



## MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 23, 2009

The Council of the City of San José convened in regular session at 8:00 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Chirco. (Excused)

Upon motion unanimously adopted, Council recessed at 8:00 a.m. to a Closed Session in Room W133, to confer with Legal Counsel with respect to (A) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 with respect to anticipated litigation (Claim Not Filed) of significant exposure in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to anticipated litigation in one (1) matter. (C) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) State of California ex rel Armenta v. James Jones Co., et al.; Names of Parties Involved: State of California, Nora Armenta, James Jones, Co., Mueller Company, Tyco International (US) Inc., Watts Industries, Inc., City of San José (Intervenor) along with several other public entity Intervenors; Court: Superior Court of California, County of Los Angeles; Case No: BC 173487; Amount of Money or Other Relief Sought: Damages according to proof; (2) Licking Enterprises Inc. v. City, et al; Names of Parties Involved: Licking Enterprises, Inc., City of San José, a Municipal Corporation, San José City Council, Ron Gonzales, Cindy Chavez, Pat Dando, Ken Yeager, Chuck Reed, Forrest Williams, Linda J. LeZotte, Nora Campos, George Shirakawa, Jr., David D. Cortese, John DiQuisto, sued in their official capacities; Court: United States District Court, Northern District of California; Case No: C07-00735 RMW (PVT), Amount of Money or Other Relief Sought: Damages according to proof; (3) Bernal, et al. v. City, et al; Names of Parties Involved: Mike C. Bernal, Susan R. Bernal, Nanetta Bernal, Lilian Bernal Auvinen, Katherine Lira, Diana Bernal-Tuyor, Mike A. Bernal, Gary James Bernal, Domenico Loverde, Tomas J. Martinez, Authur Paul Lira, Jr., Jerimiah Lira, Sommer Kai Espinosa, Lucia A. Bernal, Guillermo Espinosa, City of San José and DOES 1-25; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-116141; Amount of Money or Other Relief Sought: Damages according to

## CLOSED SESSION (Cont'd.)

proof; (4) Yuhas v. City, et al; Names of Parties Involved: David Yuhas, City of San José, dba City of San José Animal Care Center, John Ciccarelli and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-118840; Amount of Money or Other Relief Sought: Damages according to proof; (5) Vietnamese-American Community of Northern California v. City of San José, et al; Names of Parties Involved: Vietnamese-American Community of Northern California, City of San José, City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-107082; Amount of Money or Other Relief Sought: For declaratory and injunctive relief according to proof; (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of 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, 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. (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. 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.

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

By unanimous consent, Council recessed from the Closed Session at 9:49 a.m. and reconvened to Regular Session at 10:07 a.m. in the Council Chambers.

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

Absent: Council Members - None.

## **INVOCATION**

The Choir of St. Christopher's performed "Spirit of God" for the Invocation. (District 6)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Pyle, seconded by Vice Mayor Chirco and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 2.32(a) modified to read "lowest responsive bidder". (11-0.)

## **STRATEGIC SUPPORT SERVICES**

- 3.9**
- (a) Adopt a resolution approving an amendment to the terms of the current agreement with the Municipal Employees' Federation (MEF), AFSCME Local 101, regarding forgoing the scheduled 1.5% general wage increase and freezing step and merit increases for Fiscal Year 2009-2010, and authorizing the City Manager to execute the amended agreement.**
  - (b) Adopt a resolution approving an amendment to the terms of the current agreement with the Confidential Employees' Organization (CEO), AFSCME Local 101, regarding forgoing the scheduled 1.5% general wage increase and freezing step and merit increases for Fiscal Year 2009-2010, and authorizing the City Manager to execute the amended agreement.**
  - (c) Adopt the related 2009-2010 Appropriation Ordinance amendments in the General Fund and in the Construction Excise Tax Fund and approve restoration of positions subject to AFSCME Local 101, Municipal Employees' Federation and Confidential Employees' Organization ratification of their respective agreements and direction to include these actions in the final 2009-2010 Operating and Capital Budgets as described in Attachment A.**

**CEQA: Not a Project. (City Manager's Office)**

### 3.9 (Cont'd.)

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza and Budget Director Jennifer Maguire, dated June 19, 2009, recommending adoption of resolutions and appropriation ordinance amendments.

Director of Employee Relations Alex Gurza provided the staff report and responded to Council questions.

A short discussion followed.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75006](#), entitled: "A Resolution of the Council of the City of San José Approving an Amendment to Agreement Between the City of San José and AFSME Local 101, Municipal Employees' Federation (MEF), With a Term of July 1, 2008 to June 30, 2011"; [Resolution No. 75007](#), entitled: "A Resolution of the Council of the City of San José Approving, Contingent Upon Membership Ratification, An Amendment to Agreement Between the City of San José and AFSCME Local 101, Confidential Employees' Organization (CEO), With a Term of September 21, 2008 to September 17, 2011", and [Ordinance No. 28609](#) were adopted, approving Scenario 2 and Scenario 3, per the ratification of the agreement by the CEO on Friday, June 26, 2009. (11-0.)

### 3.4 **Adopt amendments to the annual appropriation ordinance and funding sources resolution for various operating and capital funds to reflect estimated 2008-2009 revenue receipts, expenses, and encumbrances. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Jennifer Maguire, dated June 16, 2009, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Mayor Reed and City Manager Debra Figone provided comments about the State budget and its effect on the City of San José.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, [Ordinance No. 28592](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the General Fund, Various Special Funds and Various Capita Funds to Reflect Estimated 2008-2009 Revenue Receipts, Expenses and Encumbrances; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 74955](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2008-2009 to Implement the 2008-2009 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Funds", were adopted. (11-0.)

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Council/Redevelopment Agency Board convened at 10:35 a.m. to consider Items 3.5, 9.1 and 9.2 in a Joint Session.

- 3.5**
- (a) Adopt the Annual Appropriation Ordinance, including transfers and loans for Fiscal Year 2009-2010 and the Manager's Final Budget Addendum.**
  - (b) Adopt the Annual Funding Sources Resolution for Fiscal Year 2009-2010 and the Manager's Final Budget Addendum.**
  - (c) Adopt a resolution in compliance with Article XIII B of the Constitution of the State of California and as modified by Proposition 111 and SB 88 electing the population and inflation factors and establishing the Fiscal Year 2009-2010 Appropriation Limit.**
  - (d) Adopt a resolution accepting the Recovery Act 2009 Internet Crimes Against Children Task Force Program Grant in the amount of \$863,930 and authorizing the City Manager to execute the Grant Agreement and all related documents required to effectuate the grant.**

