated June 1, 2009, updating terms of City's Last, Best, Final Offer to Operating Engineers, Local No. 3. (3) Letter from Don Dietrich, Operating Engineers, Local No. 3, dated June 3, 2009, expressing dissatisfaction with current labor agreement negotiations. (4) Letter from Bill Pope, Operating Engineers, Local No. 3, dated June 12, 2009, expressing dissatisfaction with labor agreement negotiations of June 12, 2009.

Director of Employee Relations Alex Gurza outlined the terms offered to employees represented by Operating Engineers, Local No. 3 and presented a comparison of their contract terms against those of other bargaining units.

Public Comments: Speaking in support of continued labor agreement negotiations were: Don Dietrich, Bill Pope, Jon Max Regger (OE-3 Negotiation Team); Reverend Deborah Simon and Father Bill Leininger (Interfaith Council); Wiggys Siversten (Baymec); Pascal Roubineau, Jon Peterson, Harry Adams and Cindy Chavez (South Bay Labor Council); Tom Fink (ATU Local 265); Bob Brownstein, James Kim, Randy Sekany and Dr. Calvin Gill. Ross Signorino suggested that realistic limits be set in view of the current economy.

Mayor Reed suggested enforcing the original four terms of the agreement and returning to the bargaining table to finalize the contract.

Extensive Council discussion followed. Director of Employee Relations Alex Gurza responded to questions from Council.

Motion: Council Member Constant moved approval of the Staff's recommendation "B" to adopt a resolution approving the implementation of the terms, as described in the memorandums dated May 21, 2009 and June 1, 2009, for employees represented by Operating Engineers, Local No. 3, effective June 28, 2009. Council Member Pyle seconded the motion.

City Attorney Richard Doyle clarified options available for consideration.

Substitute Motion: Council Member Kalra moved for a one-week deferral to allow the bargaining team an opportunity to vote. Council Member Campos seconded the motion.

### 3.12 (Cont'd.)

On a call for the question, the substitute motion failed. (4-6-1. Noes: Chirco, Constant, Liccardo, Oliverio, Pyle; Reed. Absent: Nguyen.)

Action: On a call for the question, the original motion carried, [Resolution No. 74988](#), entitled: “A Resolution of the Council of the City of San José Approving Implementation of the Terms Contained in the City’s Last, Best, Final Offer to the Operating Engineers, Local No. 3, Effective June 28, 2009”, was adopted. (7-3-1. Noes: Campos, Herrera, Kalra. Absent: Nguyen.)

Vice Mayor Chirco left the Council Meeting at 3:52 p.m.

### 3.4 **As recommended by the Rules and Open Government Committee on June 3, 2009, accept the status report on the deferred maintenance and infrastructure backlog. (City Manager’s Office)** **(Rules Committee referral 6/3/09 – Item 10.1)**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated June 3, 2009, transmitting the recommendations of the Rules and Open Government Committee. (2) Supplemental memorandum from Chief Deputy City Manager Ed Shikada, dated June 8, 2009, recommending acceptance of the status report.

Chief Deputy City Manager Ed Shikada provided an overview of the deferred maintenance and infrastructure backlog, and Director of Parks, Recreation and Neighborhood Services Albert Balagso responded to questions from Council.

Action: Upon motion by Council Member Constant, seconded by Council Member Oliverio and carried unanimously, the Rules and Open Government Committee recommendation of June 3, 2009 to accept the status report on the deferred maintenance and infrastructure backlog was approved. (9-0-2. Absent: Chirco, Nguyen.)

### 3.5 **Adopt a resolution increasing the Library Parcel Tax rates for FY 2009-2010 by 1.17% over the Fiscal Year 2009-2010 rates and approve the placement of the Library Parcel Tax on the Fiscal Year 2009-2010 Santa Clara County Property Tax Roll. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated May 26, 2009, recommending adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera, and carried unanimously, [Resolution No. 74975](#), entitled: “A Resolution of the Council of the City of San José Approving the Increased Library Parcel Tax Rates for FY 2009-2010 and Approving the Placement of the Library Parcel Tax on the FY 2009-2010 Santa Clara County Property Tax Roll”, was adopted. (9-0-2. Absent: Chirco, Nguyen.)

- 3.6 Adopt a resolution setting the following:**
- (a) Sewer Service and Use Charge rates for FY 2009-10:**
    - (1) Single-Family Residential - \$31.00/month**
    - (2) Multi-Family Residential \$17.73 per unit/month**
    - (3) Mobile Home - \$17.77 per unit/month**
    - (4) Non-monitored commercial and industrial See Attachment A**
    - (5) Monitored industrial - See Attachment A**
  - (b) Storm Sewer Service Charge rates for FY 2009-10:**
    - (1) Single Family Residential and Duplex - \$7.64/month**
    - (2) Mobile Home - \$3.83 per unit/month**
    - (3) Residential Condominium - \$4.18 per unit/month**
    - (4) Large Multi-Family Residential (5 or more units) - \$4.18/month**
    - (5) Small Multi-Family Residential (3-4 units) - \$14.51/month**
    - (6) Commercial, institutional, and industrial - See Attachment B**

**CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated May 26, 2009, recommending adoption of a resolution.

Public Comment: Martha O'Connell spoke in opposition to increased rates for Mobile Home residents.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, [Resolution No. 74976](#), entitled: "A Resolution of the Council of the City of San José Setting Schedules of Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges for Fiscal Year 2009-2010", was adopted. (7-0-4. Absent: Chirco, Constant, Liccardo, Nguyen.)

- 3.7 Adopt a resolution increasing the San José Municipal Water System (SJMWS) potable water rates and charges by 10% effective July 1, 2009. CEQA: Not a Project. Council Districts 2, 4, 7 and 8. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 26, 2009, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on May 13, 2009, submitted by the City Clerk.

City Clerk Lee Price noted that the Office of the City Clerk had received 479 written protests, less than the majority of protests required; therefore, the Council was free to take action as recommended by Staff.

Mayor Reed opened the public hearing.

Public Comments: Martha O'Connell expressed opposition to increased water rates and charges, citing the burden placed on those with fixed incomes, and suggested an assistance program for seniors.

### 3.7 (Cont'd.)

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, [Resolution No. 74977](#), entitled: "A Resolution of the Council of the City of San José to Establish New Quantity Charges for Potable Water Service Effective July 1, 2009", was adopted. (9-0-2. Absent: Chirco, Nguyen.)

## JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 (a) **Review, discussion and approval of the Mayor's 2009 June Budget Message. Mayor Reed's Budget Message approved, as amended:**
1. **Adjust the Economic Uncertainty Reserve Rebudget Adjustment for 2009-/2010 by directing staff to amend the carry-over rebudget for Economic Uncertainty Reserve by \$5,792,000 from \$10,311,000 to \$4,519,000 to offset the sales tax decline;**
  2. **Adopt recommendations 1a and 1b from MBA 44;**
  3. **Direct the City Manager to work with Team San José and the Community and Economic Development Committee (CED) to review future overhead charges for Fund 536;**
  4. **Add to the list of possible additions to be funded through employee concessions in Attachment #1 (General Fund Adjustments – Use of Funds) four (4) Crime Prevention Specialists and one (1) Risk Management Program Manager;**
  5. **As recommended by Council Members Pyle and Kalra, direct the City Manager to return to the Council with a benchmarking plan and detailed budget for real estate services;**
  6. **Complete the meet and confer process relative to a determination regarding whether or not City employees can submit a proposal to provide concession services at Happy Hollow Park & Zoo, and then bring it to City Council through the Community and Economic Development Committee.**
  7. **Direction to the City Manager to develop a process for American Recovery and Reinvestment Act (ARRA) grant applications where the proposals are developed with transparency and that allows the stakeholders to participate.**
- (b) **Adopt a resolution by the City Council authorizing the City Manager to negotiate and execute grant agreements addressed in the Mayor's Budget Message which are for amounts that exceed the City Manager's contract authority. (Mayor)**

## 9.1 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, dated June 5, 2009, recommending approval of final budget direction, adoption of a resolution and authorizing changes proposed in the Manager's Budget Addenda. (2) Joint memorandum from Council Members Pyle and Kalra, dated June 12, 2009, providing recommendations to the Mayor's June 2009 Budget Message. (3) Memorandum from Council Member Chu, dated June 15, 2009, providing recommendations to the Mayor's June 2009 Budget Message.

Mayor Reed provided an overview of his 2009 Budget Message with additional changes to be incorporated into the adopted budget and provided meeting disclosures.

Public Comments: Offering support for the Mayor's Budget Message were Team San José Chair Dan Fenton and Reymundo Espinoza (Community Budget Working Group), Richard Dunkle and Andrew Bales. Judy Purrington (Friends of Edenvale Library) stressed the importance of library services and provided 1584 cards from the public urging continued library funding. Ross Signorino expressed the need for cameras at intersections to catch 'red light runners'. Quyen Vuong (ICAN) urged Healthy Neighborhoods Venture Funds (HNVF) to be spread to fund all existing proposals as well as the 13 new HNVF projects. Jeff Bornefeld expressed dissatisfaction with the disbursement of HNVF funding.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the Mayor's 2009 June Budget Message was approved, and [Resolution No. 74999](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Certain Grant Agreements Addressed in the Mayor's 2009 Budget Message and Approved Amendments in Amounts that Exceed the City Manager's Contract Authority", was adopted. (9-0-2. Absent: Chirco, Nguyen.)

- 3.8 (a) (1) **Adopt resolutions approving the Operating Budget for Fiscal Year 2009-2010 for the City of San José, the Capital Budget for Fiscal Year 2009-2010 for the City of San José, and the Five Year Capital Improvement Program for Fiscal Year 2010-2014 for the City of San José as revised by the Mayor's Budget Message and directing the City Manager to prepare final documents for adoption.**
- (2) **Adopt a resolution establishing the Schedule of Fees and Charges for Fiscal Year 2009-2010.**
- (3) **Adopt a resolution establishing fees and charges for use of City Hall.**
- (4) **Adopt a resolution establishing a Council policy entitled, "Pricing and Revenue Policy," effective July 1, 2009, and authorize the City Manager or the City Manager's designees to initially adopt current existing fees and charges for the department of Parks, Recreation and Neighborhood Services and to gradually enact fees and charges more consistent with the new Council Policy and the approved cost recovery goals.**

**3.8 (Cont'd.)**

- (a) (5) **Adopt a resolution amending the City of San José Pay Plan to rollback the salaries of the City Manager, City Clerk, City Attorney and City Auditor to the Fiscal Year 2007-08 rates, effective 6/28/2009.**
- (6) **City Council certification that: (1) funding strategies will be pursued so that the projected funding for operations and maintenance of the Capital projects identified on page 9 of the 2009-2010 Proposed Capital Budget and 2010-2014 Proposed Capital Improvement Program will be made available in the first year of operation; and (2) appropriate efforts will be undertaken so that those funding strategies cover the entire cost of the capital project, including operations and maintenance costs, as to not require a decrease in existing basic neighborhood services. CEQA: Not a Project. (City Manager's Office)**
- (b) **Approve an Ordinance amending Section 4.46.050 of Chapter 4.46 and Section 4.47.040 of Chapter 4.47 of Title 4 of the San José Municipal Code revising the reference to the valuation tables used to calculate the Building and Structure Construction Tax and Commercial-Residential-Mobilehome Park Building Tax from the current International Conference of Building Officials to its current successor organization, the International Code Council, and to future successor organizations' building valuation tables. CEQA: Not a Project. (Economic Development/Transportation/Planning, Building and Code Enforcement)**
- (c) **Adopt a resolution to repeal Resolution No. 74789 and set forth the Schedule of Parking Penalties and Late Payment Penalty for Parking Violations to include a courthouse construction parking penalty fee of \$4.50, to increase certain other parking penalties and the late payment penalty, and make additions, deletions and corrections to the schedule, effective July 1, 2009. CEQA: Not a Project. (Transportation)**
- (d) (1) **Approve an ordinance amending Part 1 of the San José Municipal Code Chapter 10.42 to repeal the sixty-day reporting period, provide for a warning on the first offense within a 12 month period, and make the responsible parties subject to an administrative citation if a second or subsequent false alarm occurs on the same premises within the twelve-month period following the initial false alarm.**
- (2) **Adopt a resolution amending the Administrative Citation Schedule of Fines to modify to the false alarms fines structure for 2009-2010 to be implemented effective July 1, 2009, and repealing Resolution No. 74398 as follows:**
  - (a) **The 2<sup>nd</sup> false alarm within twelve months of the initial false alarm triggers a \$125 fine.**
  - (b) **The 3<sup>rd</sup> false alarm within twelve months of the initial false alarm triggers a \$200 fine.**
  - (c) **The 4<sup>th</sup> and subsequent false alarms within twelve months of the initial false alarm triggers a \$300 fine.****CEQA: Not a Project. (Police)**

### 3.8 (Cont'd.)

Documents Filed: See Appendix A on Pages 45 through 50.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Resolution No. 74978](#), entitled: “A Resolution of the Council of the City of San José Approving for Adoption the Operating Budget for Fiscal Year 2009-2010”; [Resolution No. 74979](#), entitled: “A Resolution of the Council of the City of San José Approving for Adoption the Capital Budget for Fiscal Year 2009-2010”; [Resolution No. 74980](#), Approving for Adoption the Five Year Capital Improvement Program For Fiscal Years 2010-2014”; [Resolution No. 74981](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72737 to Amend and Establish Various Fees and Charges Effective July 1, 2009”; [Resolution No. 74982](#), entitled: “A Resolution of the Council of the City of San José Setting the Schedule of Fees for Use of the City Hall and Plaza and Superseding Resolution No. 74454, to be Effective July 1, 2009”; [Resolution No. 74983](#), entitled: “A Resolution of the Council of the City of San José Establishing a Council Policy Entitled, “Pricing and Revenue Policy”, Adopting the Existing Fees and Charges as of July 1, 2009, and Authorizing the City Manager or the City Manager’s Designee to Initially Adopt Current Existing Fees and Charges for the Department of Parks, Recreation, and Neighborhood Services and to Gradually Enact Fees and Charges More Consistent with the Council Policy and Within the Approved Cost Recovery Goals”; [Resolution No. 74984](#), entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan to Rollback the Salaries of the City Manager, City Clerk, City Attorney and City Auditor to Fiscal Year 2007-08 Rates, Effective June 28, 2009”; [Resolution No. 74985](#), entitled: “A Resolution of the Council of the City of San José Setting Forth the Schedule of Parking Penalties and Late Payment Penalty for Parking Violations and Repealing Resolution No. 74789, Effective July 1, 2009”; [Resolution No. 74986](#), entitled: “A Resolution of the Council of the City of San José Amending the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code in Order to Establish and Amend Administrative Fines for Certain Violations Relating to False Alarms to be Effective July 31, 2009, and Repealing Resolution No. 74398”, were adopted, and [Ordinance No. 28601](#), entitled: “An Ordinance of the City of San José Amending Chapters 4.46 and 4.47 of Title 4 of the San José Municipal Code Revising the Reference to the Valuation Tables Used to Calculate the Building and Structure Construction Tax and Commercial-Residential-Mobile Home Park Building Tax from the Current International Conference of Building Officials (ICBO) to its Current Successor Organization, the International Code Council (ICC), and to Future Successor Organizations’ Building Valuating Tables”, and [Ordinance No. 28602](#), entitled: “An Ordinance of the City of San José Amending Chapter 10.42 of Title 10 of the San José Municipal Code to Repeal Section 10.42.110 and to Amend Sections 10.42.130 and 10.42.140 to Repeal the 60-Day Reporting Period for False Alarms, to Provide a Warning on the First False Alarm and to Make Responsible Parties Subject to Administrative Citation on a Second and Subsequent False Alarm in Certain Circumstances”, were passed for publication. (9-0-2. Absent: Chirco, Nguyen.)

## JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.2 (a) **Adopt a resolution by the City Council declaring results of the special mailed-ballot election for the Convention Center Facilities District No. 2009-1 and, if approved, directing the recording of a special tax lien on properties located within the District.**
- (b) **Approve an ordinance levying the special tax within the District.**
- (c) **Adopt a resolution by the City Council initiating validation proceedings to have a court confirm the City's legal authority to levy a special tax and issue bonds secured by the special tax.**
- (d) **Adopt a resolution by the Agency Board authorizing the General Counsel to negotiate and execute a Second Amendment to the Agreement with Orrick, Herrington & Sutcliff, LLP to add \$35,000 for legal services related to the validation action for a total contract amount not to exceed \$135,000.**

**CEQA: Resolution No. 72767 and Addenda thereto, File No. PP08-002. (City Manager's Office/Redevelopment Agency)**

Documents Filed: (1) Memorandum from Mayor Reed, dated June 12, 2009, regarding actions related to the formation of a Convention Center Facilities District. (2) Joint memorandum from City Manager Debra Figone and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated May 29, 2009, recommending adoption of resolutions, approval of an ordinance and approval to initiate validation proceedings. (3) Supplemental memorandum from City Manager Debra Figone and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated June 11, 2009, reporting results of the special mailed-ballot election. (4) Letter from Jennie Carter, Willdan Financial Services, dated June 11, 2009, submitting the Official Ballot Tally Certificate to the Office of the City Clerk. (5) San José Convention Center Facilities District No. 2009-1 Ballot Tally for the special election dated June 9, 2009, signed by Robert C. Fisher, Willdan Financial Services.

Deputy Executive Director of the Redevelopment Agency John Weis provided a presentation on the formation of the Convention Center Facilities District.

Chief Development Officer Paul Krutko and City Attorney Richard Doyle outlined possible steps in handling tax revenues collected if the City is unable to move forward with the Convention Center Project due to economic uncertainty.

Motion: Council Member Constant moved approval of the four actions required in the formation of the Convention Center Facilities District No. 2009-1. Council Member Herrera seconded the motion.

Director of Finance Scott P. Johnson responded to questions from Council.

Mayor Reed requested to amend the motion to accelerate the formation of a hotelier's committee. Council Members Constant and Herrera accepted the amendment.

## 9.2 (Cont'd.)

Public Comment: Speaking in support of the formation of the new Convention Center Facilities District, were: Cyril Isnard (Fairmont Hotel), Diane Driscoll (Extended Stay Hotel Properties), Dan Fenton (Team San José/SJCUB), Matt DiNapoli, Scott Knies (SJDA), and Ross Signorino.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75000](#), entitled: “A Resolution of the Council of the City of San José Declaring Results of Special Mailed-Ballot Election Within Convention Center Facilities District No. 2009-1, City of San José, County of Santa Clara, State of California”; [Resolution No. 75001](#), entitled: “A Resolution of the Council of the City of San José Authorizing Validation Action in Respect of Convention Center Facilities District No. 2009-1, City of San José, County of Santa Clara, State of California”; and [Resolution No. 75002](#), entitled: “A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing the General Council to Negotiate and Execute a Second Amendment to the Agreement with Orrick, Herrington & Sutcliff, LLP to Add \$35,000 for Legal Services Related to the Validation Action for a Total Contract Amount Not To Exceed \$135,000”, were adopted; and [Ordinance No. 28605](#), entitled: “An Ordinance of the City of San José Levying a Special Tax for Fiscal Years Solely Within and Relating to Convention Center Facilities District No. 2009-1, City of San José, County of Santa Clara, State of California”, was passed for publication. Staff was directed to communicate with the hotel community any changes or delays in the Convention Center construction project scope and schedule. (9-0-2. Absent: Chirco, Nguyen.)