**CEQA: Not a Project. (City Manager's Office)**

Documents Filed: (1) Memorandum from Assistant City Manager Christine Shippey, dated June 10, 2009, recommending adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee Chair Chuck Reed, dated June 11, 2009, stating concurrence with the Staff recommendations.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, [Ordinance No. 28593](#), entitled: "Annual Appropriation of the City of San José for City's Fiscal Year Beginning July 1, 2009 and Ending June 30, 2010, Appropriating and Authorizing the Expenditure of Monies for the Operation of Each of the Offices, Departments and Agencies of the City During Said Fiscal Year and for Various Other Purposes and Objects for Said Fiscal Year; an Providing for Transfers from Various City Funds to Other City Funds as May Be Necessary During Said Fiscal Year; [Resolution No. 74956](#), entitled: "A Resolution of the Council of the City of San José Adopting the Estimated Sources of Funds for Fiscal Year 2009-2010"; [Resolution No. 74957](#), entitled: "A Resolution of the Council of the City of San José Electing the Population and Inflation Adjustment Factors and Establishing the 2009-2010 Appropriations Limit of the City of San José Pursuant to California Constitution Article XIII B and Section 7900 Et Seq. of the California Government Code" and [Resolution No. 74958](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept an American Recovery and Reinvestment Act 2009 Grant for the Internet Crimes Against Children Task Force Program In An Amount Not To Exceed \$863,930 and to Execute All Related Documents", were adopted. (11-0.)

**9.1 Approve the FY 2009-2010 Cooperation Agreements between the City of San José and the Redevelopment Agency for:**

- (a) Capital Improvement Projects in the Merged Redevelopment Area; and**
- (b) Support Services in the Fiscal Year 2009-10 Operating Budget.**

**CEQA: Not a Project. (Redevelopment Agency/City Manager's Office)**

Documents Filed: (1) Memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 12, 2009, recommending approval of the cooperation agreements. (2) Letter from the Treatment Plant Advisory Committee Chair Chuck Reed, dated June 12, 2009, stating concurrence with the Staff recommendations.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the FY 2009-2010 Cooperation Agreements between the City of San José and the Redevelopment Agency for Capital Improvement Projects in the Merged Redevelopment Area and Support Services in the Fiscal Year 2009-10 Operating Budget were Approved. (11-0.)

**9.2 Adopt resolutions by the Redevelopment Agency Board:**

- (a) Approving amendments to the FY 2008-09 Revenue Resolution;**
- (b) Adopting the FY 2009-10 Revenue and Appropriations Resolutions for the second year of the Adopted Two-Year Spending Plan including revisions to the FY 2009-10 Spending Plan, with direction to bring back a balancing plan in September 2009 for Agency Board approval that includes the remaining \$8.4 million due for City Improvements and Services;**
- (c) Authorizing the Executive Director to rebudget the remaining FY 2008-09 Operating and capital budgets appropriation balances to FY 2009-10 for ongoing projects/programs previously approved by the Agency Board; and,**
- (d) Making certain determinations regarding the expenditure of Agency funds to eradicate graffiti.**

**(Redevelopment Agency)**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated June 11, 2009, recommending adoption of Redevelopment Agency resolutions.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chirco and carried unanimously, the Redevelopment Agency Resolution No. 5917, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving an Amendment to the Fiscal Year 2008-2009 Revenue Resolution"; Redevelopment Agency Resolution No. 5918, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Adopting the Revenue Resolution for Fiscal Year 2009-2010"; Redevelopment Agency Resolution No. 5919, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José for Fiscal Year Beginning July 1, 2009 and Ending June 30, 2010, Appropriating and Authorizing the Expenditure of Monies During Said Fiscal Year";

## 9.2 (Action Cont'd.)

Redevelopment Agency Resolution No. 5920, entitled: “A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing the Executive Director to Rebudget the Remaining FY2008-2009 Operating and Capital Budgets Appropriation Balances to FY2009-2010 for Ongoing Projects/Programs Previously Approved by the Agency Board” and Redevelopment Agency Resolution No. 5921, entitled: “A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Making Certain Determinations Regarding the Expenditure of Agency Funds to Eradicate Graffiti”, were adopted. (11-0.)

The Joint Council/Redevelopment Agency Board was adjourned at 10:37 a.m.

## CONSENT CALENDAR

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

### 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28589 – Adopting salaries and other compensation for the Mayor and Council Members recommended by the Council Salary Setting Commission pursuant to City Charter Section 407.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28589 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28589](#) was adopted. (11-0.)

- (b) **ORD. NO. 28594 – 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.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28594 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28594](#) was adopted. (11-0.)

- (c) **ORD. NO. 28595 – Amending Sections 24.02.340 and 24.02.355 of Chapter 24.2 Title 24 of the San José Municipal Code to allow for the further extension of plan checks and building permits.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28595 executed on June 16, 2009, submitted by the City Clerk.

2.2 (c) (Cont'd.)

Action: [Ordinance No. 28595](#) was adopted. (11-0.)

- (d) **ORD. NO. 28596** – 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.

Documents Filed: Proof of Publication of the title of Ordinance No. 28596 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28596](#) was adopted. (11-0.)

- (e) **ORD. NO. 28597** – 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.

Documents Filed: Proof of Publication of the title of Ordinance No. 28597 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28597](#) was adopted. (11-0.)

- (f) **ORD. NO. 28598** – 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.

Documents Filed: Proof of Publication of the title of Ordinance No. 28598 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28598](#) was adopted. (11-0.)

- (g) **ORD. NO. 28599** – 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.

Documents Filed: Proof of Publication of the title of Ordinance No. 28599 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28599](#) was adopted. (11-0.)

- (h) **ORD. NO. 28600** – Waiving certain cancellation charges for outdoor events on facilities managed by the Department of Parks, Recreation and Neighborhood Services.

Documents Filed: Proof of Publication of the title of Ordinance No. 28600 executed on June 16, 2009, submitted by the City Clerk.

2.2 (h) (Cont'd.)

Action: [Ordinance No. 28600](#) was adopted. (11-0.)

- (i) **ORD. NO. 28601** – 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-Mobilehome 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 valuation tables.

Documents Filed: Proof of Publication of the title of Ordinance No. 28601 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28601](#) was adopted. (11-0.)

- (j) **ORD. NO. 28602** – 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.

Documents Filed: Proof of Publication of the title of Ordinance No. 28602 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28602](#) was adopted. (11-0.)

- (k) **ORD. NO. 28603** – 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 benefits.

Documents Filed: Proof of Publication of the title of Ordinance No. 28603 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28603](#) was adopted. (11-0.)

- (l) **ORD. NO. 28604** – 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.

Documents Filed: Proof of Publication of the title of Ordinance No. 28604 executed on June 16, 2009, submitted by the City Clerk.

2.2 (l) (Cont'd.)

Action: [Ordinance No. 28604](#) was adopted. (11-0.)

- (m) **ORD. NO. 28605 – Levying a Special Tax for Fiscal Year 2009-2010 and following Fiscal Years solely within and relating to Convention Center Facilities District No. 2008-1 City of San José, County of Santa Clara, State of California.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28605 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28605](#) was adopted. (11-0.)