## 3.2 Report of the Rules and Open Government Committee – May 20, 2009 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated May 20, 2009.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Council Member Constant and carried unanimously, the Report of the Rules and Open Government Committee and the actions of May 20, 2009 were accepted. (9-0-2. Absent: Chirco, Nguyen.)

## 3.9 As recommended by the Rules and Open Government Committee on June 3, 2009, adopt a resolution approving revisions to the Council Expenditure and Reimbursement Policy. (City Clerk) (Rules Committee referral 6/3/09 – Item 10.2)

Action: Deferred to June 23, 2009 per Administration.

**3.10 Report of the Rules and Open Government Committee – May 27, 2009  
Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated May 27, 2009.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the Report of the Rules and Open Government Committee and the actions of May 27, 2009 were accepted. (9-0-2. Absent: Chirco, Nguyen.)

**COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.2 (a) **Conduct public hearing and adopt a resolution approving the Hotel Business Improvement District budget report for Fiscal Year 2009-10, as filed or as modified by the Council, and to levy the Hotel BID assessments for 2009-2010. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**
- (b) **Conduct public hearing and adopt a resolution approving the Downtown Business Improvement District budget report for Fiscal Year 2009-10, as filed or as modified by the Council, and to levy the Downtown BID assessments for 2009-2010. CEQA: Exempt, File No. PP08-048. Council District 3. SNI: St. James Square; University; Josefa/Auzerais; Burbank/Del Monte. (Economic Development)**
- (c) **Conduct public hearing and adopt a resolution approving the Japantown Business Improvement District budget report for Fiscal Year 2009-10, as filed or as modified by the Council, and to levy the Japantown BID assessments for 2009-2010. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**
- (d) **Conduct public hearing and adoption of a resolution to approve the Willow Glen Business Improvement District budget report for Fiscal Year 2009-10, as filed or as modified by Council, and to levy the Willow Glen BID assessment for 2009-2010. CEQA: Exempt, File No. PP08-048. Council District 6. (Economic Development)**

Documents Filed: Four memoranda from Chief Development Officer Paul Krutko, dated May 26, 2009, recommending adoption of resolutions approving the 2009-2010 Budget Report and levying assessments for Fiscal Year 2009-2010.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

City Clerk Lee Price noted that the Office of the City Clerk had received no written protests; therefore, the Council was free to take action as recommended by Staff.

## 4.2 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 74989](#), entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Hotel Business Improvement District for Fiscal Year 2009-2010 and Levying Assessments in the Bid for Fiscal Year 2009-2010”; [Resolution No. 74990](#), entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Downtown Business Improvement District for Fiscal Year 2009-2010 and Levying Assessments in the Bid for Fiscal Year 2009-2010”; [Resolution No. 74991](#), entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Japantown Business Improvement District for Fiscal Year 2009-2010 and Levying Assessments in the Bid for Fiscal Year 2009-2010”; and [Resolution No. 74992](#), entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Willow Glen Business Improvement District for Fiscal Year 2009-2010 and Levying Assessments in the Bid for Fiscal Year 2009-2010”; were adopted. (9-0-2. Absent: Chirco, Nguyen.)

## 4.3 **Provide direction to proceed with environmental, fiscal and economic analyses of the four proposed Land Use Study scenarios for the Vision 2040 General Plan Update, including a geographic distribution for new job and housing growth capacity within each scenario, as recommended by the administration. CEQA: Not a Project. (Planning, Building and Code Enforcement).**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 26, 2009, providing direction to proceed with analysis of proposed land use study scenarios. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 3, 2009, providing additional land use information. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 15, 2009, providing information on meeting with property owners held June 11, 2009. (4) Letter from Robert Moore, Allen Matkins Leck Gamble Malory & Natsis LLP, dated June 16, 2009, in opposition to development of “Berg” property. (5) Letter from Victor LoBue, LoBue Children’s Trust Fund, dated June 16, 2009, regarding affects of the General Plan on Coyote Valley Urban Reserve. (6) Letter from Reed Noss, University of Central Florida, dated June 16, 2009, endorsing the efforts of the students and faculty of DeAnza College expressing opposition to urban growth.

Council Members Herrera and Liccardo provided meeting disclosures.

Planning, Building and Code Enforcement Principle Planner Andrew Crabtree provided a presentation on the Vision 2040 General Plan Update.

Assistant Director of Planning and Code Enforcement Laurel Prevetti responded to questions from Council.

### 4.3 (Cont'd.)

Public Comments: Steve Dunn (Legacy Partners) spoke in support of the Staff recommendations. Steve Speno and Michael Green proposed a refinement of the plan with mixed use overlay for Coyote Valley. Brian Schmidt (Committee for Green Foothills) and students and faculty from DeAnza Community College: Julie Phillips, Mike Sanchez, Jana Clark, Lynn Thorensen, Kristin Jensen Sullivan, Alejandro Amezola, Yim Sheung Yat, Heather Buantello and David Hinault spoke in opposition to the development of Coyote Valley and expressed environmental concerns.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, direction was given to proceed with environmental, fiscal and economic analyses of the four proposed Land Use Study scenarios for the Vision 2040 General Plan Update, including a geographic distribution for new job and housing growth capacity within each scenario, as recommended by the administration. (9-0-2. Absent: Chirco, Nguyen.)

## NEIGHBORHOOD SERVICES

- 5.2 (a) **Adopt a resolution declaring the 20 properties listed below and detailed in Attachment A of the memorandum as surplus to the needs of the City, and authorizing the City Manager to sell or lease such properties in accordance with the Municipal Code, and any other City policies, as they may be amended from time to time, and in accordance with applicable state law:**

(1)	Keyes Street	APN# 47703054
(2)	Hamline Street	APN# None (adjacent to APN# 23023035)
(3)	Autumn/Julian	APN# 25929099
(4)	Santa Teresa Street	APN# 25935026
(5)	460 Park Avenue	APN# 25946097
(6)	510 Park Avenue	APN# 25947081
(7)	551 Keyes	APN# 47212086
(8)	Zion Lane	APN# 58712059
(9)	1360 State Street	APN# 01512091
(10)	Dorel Drive	APN# 59515072
(11)	126 S. King Road	APN# 48117020
(12)	Bird Avenue	APN# 26443078
(13)	1015 S. Bascom Avenue	APN# 28211014 / 28211015
(14)	Story Road	APN# 47211003 / 47211009 / 47211062
(15)	Bet. McLaughlin/Sherlock	APN# 49926003
(16)	1795 Courtney Avenue	APN# 47730011
(17)	1807 Sarasota	APN# 49118035
(18)	2123 Quimby	APN# 49104022
(19)	Rebel Way	APN# 56946001
(20)	Sunny Oaks/Blossom Hill	APN# 46423056

5.2 (Cont'd.)

- (b) **Direct staff to conduct community outreach to solicit public input on alternative uses, leasing potential, and/or sale of the 7 recently identified under-utilized City-owned properties included in Attachment B, with particular emphasis on identifying revenue generating and cost reducing options.**

**CEQA: Not a Project. Appropriate CEQA review will be completed prior to City action to dispose of any surplus parcels. (Public Works/General Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of General Services Peter Jensen, dated May 26, 2009, recommending adoption of a resolution.

Public Comments: Gay Gayle expressed appreciation for the work of the Strong Neighborhoods Initiative. Joe Gallo (Citizens of Dorel Drive) expressed concern regarding Lot 30, a 'geologically troubled' property adjacent to Dorel Drive.

Motion: Council Member Liccardo moved approval of the Staff recommendations, with the removal of property at 12<sup>th</sup> and Keyes from the listing and its identification instead as under-utilized as described in Action below. The motion was seconded by Council Member Pyle.

Council Member Chu requested to amend the motion to include the Dorel Drive property to Council Member Liccardo's suggested listing of under-utilized properties. Council Members Liccardo and Pyle accepted the amendment.

Action: On a call for the question, [Resolution No. 74994](#), entitled: "A Resolution of the Council of the City of San José Declaring that Twenty Parcels of City-Owned Property is Not Needed for Nor Adaptable to the Needs of the City, and Authorizing the City Manager to Proceed with the Sale or Lease of Such Surplus Real Property in Accordance with the Applicable Provisions of the San José Municipal Code and Any City Policies, Including Any Amendments Thereto, and Applicable State Law", was adopted with an amendment that properties (g) 551 Keys and (j) Dorel Drive be removed from this list and included instead with the seven recently identified under-utilized City-owned properties included in Attachment B that are subject to community outreach. (9-0-2. Absent: Chirco, Nguyen.)

- 5.4 (a) Approve the third amendment to the master agreement for consultant services with Portico, Inc., for the Happy Hollow Park & Zoo Parks Bond Project increasing the compensation by \$150,000 from \$7,750,000 for a total agreement amount not to exceed \$7,900,000 and extending the agreement duration from April 30, 2010 to December 31, 2010.
- (b) Approve Contract Change Order No. 31 with West Bay Builders, Inc. for the Happy Hollow Park & Zoo – Zoo and Attractions Phase IIA Parks Bond Project in the amount of \$1,219,864 for a total contract amount of \$41,607,829 and extending the construction contract duration from August 11, 2009 to October 2, 2009.
- (c) Approve an increase in the construction contingency by one percent (1%) in the amount of \$392,550 for a total construction contract contingency of \$3,140,400 to provide funding for Contract Change Order No. 31 and any unanticipated work necessary for the completion of the balance of the construction.
- (d) Approve project delivery cost increase in the amount of \$50,000 to provide engineering and inspection services to the project for the extended contract duration from August 11, 2009 to October 2, 2009.

**CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April, 2007 and Amended Mitigated Negative Declaration, File No. PP09-023, dated February 6, 2009. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 26, 2009, recommending approval of the third amendment to a master agreement.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the third amendment to the master agreement with Portico, Inc. for consultant services for the Happy Hollow Park & Zoo Parks Bond Project, approval of a Contract Change Order with West Bay Builders Inc., an increase in related construction contingency costs and an increase in project delivery costs for engineering and inspection services, were approved. (9-0-2. Absent: Chirco, Nguyen.)

## **TRANSPORTATION & AVIATION SERVICES**

### **6.1 Report of the Transportation and Environment Committee – June 1, 2009 Council Member Liccardo, Chair**

Documents Filed: The Transportation and Environment Committee Report dated June 1, 2009.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Campos and carried unanimously, the Report of the Transportation and Environment Committee and the actions of June 1, 2009 were accepted. (9-0-2. Absent: Chirco, Nguyen.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Adopt a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding between the City of San José and Zero Waste Energy Development Company, Inc., regarding their intent to develop lease terms for use of approximately 40 acres of a closed landfill site located on San José/Santa Clara Water Pollution Control Plant buffer-lands, for a biogas facility and the process for bringing the lease forward for Council and other required approvals and any amendments to the master agreement with the tributary agencies, if needed. CEQA: Not a Project. Council District 4. (Environmental Services/City Manager's Office)**

Documents Filed: (1) Memorandum from Chief Development Officer Paul Krutko and Director of Environmental Services John Stufflebean, dated May 26, 2009, recommending adoption of a resolution. (2) Letter from Treatment Plant Advisory Committee Chair Chuck Reed, dated June 1, 2009, stating concurrence with the Staff recommendations.

Mayor Reed and Council Members Chu, Constant, Herrera, Pyle and Liccardo offered meeting disclosures.

Public Comment: (1) Eric Schoennauer, representing Zero Waste Energy Development Company, spoke on the biogas facility's potential to further the City's Green Vision Plan. Eileen McLaughlin spoke on the sustainability of biogas.

Director of Environmental Services John Stufflebean responded to questions from Council.

Motion: Upon motion by Council Member Chu, seconded by Council Member Constant and carried unanimously, [Resolution No.74995](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding with Zero Waste Energy Development Company, Inc., for the Development of Lease Terms for a Biogas Facility on Water Pollution Control Plant Property," was adopted. (9-0-2. Absent: Chirco, Nguyen.)

- 7.2 As referred by the Transportation and Environment Committee on June 1, 2009, approve the Strategic Energy Plan establishing strategies and tactics for achieving Green Vision Goals related to energy use reductions and increased use of renewable energy sources. (Environmental Services)  
(Transportation and Environment Committee referral 6/1/09 – Item 3.5)**

Action: Deferred to August 2009.

- 7.3 As referred by the Transportation and Environment Committee on June 1, 2009:**
- (a) Adopt a resolution approving the Water Supply Agreement between the City and County of San Francisco and Wholesale Customers in Alameda County, San Mateo County and Santa Clara County, and authorizing the City Manager to negotiate and execute the Agreement on behalf of the City of San José.**
  - (b) Adopt a resolution authorizing the City Manager to negotiate and execute San José's Individual Water Sales Contract with the City of San Francisco.**
  - (c) Adopt a resolution making findings for purposes of the California Environmental Quality Act in connection with approval of Water Supply Agreements with the City and County of San Francisco.**

**(Environmental Services)**

**(Transportation and Environment Committee referral 6/1/09 – Item 3.8)**

Documents Filed: Memorandum from City Clerk Lee Price, dated June 3, 2009, transmitting the recommendations of the Transportation and Environment Committee of June 1, 2009.

Public Comments: Art Jensen (Bay Area Water Supply & Conservation Agency) spoke in support of the Water Supply Agreement with the County of San Francisco.

Action: Upon motion by Council Member Pyle, seconded by Council Member Constant and carried unanimously, [Resolution No. 74996](#), entitled: "A Resolution of the Council of the City of San José Approving Water Supply Agreement with the City and County of San Francisco", [Resolution No. 74997](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Water Sales Contract with the City and County of San Francisco", and [Resolution No. 74998](#), entitled: "A Resolution of the Council of the City of San José Adopting Findings for Purposes of and Pursuant to the Provisions of the California Environmental Quality Act of 1970 in Connection with Approval of a Water Supply Agreement with the City and County of San Francisco", were adopted. (9-0-2. Absent: Chirco, Nguyen.)

- 5.3**
- (a) Award the construction contract for the Educational Park Branch Library to the low bidder, Barry Swenson Builder, to include the base bid and Add Alternate Nos. 1 through 5 in the amount of \$7,136,300, and approve a contingency in the amount of \$1,070,445.**
  - (b) Approve the first amendment to the agreement for consultant services with Anderson Brule Architects, for the Project, extending the term of the agreement from October 31, 2010 to April 30, 2011, modifying the scope of services, and increasing the amount of compensation by \$90,000, for a total agreement amount not to exceed \$1,280,000.**

**CEQA: Mitigated Negative Declaration, File No. PP08-024. Resolution approved by Council on November 6, 2007. Council District 4. (Public Works/Library)**

Action: Deferred to June 23, 2009 per Orders of the Day.

- 5.5 Conduct an ADMINISTRATIVE HEARING to consider the request of West Bay Builders, Inc., the general contractor on the Happy Hollow Park & Zoo – Zoo and Attractions project, to substitute Jensen Corporation for Green Growth Industries, Inc., the listed subcontractor for the landscape, irrigation and green roof work. CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April 2007. (Public Works)  
[Rules Committee referral 6/3/09 – Item 3.1(a)]  
(Deferred from 6/9/09 – Item 3.10)**

Action: Deferred to June 23, 2009 per Orders of the Day.

## **RECESS/RECONVENE**

The City Council recessed at 6:38 p.m. from the afternoon Council Session and reconvened at 7:15 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Chirco, Nguyen. (Excused)

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Pyle, seconded by Council Member Liccardo, and carried unanimously, the below noted continuances and actions were taken as indicated.

## **CEREMONIAL ITEMS**

- 1.1 Presentation of a commendation to Junior League of San José in honor of their Volunteer Recognition Program's 40<sup>th</sup> Anniversary. (Chu)**

Action: Mayor Reed and Council Member Chu recognized and commended the Junior League of San José in honor of their Volunteer Recognition Program's 40th Anniversary.

- 1.2 Presentation of a commendation to the Oak Grove High School Eaglebots for winning first place in the 2009 Northern California Regional Botball Competition. (Kalra)**

Action: Mayor Reed and Council Member Kalra recognized and commended the Oak Grove High School Eaglebots for winning first place in the 2009 Northern California Regional Botball Competition.

**1.3 Presentation of a commendation to San José Fire Department Battalion Chief Karen Allyn. (Oliverio)**

Action: Mayor Reed and Council Member Oliverio recognized and commended Battalion Chief Karen Allyn, the first woman firefighter for the City of San José, who will be retiring this month.

**1.4 Presentation of a commendation to Norma Rodriguez, Dorsa Elementary School Principal, for being named 2009 California Elementary Principal of the Year. (Campos)  
(Rules Committee referral 6/10/09)**

Action: Mayor Reed and Council Members Campos and Herrera recognized and commended Norma Rodriguez, Dorsa Elementary School Principal, for being named 2009 California Elementary Principal of the Year.

**1.5 Swearing in ceremony for District 3 Youth Commissioner Aaron Carrera and District 9 Youth Commissioner Daniel Stromfeld. (City Clerk)  
(Rules Committee referral 6/10/09)**

Action: City Clerk Lee Price administered the Oath of Office to District 3 Youth Commissioner Aaron Carrera and District 9 Youth Commissioner Daniel Stromfeld.

## **COMMUNITY AND ECONOMIC DEVELOPMENT**

- 4.4 (a) Adopt a resolution amending the North San José Area Development Policy to:**
- (1) Facilitate the delivery of affordable residential units within North San José consistent with City goals for affordable housing;**
  - (2) Allow the Director of Planning the discretion to grant permit time extensions; and**
  - (3) Make changes to facilitate implementation of the Traffic Impact Fee for hotel and regional commercial uses.**
- (b) Accept Revised North San José Area Traffic Impact Fee Study dated May 2009 and approve an ordinance amending the North San José Area Traffic Impact Fee.**
- (c) Defer discussion of the proposal to add capacity within the Policy to allow for up to one million square feet of large scale regional commercial uses and up to 2,000 hotel rooms outside the Core Area, and to decrease the capacity for new industrial uses by two million square feet; and acceptance the North San José Neighborhoods Plan to allow for additional community outreach to occur.**

**CEQA: Resolution No. 72768, Addendum to the North San José Policy Update EIR. Council Districts 3 and 4. (Planning, Building and Code Enforcement)**

**[Referred from 5/19/09 – Item 11.1(a)]**

**(Deferred from 6/9/09 – Item 4.2)**

#### 4.4 (Cont'd.)

Documents Filed: (1) Joint memorandum from Mayor Reed and Council Members Chu, Kalra and Liccardo, dated June 12, 2009, approving the Staff recommendations with modifications. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 27, 2009, recommending adoption of a resolution, approval of an ordinance and acceptance of the North San José Neighborhoods Plan. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated June 4, 2009, transmitting the Planning Commission recommendations of approval. (4) Supplemental memoranda from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 8, 2009 and June 12, 2009, addressing further Staff recommendations.