- (n) **ORD. NO. 28606 – Rezoning certain real property situated on the southwest corner of Tully Road and McLaughlin Avenue (1100 Tully Road) to CN Commercial Neighborhood Zoning District. C08-047**

Documents Filed: Proof of Publication of the title of Ordinance No. 28606 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28606](#) was adopted. (11-0.) (First Reading: 7-2-2. Noes: Herrera, Liccardo. Absent: Chirco, Nguyen.)

- (o) **ORD. NO. 28607 – Rezoning certain real property situated at the southwest corner of Edwards Avenue and South First Street to A(PD) Planned Development Zoning District. PDC08-035**

Documents Filed: Proof of Publication of the title of Ordinance No. 28607 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28607](#) was adopted. (11-0.)

- (p) **ORD. NO. 28608 – Rezoning certain real property situated approximately 1,200 feet northwesterly of the intersection of Los Esteros Road and Zanker Road from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC08-042**

Documents Filed: Proof of Publication of the title of Ordinance No. 28608 executed on June 16, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28608](#) was adopted. (11-0.)

- (q) **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.**

2.2 (q) (Cont'd.)

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated June 19, 2009, recommending the readoption of Ordinance 28581. (2) Proof of Publication of the title of Ordinance No. 28581 executed on June 20, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28581](#) was readopted. (11-0.)

- (r) **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: (1) Memorandum from City Clerk Lee Price, dated June 19, 2009, recommending the readoption of Ordinance 28582. (2) Proof of Publication of the title of Ordinance No. 28582 executed on June 20, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28582](#) was readopted. (11-0.)

- (s) **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: (1) Memorandum from City Clerk Lee Price, dated June 19, 2009, recommending the readoption of Ordinance 28585. (2) Proof of Publication of the title of Ordinance No. 28585 executed on June 20, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28585](#) was readopted. (11-0.)

- (t) **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 District. C09-012

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated June 19, 2009, recommending the readoption of Ordinance 28586. (2) Proof of Publication of the title of Ordinance No. 28586 executed on June 20, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28586](#) was readopted. (11-0.)

- 2.3
- (a) **Request for an excused absence for Vice Mayor Chirco from the Closed Session Meeting of the City Council on June 9, 2009 due to illness. (Chirco) (Rules Committee referral 6/3/09)**
  - (b) **Request for an excused absence for Council Member Nguyen from the Closed Session Meeting of the City Council on June 9, 2009 due to a medical appointment. (Nguyen)**
  - (c) **Request for an excused absence for Vice Mayor Chirco from the Closed Session of the City Council Meeting on June 16, 2009 due to illness. (Chirco)**
  - (d) **Request for an excused absence for Council Member Nguyen from the Final City Council Budget Hearing on June 15, 2009 due to illness. (Nguyen)**
  - (e) **Request for an excused absence for Council Member Nguyen from the Closed Session, Regular Meeting and Evening Meeting of the City Council on June 16, 2009 due to illness. (Nguyen)**
  - (f) **Request for an excused absence for Council Member Pyle from the Regular Meeting of the Rules and Open Government Committee on June 24, 2009 due to Authorized City Business: Sister City visits in Tallinn, Estonia. (Pyle) (Rules Committee referral 6/17/09)**

Documents Filed: (1) Memoranda from Vice Mayor Chirco, dated June 8, 2009 and June 15, 2009, requesting excused absences due to illness. (2) Memoranda from Council Member Nguyen, dated June 8, 2009, June 15, 2009 and June 16, 2009, requesting absences due to illness. (3) Memorandum from Council Member Pyle, dated June 22, 2009, requesting an excused absence due to authorized City business.

Item 2.3 was inadvertently pulled from the Consent Calendar by mistake.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the absences for Vice Mayor Chirco, Council Member Nguyen and Council Member Pyle were excused. (11-0.)

2.4 **Adopt a resolution authorizing the City Manager to:**

- (a) **Negotiate and execute a Master Services Agreement with URS Corporation for sustainability and environmental compliance consultant services at Norman. Y. Mineta San José International Airport, from the date of execution to June 30, 2013, in an amount not to exceed \$500,000; and**
- (b) **Negotiate and execute a Master Services Agreement with CDM Incorporated for sustainability and environmental compliance consultant services at the Airport, from the date of execution to June 30, 2013, in an amount not to exceed \$500,000.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP09-126. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated June 3, 2009, recommending adoption of a resolution.

## 2.4 (Cont'd.)

Action: [Resolution No. 75020](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Master Services Agreement with URS Corporation and CDM Incorporated for Sustainability and Environmental Compliance Consultant Services at the Norman Y. Mineta San José International Airport in An Amount Not To Exceed \$500,000”, was adopted. (11-0.)

## 2.5 **Adopt a resolution authorizing the City Attorney to negotiate and execute a Sixth Amendment to the Agreement with Nossaman LLP for legal services related to the Design-Build Agreement for the Airport Terminal Area Improvement Program, extending the term from July 1, 2009 through June 30, 2010, with no increase in total compensation. CEQA: Not a Project. (City Attorney’s Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 9, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75021](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Sixth Amendment to the Agreement with Nossaman LLP for Legal Services, Extending the Term from July 1, 2009 through June 30, 2010 with No Increase in Total Compensation”, was adopted. (11-0.)

## 2.6 **Approve settlement and authorize City Attorney to execute a Settlement Agreement and Release with Housing and Development Software, Inc., providing for settlement payment to the City of San José in the total amount of \$80,000 to be made in installments over five years and secured by a Stipulated Judgment in order to resolve lawsuit regarding software installation dispute, as considered by the City Council during Closed Session held on December 9, 2008. CEQA: Not a Project. (City Attorney’s Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 11, 2009, recommending approval of the settlement and authorization to execute a settlement agreement.

Council Member Oliverio expressed enthusiasm for the new policy which requires Staff to utilize a pilot before procurement.

Action: Upon motion by Council Member Oliverio, seconded by Vice Mayor Chirco and carried unanimously, the settlement was approved and the City Attorney was authorized to execute a Settlement Agreement and Release with Housing and Development Software, Inc., providing for settlement payment to the City of San José in the total amount of \$80,000 to be made in installments over five years and secured by a Stipulated Judgment in order to resolve lawsuit regarding software installation dispute, as considered by the City Council during Closed Session held on December 9, 2008. (11-0.)

**2.7 Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (Cityside Redevelopment Fund) for 2009-2010:**

- (a) Increase the Beginning Fund Balance by \$415,000; and,
- (b) Establish an appropriation to the General Services Department for the Former Main Library Demolition Project – Relocation of Staff and Furniture (PSM 587) in the amount of \$415,000.

**CEQA: Former Main Library Demolition Project – Relocation of Staff and Furniture Project: 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. (City Manager’s Office)**

Documents Filed: Memorandum from Director of General Services Peter Jensen and Budget Director Jennifer Maguire, dated June 8, 2009, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 28613](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Main Library Demolition Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 75022](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74956 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2009-2010 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”, were adopted. (11-0.)

**2.8 Adopt a resolution authorizing the City Manager’s Office to execute an amendment to the agreement with United Neighborhoods of Santa Clara County to increase the “Donor Advised Funds” for the Community Action and Pride Grant Program and Keep San José Beautiful Grant Program and extend the term to June 30, 2011. CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: Memorandum from Deputy City Manager Norberto Dueñas, dated May 18, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75023](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Amendment to the Agreement with Unified Neighborhoods of Santa Clara County for the Community Action and Pride Grant Program and Keep San José Beautiful Grant Program”, was adopted. (11-0.)

**2.9 (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2008-2009:**

- (1) Increase the estimate for Earned Revenue by \$415,000.
- (2) Increase the Ending Fund Balance by \$390,000.

- 2.9 (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2009-2010:**
- (1) **Decrease the Beginning Fund Balance by \$390,000.**
  - (2) **Establish the appropriation to the General Services Department for the Former Main Library Demolition Project – Relocation of Staff and Furniture in the amount of \$390,000.**

(City Manager’s Office)

Action: Dropped per Administration.

2.10 **Adopt a resolution authorizing the City Manager to:**

- (a) **Negotiate and execute all contracts, amendments, agreements, leases, subleases and memorandums of understanding with contractors and vendors providing services to the Workforce Investment Act Program (WIA), including, but not limited to, novations or assignments, vendor training contracts, case management contracts, consultant contracts, memorandums of understanding required with Mandatory Partners for the use of One-Stop facilities, and cities and the unincorporated area of Santa Clara County whose residents receive service under the WIA program for the period from July 1, 2009 to June 30, 2010 in accordance with procurement procedures and requirements mandated by the State and Federal governments for Workforce Investment Act grant recipients and with established City procurement procedures and requirements that have been reviewed and approved by the Silicon Valley Workforce Investment Network Executive Committee and/or the Board. The City Manager is also authorized to amend Council-approved agreements that have been reviewed and approved by the Work2Future Executive Committee and/or the Work2Future Board so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.**
- (b) **Negotiate and execute all grants and sub-grant agreements for discretionary funding applied for and approved by the work2future Board for the period from July 1, 2009 to June 30, 2010.**

**CEQA: Not a Project. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated June 1, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75024](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Certain Agreements Related to Workforce Investment Act (WIA) Program and Projects for FY 2009-2010”, was adopted. (11-0.)

- 2.11 (a) **Approve a change order to the agreement with PG&E for the Silicon Valley Energy Watch program, to extend the term of the agreement from June 30, 2009 to December 31, 2009, and increase the maximum amount of compensation payable to the City by \$104,214 from \$553,250, for a total amount not to exceed \$657,464.**
- (b) **Adopt the following 2009-2010 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Increase the Environmental Services Department’s Personal Services appropriation by \$52,864;**
  - (2) **Increase the Environmental Services Department’s Non-personal/ Equipment appropriation by \$51,350;**
  - (3) **Increase the estimate for Revenue from Local Agencies by \$104,214.**
- CEQA: Not a Project. (Environmental Services/City Manager’s Office)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean and Budget Director Jennifer Maguire, dated June 1, 2009, recommending approval of a change order to the agreement and appropriation ordinance and funding sources resolution amendments.

Action: A change order to the agreement with PG&E for the Silicon Valley Energy Watch program, to extend the term of the agreement from June 30, 2009 to December 31, 2009, and increase the maximum amount of compensation payable to the City by \$104,214 from \$553,250, for a total amount not to exceed \$657,464 was approved; [Ordinance No. 28614](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the General Fund for the Environmental Services Department’s Personal Services and Non-Personal/Equipment; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 75025](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74956 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2009-2010 to Adjust Revenues in the General Fund”, were adopted. (11-0.)

- 2.12 **Approve the award of open purchase orders for supplies, materials, equipment and services for FY 2009-2010 #1 and authorize the Director of Finance to execute the purchase orders. CEQA: See Administration’s memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated June 1, 2009, recommending approval of the open purchase orders.

Action: The award of open purchase orders for supplies, materials, equipment and services for FY 2009-2010 #1 was approved and the Director of Finance was authorized to execute the purchase orders. (11-0.)

**2.13 Adopt a resolution:**

- (a) **Setting a public hearing on Tuesday, August 4, 2009 at 1:30 p.m. for 2009-2010 Sewer Service and Use Charges and Storm Sewer Service Charges based on annual reports of the Director of Finance and direct the City Clerk to publish notice of the time and place of the hearing; and**
- (b) **Allowing the Director of Finance to file, with the City Clerk, the 2009-2010 Sewer Service and Use Charges and Storm Sewer Service Charges on or before July 17, 2009.**

**CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated June 1, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75026](#), entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing on the Annual Sewer Service and Use Charge and Storm Sewer Service and Use Charge and Storm Sewer Service Change Reports of the Director of Finance Pursuant to Sections 15.12.550 and 15.16.1410 of the San José Municipal Code", was adopted. (11-0.)

**2.14 Report on Request for Proposal to expand the existing Access Control System into the new Terminal B and the North Concourse at the Norman Y. Mineta San José International Airport, perform an assessment of the existing ACS in Terminals A and C, provide maintenance services for the entire system, and adopt a resolution authorizing the Director of Finance to:**

- (a) **Execute an agreement with Electronic Technologies Corporation, doing business as Ingersoll Rand Security Technologies to expand the existing Access Control System, including all hardware, software, implementation services and the first year support and maintenance with total compensation not to exceed \$342,712, including all applicable sales taxes.**
- (b) **Execute change orders not to exceed a contingency amount of \$51,000 to cover any unanticipated changes in the system design and/or installation.**
- (c) **Execute three additional one-year options for extended maintenance and support services subject to annual appropriation of funding.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP09-118. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated June 1, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75027](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute an Agreement with Electronic Technologies Corporation, Doing Business as Ingersoll Rand Security Technologies to Expand the Existing Access Control System at Norman Y. Mineta San José International Airport", was adopted. (11-0.)

- 2.15 Report on bids and award the purchase for the repair of the parking garage deck at the San José Convention Center to Watertight Restoration, Inc. (San Francisco, CA), the low bidder, for a total amount not to exceed \$429,500; including labor, material, equipment, and applicable sales taxes and authorize the Director of Finance to:**
- (a) Execute the purchase order.**
  - (b) Approve a contingency in the amount of \$65,000 for any unforeseen changes or requirements that may arise prior to the completion of the repairs.**
- CEQA: Exempt, File No. PP08-292. Council District 3. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated June 8, 2009, recommending award of the purchase.

Action: The award the purchase for the repair of the parking garage deck at the San José Convention Center to Watertight Restoration, Inc., the low bidder, for a total amount not to exceed \$429,500; including labor, material, equipment, and applicable sales taxes was approved, with related contingency and the Director of Finance was authorized to execute the purchase order. (11-0.)