Mayor Reed and Council Member Chu provided meeting disclosures.

Director of Planning, Building and Code Enforcement Joseph Horwedel outlined the North San José Area Development Policy and responded to questions from Council.

Public Comment: Erik Schoennauer, representing Equity Residential, expressed strong support of the Staff recommendation. Sean Morley (Markovits & Fox, Inc.) spoke on behalf of the Fox family in extending planned development permits.

Motion: Council Member Chu moved approval of the Staff recommendation as modified by the joint memorandum he co-authored with Mayor Reed and Council Members Kalra and Liccardo, dated June 12, 2009. Council Member Liccardo seconded the motion.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 74993](#), entitled: “A Resolution of the Council of the City of San José Amending the North San José Area Development Policy to Authorize Large Scale Regional Commercial Uses and Hotel Rooms Under Specified Circumstances, Authorizing the Director of Planning, Building and Code Enforcement to Extend the Term of Planning Permits, and Make Other Specified Changes to Facilitate Implementation of the Policy”, was adopted, and [Ordinance No. 28604](#), entitled: “An Ordinance of the City of San José Amending Sections 14.29.010 Through 14.29.040 of Chapter 14.29 of Title 14 of the San José Municipal Code in Order to Add a Traffic Impact Fee for New Regional Retail and Hotel Development Within the North San José Area Development Policy Boundaries”, was passed for publication, with modifications as outlined in the joint memorandum from Mayor Reed and Council Members Chu, Kalra and Liccardo, dated June 12, 2009. (9-0-2. Absent: Chirco, Nguyen.)

## GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the General Plan Public Hearings on Consent Calendar were approved and the below listed actions were taken as indicated. (9-0-2. Absent: Chirco, Nguyen.)

- 10.1 (a) Amendment on approximately 0.72 acres on the southwest corner of Tully Road and McLaughlin Avenue (1100 Tully Road). Tentative approval of a General Plan amendment request to change the San José 2020 General Plan Land Use/ Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to General Commercial on a 0.72-acre site located on the southwest corner of Tully Road and McLaughlin Avenue (1100 Tully Road). (Borello, John L. and Anita C. Trustee & Et Al, Owner/Applicant). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). GP08-07-01 – District 7**

- (a) Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-07-01, dated May 21, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated June 1, 2009, transmitting the Planning Commission recommendation of approval. (3) Letter from Parks and Recreation Commission Chair Melanie Richardson, dated May 20, 2009, transmitting recommendations of the Parks and Recreation Commission. (4) Proof of Publication of Notice of Public Hearings, executed on May 1, 2009, submitted by the City Clerk.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The Staff/Planning recommendation was tentatively approved. (9-0-2. Absent: Chirco, Nguyen.)

- (b) Text Amendment to incorporate the Evergreen-East Hills Development Policy into the *San José 2020 General Plan*. Tentative approval of a General Plan text amendment request to incorporate the Evergreen-East Hills Development Policy into the San José 2020 General Plan. (City of San José, Applicant). CEQA: Evergreen-East Hills Development Policy Final Supplemental Environmental Impact Report certified by the City Council on December 16, 2009, Resolution No. 74742. SNI: West Evergreen, K.O.N.A., & East Valley/680. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). GP08-T-09 – Districts 5, 7, & 8**

## 10.1 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-T-09, dated May 21, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 28, 2009, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearings, executed on May 1, 2009, submitted by the City Clerk.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The Staff/Planning recommendation was tentatively approved. (9-0-2. Absent: Chirco, Nguyen.)

- (c) **Amendment on 9.1 acres on the northeast side of San Felipe Road, 800 feet north of Silver Creek Road and at the terminus of Grand Oak Way. Tentative approval of a General Plan request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) on a 9.1-acre site located on the northeast side of San Felipe Road, approximately 800 feet north of Silver Creek Road and at the terminus of Grand Oak Way (DAL Properties, LLC, Applicant/Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0).  
GP08-08-02 – District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-08-02, dated May 21, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated June 1, 2009, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearings, executed on May 1, 2009, submitted by the City Clerk.

Council Member Liccardo expressed concerns regarding increased density in this area.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Meeting disclosures were provided by Mayor Reed and Council Member Herrera.

Action: The Staff/Planning recommendation was tentatively approved. (9-0-2. Absent: Chirco, Nguyen.)

**END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR**

## GENERAL PLAN PUBLIC HEARINGS

- 10.2 Tentative approval of a General Plan text amendment request to revise the San José 2020 General Plan Text, including Appendix C: Housing, to update demographic and housing data, goals, policies, selected land use designations' minimum densities, and implementation actions for the 2007-2014 planning period, and other minor technical, clarifying and clerical revisions, as necessary, to comply with State Housing Element Law (Government Code Section 65580-65589.8) (City of San José, Applicant). CEQA: San José 2020 General Plan EIR, Resolution No. 65459 and additional documents referenced in staff report. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

**GP08-T-06 – Citywide**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-T-06 , dated May 6, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 29, 2009, transmitting the Planning Commission recommendation of approval. (3) Letter from Senior Planner Jennifer Nusbaum on behalf of San Francisco Baykeeper, dated June 15, 2009, urging incorporation of low-impact development strategies into its General Plan.

Director of Planning, Building and Code Enforcement Joseph Horwedel offered a presentation on General Plan amendments and responded to Council questions.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The Staff/Planning recommendation was tentatively approved. (9-0-2. Absent: Chirco, Nguyen.)

- 10.3 Tentative approval of a General Plan amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Medium High Density Residential (12-25 DU/AC) to General Commercial on a 2.37-acre site located on the north side of Parkmoor Avenue, approximately 1,070 feet west of Meridian Avenue, in the rear lot (1555 Parkmoor Avenue) (Chiechi Park West III/Hope Services, Owner/City of San José Housing Department, Applicant). CEQA: Negative Declaration. SNI: Burbank/Del Monte. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0) (6-1-0, Kamkar opposed).**

**GP08-06-01 – District 6**

**(Continued from 12/1/6/08 – Item 10.3)**

### 10.3 (Cont'd.)

Documents Filed: (1) Joint memorandum from Mayor Reed and Council Member Oliverio, dated June 12, 2009, recommending that the Council deny this General Plan Amendment. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-06-01, dated June 6, 2009, recommending denial. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 24, 2009, transmitting the Planning Commission recommendation. (4) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 29, 2009, transmitting the Planning Commission recommendation.

Mayor Reed and Council Members Constant, Chu, Herrera, Liccardo and Pyle offered meeting disclosures.

Mayor Reed opened the public hearing.

Erik Schoennauer, representing the applicant, recommended denying this General Plan Amendment due to a perceived disregard for property owner outreach.

Public Comment: Jean Dresden spoke in opposition to the General Plan Amendment citing the lack of outreach to the property owner. Andrea Papanastassio (Housing Director, Eden Housing), spoke in favor of the land-use designation and outlined construction scheduling progress.

Mayor Reed closed the public hearing.

Motion: Council Member Oliverio moved approval of the memorandum he co-signed with Mayor Reed, dated June 12, 2009, requesting that property owners not be mandated for property offset. The motion was seconded by Council Member Herrera.

Director of Planning, Building and Code Enforcement Joseph Horwedel addressed questions from the Council and offered an explanation for misunderstandings regarding outreach to the designated property owner.

Action: On a call for the question, the motion carried unanimously, the General Plan Amendment was tentatively denied with Staff directed to find another piece of property with a willing property owner to provide for the “offset” requirement under the City’s Employment Land Preservation Policy as set forth in the Joint Memorandum from Mayor Reed and Council Member Oliverio, dated June 12, 2009. (9-0-2. Absent: Chirco, Nguyen.)

**10.4 Tentative denial of a General Plan amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Medium Density Residential (8 - 16 DU/AC) on an approximately 0.85-acre site located on the east side of Almaden Road, approximately 300 feet north of Redmond Avenue (16430 Almaden Road) (Woodrum, Ronnie L. and Phyllis R. Trustee, Owner/Applicant). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (4-3-0).  
GP08-10-01 – District 10**

Documents Filed: (1) Memorandum from Council Member Pyle, dated June 15, 2009, recommending support of the Staff recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-10-01, dated May 21, 2009, recommending denial. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 28, 2009, transmitting the Planning Commission recommendation of denial. (4) Letter from George Bettisworth, Almaden Hills Estates Homeowners Association, dated June 16, 2009, opposing the General Plan Amendment to increase the density of the subject parcel.

Council Members Campos and Liccardo offered meeting disclosures.

Mayor Reed opened the public hearing.

Public Comment: Jim and Karen Larkin, Dennis Wheelwright, Kelley Rodrigues, and Connie and Douglas Page spoke in strong opposition to the General Plan amendment request to change the density of the subject parcel.

Mayor Reed closed the public hearing.

Motion: Council Member Pyle moved approval of the Staff recommendations with additional direction to Planning as outlined in her memorandum of June 15, 2009. Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, the Staff recommendation to deny the proposed General Plan Amendment was tentatively approved with an amendment as outlined in Council Member Pyle's memorandum of June 15, 2009, directing the Planning Staff to: (a) Present the findings regarding direct Almaden Expressway access to this site and the other three undeveloped parcels from Redmond to Winfield from the Santa Clara county roads & Airports Department, Santa Clara Valley Water District and the City of San José Planning Department to both the Fleetwood Drive and Almaden Hills Estates residents within 90 days or prior to the presentation of the PD Zoning for the Woodrum property to Council. (b) Communicate with the four property owners simultaneously regarding access to their individual sites. (c) Develop an access plan for all four parcels that considers neighborhood integration, ingress and egress to Almaden Expressway, development standards, safety and neighborhood traffic concerns. (9-0-2. Absent: Chirco, Nguyen.)

**10.5 Tentative denial of a General Plan amendment request to add the Mixed Industrial Overlay to a 3.5-acre site designated Industrial Park on the San José 2020 General Plan Land Use/Transportation Diagram (D & J Construction Inc., Et Al, Owner/New Harvest Christian Fellowship, Applicant). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (6-1-0).  
GP09-04-01 – District 4**

Documents Filed: (1) Memorandum from Council Member Chu, dated June 16, 2009, recommending deferral of the General Plan Amendment Application. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP09-04-01, dated May 20, 2009, recommending denial. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 29, 2009, transmitting the Planning Commission recommendations of denial.

Director of Planning, Building and Code Enforcement Joseph Horwedel offered a brief presentation recommending denial of the amendment.

Mayor Reed opened the public hearing.

Public Comment: Abel Rios (Applicant) spoke in support of Council Member Chu's memorandum recommending deferral of the amendment application. Francisco Manez (New Harvest) spoke in support of the deferral so that Staff may fully review the application.

Mayor Reed closed the public hearing.

Motion: Council Member Chu moved to defer the General Plan Amendment to Fall 2009 as outlined in his memorandum of June 16, 2009. The motion was seconded by Council Member Campos.

Council Members Liccardo and Oliverio voiced opposition to the recommended deferral citing the importance of preserving industrial land.

Action: On a call for the question, the motion carried, and Item 10.5 was tentatively continued to the Fall 2009 General Plan Hearings in order for Staff to fully review the application as outlined in Council Member Chu's memorandum of June 16, 2009. (7-2-2. Noes: Liccardo, Oliverio. Absent: Chirco, Nguyen.)

- 10.6 Tentative approval of General Plan amendment requests to change various residential and commercial land use designations to Transit Corridor Commercial and modify the Alum Rock Neighborhood Business District boundary to include various portions of parcels fronting on, or within 1000 feet, of Alum Rock Avenue between King Road and Interstate 680. The associated text amendment request is to revise the definition of the Alum Rock Neighborhood Business District to reflect the proposed land use changes. (Various Owners / City of San José, Applicant). CEQA: Negative Declaration. SNI: Mayfair and Gateway East. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).  
GP08-05-01a, b, c, d, & e and GPT08-05-01 – District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-05-01a, b, c, d, & e and GPT08-05-01, dated May 21, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated June 1, 2009, transmitting the Planning Commission recommendation.

Mayor Reed offered meeting disclosures.

Mayor Reed opened the public hearing.

Public Comment: Paul Ring (CORE) spoke in support of the City-initiated General Plan Amendment and urged that development be restrained along the corridor.

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Campos, seconded by Council Member Liccardo and carried unanimously, the General Plan amendment requests to change various residential and commercial land use designations to Transit Corridor Commercial and modify the Alum Rock Neighborhood Business District boundary to include various portions of parcels fronting on, or within 1000 feet, of Alum Rock Avenue between King Road and Interstate 680 were tentatively approved. (8-0-3. Absent: Chirco, Herrera, Nguyen.)

- 10.7 Adopt a resolution approving all General Plan amendment actions taken on June 16, 2009. (Planning, Building and Code Enforcement)**

Action: Upon motion by Council Member Pyle, seconded by Council Member Pyle and carried unanimously, [Resolution No. 75003](#), entitled: “A Resolution of the Council of the City of San José Specifying the Council’s Determinations on Proposed Amendments to the San José 2020 General Plan Pursuant to Title 18 of the San José Municipal Code”, was adopted. (8-0-3. Absent: Chirco, Herrera, Nguyen.)

## **PUBLIC HEARINGS ON CONSENT CALENDAR**

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the southwest corner of Tully Road and McLaughlin Avenue (1100 Tully Road) from the A Agricultural District to the CN Neighborhood Commercial District to allow neighborhood serving commercial uses on a 0.72 gross acre site (Borello John L. and Anita C. Trustee & Et Al, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
C08-047 – District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-07-01 & C08-47, dated June 1, 2009, recommending approval. (2) Proof of Publication of Notice of Public Hearing, executed on May 29, 2009, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Council Member Liccardo pulled Item 11.1(a) to express concerns regarding off-sale of alcohol at gas stations.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to questions from Council.

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried, the recommendation of the Planning Director was approved, [Ordinance No. 28606](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Tully Road and McLaughlin Avenue (1100 Tully road) to CN Commercial Neighborhood Zoning District”, was passed for publication. (7-2-2. Noes: Herrera, Liccardo. Absent: Chirco, Nguyen.)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## PUBLIC HEARINGS

- 11.2 Consideration of an ordinance rezoning the real property located at the southwest corner of Edwards Avenue and South 1<sup>st</sup> Street from LI Light Industrial and R-M Multiple Family Residence Zoning Districts to A(PD) Planned Development Zoning District to allow relocation of one National Register eligible house, demolition of five structures and construction of up to 50 residential units and approximately 5,350 square feet of commercial/retail space on a 1.08 gross acre site (Barriga Emilio Et Al, Jose Montero, Owner). SNI: Washington. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0).**

**PDC08-035 – District 3**

**(Continued from 6/2/09 – Item 11.2)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC08-035, dated May 27, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 28, 2009, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on March 27, 2009 submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Motion: Council Member Liccardo moved approval of the Staff recommendations, with direction to Staff to collaborate with the applicant as outlined below in “Action”. Council Member Pyle seconded the motion.

Action: On a call for the question, the motion carried unanimously, [Ordinance No. 28607](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property situated at the Southwest Corner of Edwards Avenue and South First Street to A(PD) Planned Development Zoning District”, was passed for publication with direction to Staff to collaborate with applicant regarding potential improvements of design to create a smart-growth, transit-oriented development, which may include additional retail frontage , finding a safer location for the tot lot, and pedestrian and bike improvements (i.e., wider sidewalks, expansion of bike parking). (9-0-2. Absent: Chirco, Nguyen.)

- 11.3 Conduct an ADMINISTRATIVE HEARING and consider an appeal of the Planning Commission’s decision to approve a Conditional Use Permit to allow an entertainment establishment (karaoke only) with after mid-night operation until 2:00am Fridays and Saturdays in portion of a commercial building and an alternate parking arrangement on a 2.4 gross acre site in the CP Pedestrian Commercial Zoning District, located on the southeast corner of South De Anza Boulevard and Via Vico (1132 S. DeAnza Boulevard) (Ping S. Chow, Owner/June A. Oberdorfer, Appellant). Council District 1. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends the City Council uphold the Planning Commission’s decision and approve the subject Conditional Use Permit.  
CP08-085 - District 1**

Documents Filed: (1) Memorandum from Council Member Constant, dated June 12, 2009, recommending that the City Council uphold the Planning Commission’s decision to approve the subject conditional use permit. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 2, 2009, recommending appeal of Planning Commission use permit for Project CP08-085. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 10, 2009 attaching plans for the proposed project not forwarded with the original memorandum. (4) Proof of Publication of Notice of Public Hearing, executed on May 29, 2009, submitted by the City Clerk.

Mayor Reed provided meeting disclosures.

Motion: Council Member Constant moved approval of the Staff recommendations and his memorandum dated June 12, 2009, approving the subject conditional use permit. Council Member Liccardo seconded the motion.

Mayor Reed opened the public hearing.

Public Comments: Appellant June Oberdorfer expressed that an establishment of this type violates City policy and would lead to loitering and late-night noise. Applicant Ping S. Chow (Music Tunnel KTV) offered a rebuttal that the City’s noise tests were inconclusive.

Mayor Reed closed the public hearing.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Resolution No. 75004](#), entitled: “A Resolution of the Council of the City of San José Granting, Subject to Conditions, A Conditional Use Permit to Allow an Entertainment Establishment (Karaoke Only) with After Midnight Operation Until 2:00 A.M. Fridays and Saturdays in Portion of a Commercial Building an Alternating Parking Arrangement on a 2.4 Gross Acre Site”, was adopted. (9-0-2. Absent: Chirco, Nguyen.)

**11.4 Consideration of an ordinance rezoning the real property located approximately 1,200 feet northwesterly of the intersection of Los Esteros Road and Zanker Road (705 Los Esteros Road) from an A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow continued use of resource materials recovery after the closure of the existing landfill on a 70.3 gross acre site (Zanker Road Resource Management, Ltd., Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).  
PDC08-042 – District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC08-042, dated May 27, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 28, 2009, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on May 15, 2009, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comment: Eric Schoennauer, representing the applicant, thanked the Council and Staff for their support.

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Chu, seconded by Council Member Liccardo, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28608](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated Approximately 1,200 Feet Northwesteryly of the Intersection of Los Esteros Road and Zanker Road from A(PD) Planned Development Zoning to A(PD) Planned Development Zoning District”, was passed for publication. (9-0-2. Absent: Chirco, Nguyen.)

**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>
10023	Southeast Corner of Piercy Road and Tennant Avenue	2	KB Home South Bay, Inc.	44 Lots / 40 Units	Single Family Detached	Approve

**ADJOURNMENT**

The Council of the City of San José was adjourned at 9:26 p.m. in memory of Lahori Ram, former Economic Development Commissioner for the State of California and a senior leader in the Indian American community worldwide. (Kalra)

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

Rmk/06/16/09MIN

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.

## APPENDIX A

### 3.8 Adoption of FY 2009-2010 Operating Budget, FY 2009-2010 Capital Budget, FY 2010-2014 Capital Improvement Program, FY 2009-2010 Fees and Charges; and the Redevelopment Agency FY 2009-2010 Operating Budget and FY 2009-2010 Capital Budget.