- 2.16 (a) Adopt a resolution authorizing the Director of Finance to execute an Amendment to the Agreement for Elevator Maintenance Services with Kone, Inc. to:**
- (1) Add four elevators in the Employee Parking Garage to the Scope of Services for repair and maintenance services.**
  - (2) Add Kone Remote Management System (KRMS) service to provide remote and real time elevator diagnostics for City Hall and garage elevators.**
- CEQA: Not a Project. (Finance)**
- (b) Report on Request for Proposals for elevator and escalator maintenance and repair services for city owned facilities including libraries, community centers, and downtown parking garages managed by General Services and adoption of a resolution authorizing the Director of Finance to:**
- (1) Execute an agreement with Schindler Elevator Corporation (San Leandro, CA) not to exceed \$155,500, for the initial term July 1, 2009 to June 30, 2010.**
  - (2) Execute amendments to the agreement to add or delete elevators or escalators as required subject to appropriation of funds.**
  - (3) Exercise four one-year options to renew the agreement subject to the annual appropriation of funds.**
- CEQA: Not a Project. (Finance)**

Documents Filed: Memoranda from Director of Finance Scott Johnson, dated June 8, 2008 and June 17, 2009, recommending adoption of resolutions.

**2.16 (Cont'd.)**

Action: [Resolution No. 75028](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Amendment to the Agreement for Elevator Maintenance Services with Kone, Inc.” and [Resolution No. 75029](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Schindler Elevator Corporation for Maintenance and Repair of Elevators and Escalators at Citywide Facilities”, were adopted. (11-0.)

**2.17 Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the City of Milpitas to provide the City of Milpitas with animal care services for the period July 1, 2009 to June 30, 2012, in the amount of \$686,801. CEQA: Not a Project. (General Services)**

Documents Filed: Memorandum from Director of General Services Peter Jensen, dated June 8, 2009, recommending adoption of resolution.

Action: [Resolution No. 75030](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the City of Milpitas to Provide Animal Care and Control Services to the City of Milpitas for the Period of July 1, 2009 through June 30, 2012, With a Total Amount of \$686,801 to Be Paid to the City of San José”, was adopted. (11-0.)

**2.18 Adopt a resolution authorizing the City Manager to negotiate and execute the Amended and Restated Operation Agreement with History San José which includes, as directed by Council on December 18, 2007, a schedule and funding plan to increase the ongoing operating payment to \$875,000 per year for the remaining years of its Agreement with the City through Fiscal Year 2017-18, subject to City council approval of fiscal appropriations. CEQA: Exempt. (General Services)**

Documents Filed: (1) Memorandum from Director of General Services Peter Jensen, dated June 5, 2009, recommending adoption of a resolution. (2) Supplemental memorandum from Director of General Services Peter Jensen, dated June 19, 2009, reporting on recent discussions with History San José on strategies to strengthen its organization.

Council Member Campos requested clarification on the Operation Agreement with History San José. Director of General Services Peter Jensen and City Attorney Richard Doyle responded to her questions and concerns.

A brief discussion followed.

Council Member Campos requested that Staff return to Council before the next budget cycle with a funding plan for History San José.

## 2.18 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75031](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Amended and Restated Agreement with History San José for the Operation of City Owned Historical Facilities, The Historical Museum located at Kelley Park and The Fallon House and The Peralta Adobe”, was adopted, and Staff was directed to return to Council before the next budget cycle with a funding plan for History San José. (11-0.)

## 2.19 Adopt a resolution:

- (a) **Approving \$1,500,000 for the implementation of the first year of a transitional housing Tenant-Based Rental Assistance (TBRA) program for approximately 100 chronically homeless individuals or families.**
- (b) **Approving an amendment to the City’s 2009-2010 Consolidated Plan to allow a TBRA program under the HOME guidelines.**
- (c) **Authorizing the Director of Housing to negotiate and execute all necessary documents.**

**CEQA: Not a Project. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Leslye Krutko, dated June 1, 1009, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Housing Leslye Krutko, dated June 12, 2009, providing detailed information: (a) Participating households in the TBRA program will pay a \$50.00 flat monthly rent rather than 30% of their total monthly income; (b) Limit the use of allocated HOME funds solely for rent subsidies and the administration of the program. Funds will not be used for security and utility deposits as stated previously in the memorandum dated June 1, 2009.

Action: [Resolution No. 75032](#), entitled: “A Resolution of the Council of the City of San José Approving the Funding for the Implementation of a One Year Tenant Based Rental Assistance Program for Chronically Homeless Individuals and Families”, was adopted. (11-0.)

## 2.20 Adopt a resolution:

- (a) **Approving a 12-month extension to the Housing Services Partnership (HSP) contract with EHC Lifebuilders (EHC) to provide homeless services on behalf of the City from July 1, 2009 through June 30, 2010;**
- (b) **Approving an increase in the HSP contract amount by \$1,331,340 from \$979,372 to \$2,310,712 to cover the cost of services provided through June 30, 2010; and**
- (c) **Authorizing the Director of Housing to negotiate and execute all necessary documents.**

**CEQA: Not a Project. (Housing)**

**2.20 (Cont'd.)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated June 8, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75033](#), entitled: "A Resolution of the Council of the City of San José Approving an Amendment to the Housing Services Partnership Contract with EHC Lifebuilders to Provide Services to San José Residents Who are Homeless or At Risk of Homelessness, Approving an Increase in Funding and Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents", was adopted. (11-0.)

- 2.21 Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Prudential Insurance Company of America for a group plan to make voluntary long-term care insurance services available to City of San José Employees, Retirees and their dependents/beneficiaries for the period of July 1, 2009 through June 30, 2013, and to negotiate and execute an agreement with MetLife for an individual policy plan to make voluntary California Partnership Long-Term Care insurance services available to City of San José retirees and their beneficiaries for the period of July 1, 2009 through June 30, 2013. The Prudential group plan agreement also contains an option to renew contracts with no additional increase in rates for two additional years, through June 30, 2015. CEQA: Not a Project. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated May 14, 1009, recommending adoption of a resolution.

Action: Dropped per City Attorney's Office.

- 2.22 Adopt a resolution authorizing the City Manager to:**

- (a) Execute an amendment to the agreement with VeriSign, Inc. to extend the term of the agreement from June 30, 2009 through June 30, 2010, and increase maximum compensation from \$349,760, by \$50,000, to \$399,760 for the purpose of providing on-site PCI (Payment Card Industry) Security Compliancy Assessment for the Mineta San José International Airport.**
- (b) Execute subsequent information security amendments with VeriSign, Inc., as required, subject to the appropriation of funds.**

**CEQA: Not a Project. (Information Technology/Airport)**

Documents Filed: Memorandum from Chief Information Officer Stephen Ferguson and Director of Aviation William Sherry, dated June 8, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75034](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Second Amendment to the Agreement with Verisign, Inc. for Services Relating to Information Security", was adopted. (11-0.)