Documents Filed: (1) Proposed Operating Budget Binder for Fiscal Year 2009-2010. (2) Proposed Fiscal Year 2009-2010 Capital Budget and 2010-2014 Capital Improvement Program Binder. (3) Proposed 2009-2010 Fees and Charges Report.

**[A] FISCAL YEAR 2009-2010 BUDGET DOCUMENTS (BD) AND DOCUMENT LOG:** [1] Memorandum from Mayor's Policy Office Director Armando Gomez, dated April 24, 2009, providing information for the Budget Process for FY 2009-2010 and the Budget Document Template. [2] Memorandum from Council Members Campos, Chu and Herrera, dated May 14, 2009, recommending project funding reinstatement. [3] Memorandum from Council Members Campos and Chu, dated May 19, 2009, recommending funding for Core City Services. [4] Memorandum from Council Members Campos and Chu, dated May 19, 2009, recommending reinstatement of funds to preserve fire department service eliminations. [5] Memorandum from Council Member Campos, dated May 19, 2009, recommending funding of City-Council Initiated Neighborhood Improvement Reserve Fund/Other Budget Proposals. [6] Memorandum from Council Member Campos, dated May 19, 2009, recommending new expenditure/reinstatement of funding for District 5 Office and Constituent Outreach Budget Carry-over. [7] Memorandum from Vice Mayor Chirco, dated May 18, 2009, recommending funding of City-Council Initiated Neighborhood Improvement Reserve Fund/Other Budget Proposals. [8] Memorandum from Council Member Nguyen, dated May 19, 2009, recommending Council District 7 Office Budget Carry Over. [9] Memorandum from Council Member Kalra, dated May 20, 2009, recommending funding of City-Council Initiated Neighborhood Improvement Reserve Fund/Other Budget Proposals. [10] Memorandum from Council Member Pyle, dated May 19, 2009, recommending Council District 10 Office and Constituent Outreach Budget Carry-Over. [11] Memorandum from Council Member Nguyen, dated May 21, 2009 recommending reinstatement of funding for Fire Station 33. [12] Memorandum from Council Member Oliverio, dated May 21, 2009, recommending funding for City-Council Initiated Neighborhood Improvement Reserve Fund/Other Budget Proposals. [13] Memorandum from Council Member Oliverio, dated May 19, 2009, recommending funding Regional Parks Accessibility and Maintenance – Rose Garden. [14] Memorandum from Council Member Oliverio, dated May 21, 2009, recommending funding for Rose Garden fountain maintenance. [15] Memorandum from Council Member Oliverio, dated May 21, 2009, recommending funding for FT regional Parks Accessibility and Maintenance. [16] Memorandum from Council Member Herrera, dated May 21, 2009, recommending funding for the neighborhood clean-ups in District 8. [17] Memorandum from Council Member Herrera, dated May 21, 2009, recommending funding for completion of the Aborn Park play lot.

### 3.8 (Cont'd.)

[18] Memorandum from Council Member Herrera, dated May 19, 2009, recommending District 8 Office and Constituent Outreach Budget Carry-Over. [19] Memorandum from Council Members Chu, dated May 21, 2009, recommending funding of City-Council Initiated Neighborhood Improvement Reserve Fund/Other Budget Proposals – District 4 Re-budget. [20] Memorandum from Council Members Chu, Campos, Kalra, Nguyen and Pyle, dated May 21, 2009, offering an extensive listing of general proposal to potentially generate savings by the middle of FY 2009-2010. [21] Memorandum from Vice Mayor Chirco and Council Members Liccardo and Oliverio, dated May 21, 2009, recommending City funding for Distinctive Neighborhoods Program. [22] Memorandum from Council Members Herrera, Kalra and Liccardo, dated May 21, 2009, recommending San José State Company Funding. [23] Memorandum from Council Member Constant, dated May 21, 2009 recommending funding for Office on Aging Staffing. [24] Memorandum from Council Member Constant, dated May 21, 2009, recommending funding for Crime Prevention Specialist staffing. [25] Memorandum from Council Member Constant, dated May 21, 2009, recommending funding the park ranger program. [26] Memorandum from Council Member Constant, dated May 21, 2009, recommending funding police horse mounted unit. [27] Memorandum from Council Member Constant, dated May 21, 2009, recommending funding the traffic enforcement unit. [28] Memorandum from Council Members Constant and Liccardo, dated May 21, 2009, recommending funding senior center services. [29] Memorandum from Council Member Constant, dated May 21, 2009, recommending funding of Fire Citizen CPR training program. [30] Memorandum from Council Member Constant, dated May 21, 2009, funding for Fire Station 33 temporary deactivation. [31] Memorandum from Council Member Constant, dated May 21, 2009, recommending funding for US Green Building Council LEED Certification. [32] Memorandum from Council Member Constant, dated May 21, 2009, recommending funding for Council Office Expenditure Openness. [33] Memorandum from Council Member Liccardo, dated May 21, 2009, recommending funding for Satellite and Neighborhood Community Centers. [34] Memorandum from Council Members Liccardo, Herrera and Kalra, dated May 21, 2009, recommending funding for Arts Grants Multi-Year Stabilization Fund. [35] Memorandum from Vice Mayor Chirco and Council Members Herrera and Liccardo, dated May 21, 2009, recommending funding to District 3 Office and Constituent Outreach Budget Carry-over. [36] Memorandum from Council Member Liccardo, dated May 21, 2009, recommending funding to District 3 Office and Constituent Outreach Budget Carry-over. [37] Memorandum from Council Member Liccardo, dated May 21, 2009, recommending funding for Fire Station 30 Engine Company Elimination. [38] Memorandum from Council Member Liccardo, dated May 21, 2009, recommending funding for Police Traffic Enforcement Unit Team Staffing.

### 3.8 Cont'd.)

**[B] FISCAL YEAR 2009-2010 MANAGER'S BUDGET ADDENDA (MBA) AND DOCUMENT LOG:** [1] Memorandum from Budget Director Jennifer Maguire, dated May 1, 2009, transmitting detailed agenda for the 2009-2010 Budget Study Sessions. [2] Memorandum from Chief Deputy City Manager Ed Shikada, dated May 1, 2009, recommending approval of the HP Pavilion Capital Repairs and Replacement Budget. [3] Memorandum from Library Director Jane Light, dated April 29, 2009, transmitting the proposal for branch library days of service. [4] Memorandum from Budget Director Jennifer Maguire, dated May 11, 2009, transmitting replacement pages to the 2009-2010 Proposed Operating Budget, 2009-2010 Proposed Capital Budget and 2010-2014 Proposed Capital Improvement Program, and 2009-2010 Proposed Fees and Charges documents. [5] Memorandum from Budget Director Jennifer Maguire and Director of Human Resources Mark Danaj, dated May 12, 2009, responding to questions from the Mayor and City Council regarding 2009-2010 city-wide position vacancies. [6] Memorandum from Budget Director Jennifer Maguire, dated May 12, 2009, regarding the 2009-2010 Proposed Fees and Charges for Mexican Heritage Plaza. [7] Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 8, 2009, offering recommendations for the proposed 2010-2014 Capital Improvement Program. [8] Memorandum from Budget Director Jennifer Maguire, dated May 12, 2009, recommending responding to questions regarding the Neighborhood Services Community Based Organization funding. [9] Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 12, 2009, recommending approval of the 2009-2010 ranked list of proposals approved by the Healthy Neighborhoods Leadership Committee. [10] Memorandum from Library Director Jane Light, dated May 13, 2009, regarding branch library hours partial restoration costs. [11] Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 15, 2009, regarding PRNS Pricing and Revenue Policies. [12].Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 15, 2009, regarding approval of PRNS pricing and revenue strategy. [13] Memorandum from Chief Development Officer Paul Krutko, dated May 20, 2009, regarding Sector Analysis Information regarding job losses. [14] Memorandum from Chief Development Officer Paul Krutko, dated May 20, 2009, transmitting a breakdown of the Cultural Grant Awards Stabilization Fund. [15] Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 12, 2009, transmitting the PRNS Pricing and Revenue Policy Update. [16] Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 19, 2009, providing an overview of the Community Centers Plan and History. [17] Memorandum from Director of Public Works Katy Allen, dated May 19, 2009, providing options for construction flagging. [18] Memorandum from Director of Human Resources Mark Danaj, dated May 15, 2009, transmitting proposals for the Pilot Employee Suggestion Program. [19] Memorandum from Chief Information Officer Stephen Ferguson, dated May 21, 2009, transmitting the Cost/Benefit of Support for Windows Migration from Unix. [20] Memorandum from Budget Director Jennifer Maguire, dated May 22, 2009, transmitting the proposed budget position impact by employee group. [21] Memorandum