**2.23 Approve a Maintenance Agreement between the State of California and the City of San José for the Guadalupe River Trail Reach 6 – Woz Way to Virginia Street. CEQA: Mitigated Negative Declaration, File No. PP04-03-102. Council District 3. SNI: Washington and Gardner. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 1, 2009, recommending approval of a maintenance agreement.

Action: The agreement between the State of California and the City of San José for the Guadalupe River Trail Reach 6, Woz Way to Virginia Street was approved. (11-0.)

**2.24 Adopt a resolution authorizing the following, subject to the appropriation of funds by the City Council, and on such terms and conditions as deemed appropriate by the City Manager:**

- (a) **Authorize the City Manager to negotiate and execute all agreements and amendments for Parks, Recreation and Neighborhood Services Department (PRNS) identified on Attachment A;**
- (b) **Authorize the City Manager to negotiate and execute agreements and amendments to accept grant funds identified on Attachment B consistent with the 2009-2010 Adopted Budget;**
- (c) **Authorize a three-month extension of the agreement with the County of Santa Clara for the Senior Nutrition Agreement into the first three months of 2009-2010 and to accept grant funds for that period in amounts consistent with budgeted amount in the 2009-2010 Adopted Budget, until a new agreement for 2009-2010 is finalized with the County;**
- (d) **Authorize the Director of Parks, Recreation and Neighborhood Services to negotiate and execute 2009-2010 contracts and amendments consistent with adopted budgeted amounts for the following grant programs:**
  - (1) **Bringing Everyone’s Strengths Together (B.E.S.T.).**
  - (2) **San José After School (S.J.A.S.).**
  - (3) **Safe Summer Initiative Grant (S.S.I.G.).**
  - (4) **Healthy Neighborhoods Venture Fund (H.N.V.F.).**

**CEQA: All items on Attachment A: Not a Project. All items on Attachment B: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 8, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75035](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute All Agreements and Amendments to Agreements and To Accept Grant Funds for Parks, Recreation and Neighborhood Services Programs; and Authorizing the Director of Parks, Recreation and Neighborhood Services to Negotiate and Execute Agreements and Amendments to Agreements Related to Certain Grant Programs, All Consistent with the Amounts Budgeted for These Programs in the Adopted Budget for Fiscal Year 2009-2010”, was adopted. (11-0.)

- 2.25 Adopt a resolution to submit an application to the FOCUS program to designate two contiguous subareas of the former Hitachi/IBM Campus on Cottle Road as a regional Planned Priority Development Area. CEQA: Reuse of the Hitachi Campus and Mixed-Use Transit Village Project Final Environmental Impact Report, Resolution No. 72772, and the San José Lowe’s Store Project, File No. PDC06-003, Resolution No. 73814. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 4, 2009, recommending adoption of a resolution.

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

Action: Upon motion by Council Member Kalra, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75036](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Specify the Cottle Transit Village and Shopping Center (Commonly Known as the Hitachi Campus Site) as the Priority Development Area for Participation in the Focus Program and To Submit an Application for the Designation of the Cottle Transit Village and Shopping Center as a Priority Development Area to Specified Regional Government Agencies for Participation in the Focus Program”, was adopted. (10-0-1. Absent: Nguyen.)

- 2.26 (a) Accept Homeland Security Grant Program funding from the County of Santa Clara for Police Department training and exercise in an amount up to \$1,166,127.**
- (b) Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund in fiscal year 2009-2010:**
- (1) Increase the existing city-wide appropriation to the Police Department for the State Homeland Security Grant Program in the amount of \$250,089; and**
  - (2) Increase the estimate for Earned Revenue Estimate from the Federal Government by \$250,089.**
- (c) Adopt a resolution authorizing the City Manager to negotiate and execute future amendments to the existing agreement with Santa Clara County, approved by Council on 12/9/08, item 2.5 without further Council action.**
- CEQA: Not a Project. (Police/City Manager’s Office)**

Documents Filed: Memorandum from Police Chief Robert Davis and Budget Director Jennifer Maguire, dated June 1, 2009, recommending acceptance of the Homeland Security Grant program funding, adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

**2.26 (Cont'd.)**

Action: The Homeland Security Grant Program funding from the County of Santa Clara for Police Department training and exercise in an amount up to \$1,166,127 was accepted; [Ordinance No. 28615](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the General Fund for the State Homeland Security Grant Program; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 75037](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74956 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2009-2010 to Adjust Revenues in the General Fund” and [Resolution No. 75038](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Future Amendments to the Agreement with Santa Clara County for 2007 Homeland Security Program Funds”, were adopted. (11-0.)

**2.27 (a) Adopt a resolution authorizing the City Manager to:**

- (1) Accept the 2009 Alcoholic Beverage Control Grant in the amount of \$80,830;**
- (2) Negotiate and execute the grant agreement specifying the grant terms and all related documents necessary to effectuate the grant, including any extensions or amendments and any related subsequent contract; and**
- (3) State in the resolution that any liability arising out of the performance of this contract, including civil actions, shall be the responsibility of the City; grant funds received shall not be used to supplant existing expenditures; and the award is not subject to local hiring freezes, which the grantor has stated means the City must agree to provide a project manager for the term of the grant.**

**(b) Adopt the following Appropriation Ordinance and the Funding Sources Resolution amendments in the General Fund for fiscal year 2009-2010:**

- (1) Establish a city-wide appropriation to the Police Department for the 2009 Alcoholic Beverage Control (ABC) Grant in the amount of \$80,830;**
- (2) Increase the estimate for Revenue from the State of California by \$80,830.**

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

Documents Filed: Memorandum from Police Chief Robert Davis and Budget Director Jennifer Maguire, dated June 8, 2009, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

**2.27 (Cont'd.)**

Action: [Resolution No. 75039](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept the 2009 Department of Alcoholic Beverage Control Grant in the Amount of \$80,830 and To Execute the Grant Agreement"; [Ordinance No. 28616](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the General Fund for the 2009 Alcoholic Beverage Control Grant; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 75040](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 74956 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2009-2010 to Adjust Revenues in the General Fund", were adopted. (11-0.)

**2.28 Adopt a resolution approving the City of San José Living Wage Policy as a formal City Council Policy and making it applicable to contracts solicited for and entered into for the San José/Santa Clara Water Pollution Control Plant. CEQA: Not a Project. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated June 1, 2009, recommending adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee Chair Chuck Reed, dated June 17, 2009, stating concurrence with the Staff recommendations.

Council Members Oliverio and Constant objected because the recommendation will result in a higher cost for services covered by the Living Wage Policy.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Liccardo and carried, [Resolution No. 74041](#), entitled: "A Resolution of the Council of the City of San José Approving A Council Policy Entitled: Living Wage Policy", was adopted. (9-2-0. Noes: Constant, Oliverio.)

**2.29 Adopt a resolution:**

- (a) **Declaring the vacant 0.118 acres of City-owned property west of McLellan Avenue at Edwards Avenue surplus to the needs of the City;**
- (b) **Approving an agreement for the sale of the property to an adjoining property owner, Santa Clara Valley Water District, for \$157,000; and**
- (c) **Authorizing the Director of Public Works to execute documents necessary to implement the Agreement and complete the transaction.**

**CEQA: Resolution to be adopted. Council District 3. SNI: Washington. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 15, 2009, recommending adoption of a resolution.

**2.29 (Cont'd.)**

Action: [Resolution No. 75042](#), entitled: "A Resolution of the Council of the City of San José Declaring that a Parcel of Approximately 0.118 Acres of City Owned Property West of McLellan Avenue at Edwards Avenue Surplus to the Needs of the City Is Not Needed for Nor Adaptable to the Needs of the City, Approving an Agreement for Its Sale to the Santa Clara Valley Water District in the Amount of \$157,000 and Authorizing the Director of Public Works to Execute Documents Necessary to Implement the Agreement and Complete the Transaction" and [CEQA Resolution No. 75043](#), 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 Sales Agreement Transferring Property to the Santa Clara Valley Water District", were adopted. (11-0.)

- 2.30 Adopt a resolution authorizing the City Manager to negotiate and execute a cooperative agreement with the Santa Clara Valley Water District to compensate the District for design and construction associated with the repair of eroded banks at two locations along Thompson Creek and at one location along Sierra Creek in a total amount not to exceed \$370,000. CEQA: Resolution to be adopted. Council District 8.**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 1, 2009, recommending adoption of a resolution.

Council Member Herrera thanked Staff for their efforts on this project.

Action: Upon motion by Council Member Herrera, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 75044](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Cooperative Agreement with the Santa Clara Valley Water District for the Repair of Eroded Banks Along Thompson and Sierra Creeks, in An Amount Not To Exceed \$370,000" and [CEQA Resolution No. 75045](#), 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 Cooperative Agreement with the Santa Clara Valley Water District for Design and Construction Work Associated with the Repair of Eroded Banks at Two Locations Along Thompson Creek and at One Location Along Sierra Creek", were adopted. (11-0.)

- 2.31 (a) Adopt a resolution authorizing the Director of Public Works to negotiate and execute Contract Change Order No. 6 with Zolman Construction and Development, Inc. for the Environmental Services Building Repair Project in an amount not to exceed \$325,000 to replace the existing damaged vinyl floor in the laboratory area of the building with ceramic floor tile and to install new, upgraded data/voice cabling and a security system.**
- (b) Increase the project funding by \$325,000, and contingency authorization from 15% to 24% for a total project contingency of \$865,000.**
- (c) Increase the project delivery funding by \$50,000 for a total project delivery cost of \$1,094,000.**

**CEQA: Exempt, File No. PP08-157. (Public Works)**

**2.31 (Cont'd.)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated June 1, 2009, recommending adoption of a resolution, increase contingency and project delivery funding. (2) Letter from the Treatment Plant Advisory Committee Chair Chuck Reed, dated June 11, 2009, stating concurrence with the Staff recommendations.

Action: [Resolution No. 75046](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute Contract Change Order No. 6 with Zolman Construction and Development, Inc. for the Environmental Services Building Repair Project in an Amount Not To Exceed \$325,000", was adopted; the total project contingency was increased to a total amount of \$865,000 and the project delivery was increased to the total amount of \$1,094,000. (11-0.)

- 2.32 (a) Report on bids and award of contract for the Norman Y. Mineta San José International Airport Terminal B Apron Reconstruction Phase 1 Project to the "lowest responsive bidder", Granite Rock Company dba Pavex Construction, in the amount of \$5,055,985.**
- (b) Approve a contingency in the amount of \$758,400, equal to fifteen percent of the award amount.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP09-115. (Public Works/Airport)**

Documents Filed: Replacement memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated June 19, 2009, ensuring nondiscrimination in the award and administration of U.S. Department of Transportation assisted contracts and recommending approval of the contract to the lowest responsive bidder with related contingency.

Action: The contract for the Norman Y. Mineta San José International Airport Terminal B Apron Reconstruction Phase 1 Project to the "lowest responsive bidder", Granite Rock Company dba Pavex Construction, in the amount of \$5,055,985, with related contingency, was approved. Note: Item 2.32(a) was modified to read "lowest responsive bidder" on June 23, 2009. (11-0.)

- 2.33 (a) Declare \$2,056,013 in contingent lien proceeds as un-obligated in the Evergreen Benefit Assessment District Fund, and**
- (b) Approve a reimbursement in the amount of \$2,056,013 to the Evergreen Specific Plan Property Ownership Partnership.**
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Evergreen Benefit Assessment District Fund:**
- (1) Establish a Beginning Fund Balance estimate in the Evergreen Benefit Assessment District Fund in the amount of \$ 2,056,013; and**
  - (2) Establish an appropriation for the Reimbursement to the Evergreen Specific Plan Property Ownership Partnership in the amount of \$2,056,013.**

**CEQA: Not a Project. Council District 8. (Public Works/City Manager's Office)**

### 2.33 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Budget Director Jennifer Maguire, dated June 1, 2009, recommending contingency lien proceeds declared as un-obligated, approval of a reimbursement and adoption of appropriation ordinance and funding sources resolution amendments.

Action: The \$2,056,013 in contingent lien proceeds were declared as un-obligated in the Evergreen Benefit Assessment District Fund and a reimbursement in the amount of \$2,056,013 to the Evergreen Specific Plan Property Ownership Partnership was approved; and [Ordinance No. 28617](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Evergreen Benefit District Fund for Reimbursement to the Evergreen Specific Plan Property Ownership Partnership; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 75047](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2008-2009 to Adjust Revenues in the Evergreen Benefit Assessment District Fund", were adopted. (11-0.)

- 2.34 (a) **Report on bids and award of contract for the San José Environmental Innovation Center Phase I Improvements to the low bidder, Calstate Construction, in the amount of \$2,256,579 and approval of a contingency in the amount of \$225,657. CEQA: EIR Resolution No.73929, File No. PP06-100. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works/Environmental Services)**
- (b) **Adopt a resolution authorizing the City Manager to negotiate and execute a Master Agreement with Group 4 Architecture Research + Planning, Inc. for consultant services through 50 percent construction document phase for design of the San José Environmental Innovation Center Phase II Project, from the date of execution to March 30, 2010, in a total amount not to exceed \$1,500,000. CEQA: Not a Project. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works/Environmental Services)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Director of Environmental Services John Stufflebean, dated June 1, 2009, recommending award of the contract to the low bidder and adoption of a resolution. (2) Memorandum from Director Allen and Director Stufflebean, dated June 1, 2009, recommending adoption of a resolution. (3) Supplemental memorandum from Director Allen and Director Stufflebean, dated June 15, 2009, providing additional information after the bids were opened for the San José Environmental Innovation Center Phase I Improvements.