### 3.8 (Cont'd.)

from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 19, 2009, transmitting cost estimates for completion of Thompson and Silver Creek trails. [22] Memorandum from Retirement Services Director Russell Crosby, dated May 18, 2009, transmitting information retirement funding and contribution rate scenarios. [23] Memorandum from Chief of Police Robert L. Davis, dated May 21, 2009, recommending an amendment to the 2009-2010 Proposed Operating Budget. [24] Memorandum from Chief Deputy City Manager Ed Shikada and Budget Director Jennifer Maguire, dated May 21, 2009, recommending the Sharks Ice Capital Budget for FY 2009-2010. [25] Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Jennifer Maguire, dated May 21, 2009, transmitting information regarding the Striving Toward Achievement with New Direction (STAND) Program. [26] Memorandum from Director of Transportation James R. Helmer, dated May 18, 2009, transmitting information regarding the Pilot Program for High Performance Team Service Agreement. [27] Memorandum from Budget Director Jennifer Maguire, dated May 22, 2009, providing 2009-2010 Proposed Fees and Charges replacement pages. [28] Memorandum from Police Chief Robert Davis and Budget Director Jennifer Maguire, dated May 22, 2009, providing a Division of Gaming Control Staffing Model. [29] Memorandum from Chief Development Officer Paul Krutko and Budget Director Jennifer Maguire, dated May 22, 2009 transmitting the Convention and Cultural Affairs Budget Update. [30] Memorandum from Fire Chief Darryl Von Raesfeld, dated May 22, 2009, transmitting Fire Stations 30 and 33 Service Impact Mitigation Efforts. [31] Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 15, 2009, providing an Operational Review of the Municipal Golf Course System. [32] Memorandum from Deputy City Manager Norberto Duenas, dated May 21, 2009, providing an Adult Crossing Guard Program Evaluation. [33] Memorandum from Fire Chief Darryl Von Raesfeld, dated May 22, 2009, providing an analysis of anticipated response time performance associated with the defunding of Firehouse 33. [34] Memorandum from Chief Development Officer Paul Krutko, dated May 22, 2009, recommending acceptance of the change in fee methodology for Public Entertainment Businesses. [35] Memorandum from Director of Public Works Katy Allen, dated May 22, 2009, recommending approval of adjustments to Public Works 2009-2010 Staffing Plan. [36] Memorandum from Director of Finance Scott P. Johnson, dated May 21, 2009, transmitting background on the Convention and Cultural Affairs Fund Overhead. [37] Memorandum from City Manager Debra Figone, dated May 22, 2009, transmitting a response to Working Partnerships USA/Community Budget Working Group Topic Paper. [38] Memorandum from Director of Finance Scott P. Johnson and Director of Public Works Katy Allen, dated May 22, 2009, providing information on the Renegotiation of Contract Pricing. [39] Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 22, 2009, transmitting identification of costs of conducting special events in each Council District. [40] Memorandum from Chief Deputy City Manager Ed Shikada and Budget Director Jennifer Maguire, dated May 27, 2009, recommending the American Recovery and Reinvestment Act of 2009 Update and Appropriation Actions. [41] Memorandum from Chief Deputy City Manager Ed Shikada,

### 3.8 (Cont'd.)

dated May 27, 2009, recommending approval of Arena Authority funding for Fiscal Year 2009-2010. [42] Memorandum from Fire Chief Darryl Von Raesfeld, dated May 28, 2009, transmitting Fire Prevention Non-Development Fee Revisions. [43] Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 29, 2009, providing information on the Park Ranger Program. [44] Memorandum from Chief Development Officer Paul Krutko, dated June 1, 2009, recommending a Resolution to provide Cultural Funding Portfolio Allocations and approval of an expansion of eligible applications of grants. [45] Memorandum from Budget Director Jennifer Maguire, dated June 2, 2009, providing updated information regarding the 2009-2010 General Fund Property Tax Revenue Estimate. [46] (a) Memorandum from Budget Director Jennifer Maguire, dated June 3, 2009, transmitting recommended Amendments to the 2009-2010 Proposed Operating and Capital Budgets. (b) Replacement page, dated June 15, 2009, providing the 2009-2010 Proposed Operating Budget and Capital Budget Clean-ups and Rebudgets Manager's Budget Addendum (MBA #46). [47] Memorandum from Budget Director Jennifer Maguire, dated June 19, 2009, recommending adoption of appropriation ordinance and funding sources resolution amendments establishing the 2009-2010 Operating and Capital Budgets.

**[C] BUDGET CORRESPONDENCE FROM THE PUBLIC:** [1] Letter from Bob Sippel, President of the Rose Garden Neighborhood Society Preservation Association, dated May 20, 2009, urging the retention of the SJPD Mounted Patrol. [2] Memorandum from Downtown Parking Board Chair, Janis Gemignani, dated June 4, 2009, transmitting opposition from the Board to divert annual interest revenues from the Parking fund to the General Fund. [3] (a) Ten letters from employees of the Airport Communications Center speaking in opposition to funding reductions at the Airport Communications Center. (b) Petition from Communications Service Operators, dated May 22, 2009, with 13 signatures urging no reduction in staffing. [4] Letter from the Citizen Oversight Committee, dated May 26, 2009, urging reconsideration of delayed funding for the South San José Police Substation. [5] Letters from Summerhill Homes Senior Vice President Robert Hencken, dated June 12 and June 18, 2009, supporting funding to keep Fire Station 33 open. [6] Petition with 305 signatures from citizens opposed to closure of the Alma Community Center, dated May 7, 2009. [7] Letter from the JTS Northside Advisory Board, dated May 8, 2009, with 320 signatures, opposing closure of the Northside Community Center. [8] Fifteen letters from citizens urging the reconsideration of proposed reduction of library services. [9] Approximately 1875 cards from Friends of Edenvale Library urging reconsideration of proposed reduction of library services. [10] Letters from 23 members of the San José Arts Alliance, dated May 1 and 19, 2009, supporting the Arts Commission recommendation of the Office of Cultural Affairs budget. [11] Letter from Irene Dalis, Board of Directors of Team San José asking that funding be maintained for the San José Convention and Visitor's Bureau. [12] Letter from Anjee Helstrup-Alvarez, Executive Director MACLA, dated June 11, 2009, supporting the Arts Commission's recommendations to reallocate the Office of Cultural

### 3.8 (Cont'd.)

Affairs FY 2009-10 budget. [13] Letter from Cathleen King, Executive Director, San José Stage Company, expressing concerns regarding the current funding position and process. [14] Twenty-four email from community members strongly opposing reduction of library service hours. [15] Letter from the Parks and Recreation Commission Chair, Melanie Richardson, dated May 12, 2009, transmitting the Commission's opposition to cuts to the Park Ranger program. [16] Twelve e-mails from citizen's urging the reconsideration of reduced park services and reduction of park ranger staff. [17] Email from Beverly Rose Hopper, dated May 12, 2009, expressing opposition to proposed budget cuts adversely affecting the Rose Garden. [18] Correspondence from International Children Assistance Network, dated May 14, 2009, providing information to be considered regarding budget cuts that affect under-served ethnic communities. [19] Fifteen letters from citizens urging the reconsideration of proposed elimination of the Police Mounted Unit. [20] E-Mail from eight members of the public regarding concerns for the future of Happy Hollow Park. [21] Letter from Paul Murphy, dated June 1, 2009, opposing the reduction of positions that maintain the Police Athletic League fields. [22] Email from Randy Martinez, dated May 22, 2009, to Council Member Pyle addressing various City budget issues. [23] Twenty-four letters from students of Parkview Elementary School urging the reconsideration of reducing library hours. [24] Petition to support the use of plastic bags and support plastic bag recycling, signed by approximately 600 petitioners. [25] Approximately 400 form letters from citizens in opposition to the "Bag Tax" [26] Letter from Steve Mahan, Executive Director, Santa Clara Valley Blind Center, dated May 14, 2009, urging a stronger HNVF partnership with the City.

## JOINT REDEVELOPMENT AGENCY/COUNCIL

The Joint Redevelopment Agency Board convened at 5:24 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

- 8.1 (a) City Council and Redevelopment Agency Board direction to the City Manager and the Executive Director to proceed with developing plans to:**
- (1) Demolish the former Martin Luther King, Jr. Library building on West San Carlos Street to clear the path for the expansion of the San Jose Convention Center;**
  - (2) Relocate the City staff currently housed in the former Martin Luther King, Jr. Library building to the City Hall and other City-owned facilities.**
- (b) Adoption of a resolution by the City Council making certain findings, as required by Health and Safety Code Section 33445, and authorizing the City Manager to:**
- (1) Negotiate and execute short-term office space lease in the Downtown to accommodate City staff being relocated from the former Martin Luther King, Jr., Library building;**
  - (2) Negotiate and execute a Project Services Memorandum (PSM) not to exceed \$415,000 with the Redevelopment Agency describing in more detail the scope of work, schedule and other specifics of the matters set forth herein.**
- (c) Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to negotiate and execute a PSM not to exceed \$415,000 with the City describing in more detail the scope of work, schedule and other specifics of the matters set forth herein.**
- CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002. Central Service Yard: Mitigated Negative Declaration, File No. PP05-136, and addendum File No. PP09-113. [MERGED] (Deferred 5/19 and 6/2/09, Item 8.1)**

Documents Filed: (1) Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated June 4, 2009, recommending development plans and adoption of a resolution. (2) Letter from F. Matthew DiNapoli, DiNapoli Capital Partners, dated May 21, 2009, offering support for the increased bed tax proposal.

## 8.1 (Cont'd.)

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried unanimously, direction to the City Manager and Executive Director to demolish the former Martin Luther King, Jr. Library building to clear the path for the expansion of the San Jose Convention Center and to relocate City Staff was approved, and Resolution No. 75005, entitled: “A Resolution of the Council of the City of San José Making Certain Findings Required Under California Health and Safety Code Section 33445 for Redevelopment Agency Funding; Authorizing the City Manager to Negotiate and Execute Short-Term Office Space Lease in the Downtown to Accommodate City Staff Being Relocated from the Former Martin Luther King, Jr., Library Building; and Authorizing the City Manager to Negotiate and Execute a Project Services Memorandum Not To Exceed \$415,000 with the Redevelopment Agency”, and Redevelopment Agency Resolution No. 5913, entitled: “A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing the General Council to Negotiate and Execute a Second Amendment to the Agreement with Orrick, Herrington & Sutcliff, LLP to Add \$35,000 for Legal Services Related to the Validation Action for a Total Contract Amount Not To Exceed \$135,000”, were adopted. (9-0-2. Absent: Chirco, Nguyen.)

The Redevelopment Agency Board was adjourned at 5:36 p.m.