**2.34 (Cont'd.)**

Action: The award of contract for the San José Environmental Innovation Center Phase I Improvements to the low bidder, Calstate Construction, in the amount of \$2,256,579, with related contingency was approved and [Resolution No. 75048](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Group 4 Architecture Research + Planning, Inc. for Consultant Services Related to the Design of the San José Environmental Innovation Center Phase II Project, in an Amount Not To Exceed \$1,500,000”, was adopted. (11-0.)

**2.35 Report on bids and award of contract for the Martin Park Landfill Gas Cutoff Wall Re-Bid Project to the low bidder, Granite Rock Company, DBA Pavex Construction Division, in the amount of \$1,228,250, and approval of a contingency in the amount of \$123,000. CEQA: Mitigated Negative Declaration, File No. H06-017, December 3, 2007. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works/Environmental Services)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Director of Environmental Services John Stufflebean, dated June 1, 2009, recommending taking appropriate action regarding the evaluation of bids for Martin Park Landfill. (2) Supplemental memorandum from Director Allen and Director Stufflebean, dated June 15, 2009, providing additional information after the bids were opened and recommending the award of the contract to the low bidder.

Action: The award of contract for the Martin Park Landfill Gas Cutoff Wall Re-Bid Project to the low bidder, Granite Rock Company, DBA Pavex Construction Division, in the amount of \$1,228,250, with related contingency, was approved. (11-0.)

**2.36 Report on bids and award of contract for the Happy Hollow Park & Zoo-Phase 1 Parking Lot Project to the low bidder, O.C Jones and Sons, Inc. to include the base bid and Add Alternate Nos. 1, 2, and 3, in the amount of \$4,518,000 and approval of a contingency in the amount of \$451,800. 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: (1) Memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 1, 2009, recommending the award of the contract to the low bidder. (2) Supplemental memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Albert Balagso providing additional information obtained after the bids were opened.

Action: The award of contract for the Happy Hollow Park & Zoo-Phase 1 Parking Lot Project to the low bidder, O.C Jones and Sons, Inc. to include the base bid and Add Alternate Nos. 1, 2, and 3, in the amount of \$4,518,000, with related contingency, was approved. (11-0.)

- 2.37 Adopt a resolution authorizing the Director of Public Works to award the construction contract for the Leigh Avenue and Story Road Resurfacing Project to the lowest responsive bidder, and approve a five percent contingency in an amount not to exceed the funds appropriated for the project. CEQA: Exempt, PP06-066. Council Districts 5, 7 and 9. (Public Works/Transportation)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Transportation James Helmer, dated June 8, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75049](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Award a Construction Contract for the Leigh Avenue and Story Road Resurfacing Project to the Lowest Responsive and Responsible Bidder and Approval of a Five Percent Contingency, in an Amount Not To Exceed the Funds Appropriated for the Project", was adopted. (11-0.)

- 2.38 Adopt a resolution authorizing the Director of Transportation to:**
- (a) Submit a grant application to the Bay Area's Metropolitan Transportation Commission under the *American Recovery and Reinvestment Act of 2009* for the San José Street Resurfacing and Rehabilitation Project (Phase II) in the amount not to exceed \$2,443,000; and**
  - (b) Negotiate and execute related grant documents to accept any grant funding. CEQA: Exempt, File No. PP06-066. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated May 29, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75050](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Transportation to Submit a Grant Application to the Bay Area Metropolitan Transportation Commission and to Negotiate and Execute Any Documents Related to Acceptance of Grant Funding Under the Federal American Recovery and Reinvestment Act of 2009 and Stating the Assurance to Complete the Project", was adopted. (11-0.)

- 2.39 Report on bids and award of contract for the G85B CDBG Green Vision Street Tree Planting Project to the low bidder, Blossom Valley Construction, Inc., in the amount of \$118,568 and approval of contingency in the amount of \$6,000. CEQA: Exempt, File No. PP08-168. Council District 5. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated June 8, 2009, recommending award of the contract to the low bidder.

Action: The award of contract for the G85B CDBG Green Vision Street Tree Planting Project to the low bidder, Blossom Valley Construction, Inc., in the amount of \$118,568, with related contingency, was approved. (11-0.)

**2.40 Approve a Marketing Agreement for the Downtown Parking Program with the San José Downtown Association, effective July 1, 2009 to June 30, 2012, with two one-year options to extend, not to exceed an annual compensation of \$100,000. CEQA: Not a Project. Council District 3. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated June 1, 2009, recommending approval of the agreement.

Action: The Marketing Agreement for the Downtown Parking Program with the San José Downtown Association, effective July 1, 2009 to June 30, 2012, with two one-year options to extend, not to exceed an annual compensation of \$100,000, was approved. (11-0.)

- 2.41 As recommended by the Rules and Open Government Committee on June 3, 2009:**
- (a) **Accept the report on the status of the public-private partnership case studies;**
  - (b) **Adopt a resolution:**
    - (1) **Rescinding Council Policy 1-8 “City Fees for Community Projects for which Donations Have Been Received;” and**
    - (2) **Approving Revised Council Policy 1-17 “Revenue Generating Policy Fundraising, Sponsorship and Contribution Guidelines” as further described in the memorandum submitted to the Rules and Open Government Committee.**
  - (c) **Direct staff to return to the Rules and Open Government Committee after the July City Council recess with proposed modifications to Council Policy 7-5 “Naming of City-Owned Land and Facilities.”**  
**(City Manager’s Office/Parks, Recreation and Neighborhood Services)**  
**(Rules Committee referral 6/10/09 – Item 10.1)**

Documents Filed: Memorandum from City Clerk Lee Price, dated June 1, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Director of Parks, Recreation and Neighborhood Services Albert Balagso responded to questions from Council Member Liccardo about the naming of City-Owned lands, the defined terms and ongoing maintenance.

Council Member Oliverio requested information about prevailing wage issues with donated services. City Attorney Richard Doyle responded that Staff is returning with a comprehensive prevailing wage policy in the fall.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the status of the public-private partnership case studies was accepted; [Resolution No. 75051](#), entitled: “A Resolution of the Council of the City of San José Rescinding City Council Policy 1-8 and Approving Revisions to City Council Policy 1-17, Donation, Sponsorship and Fundraising Policy”, was adopted and Staff was directed to return to the Rules and Open Government Committee after the July City Council recess with proposed modifications to Council Policy 7-5 “Naming of City-Owned Land and Facilities.” (11-0.)

- 2.42 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)  
(Deferred from 6/16/09 – Item 3.9)**

Documents Filed: Memorandum from City Clerk Lee Price, dated June 1, 2009, transmitting the recommendations of the Rules and Open Government Committee to adopt a resolution.

Action: [Resolution No. 75052](#), entitled: “A Resolution of the Council of the City of San José Approving Revisions to City Council Policy 0-38, City Council Expenditure and Reimbursement Policy”, was adopted. (11-0.)

- 2.43 Adoption of a resolution to reappoint Sharon Erickson as City Auditor for a four-year term beginning July 1, 2009. (Mayor)  
(Rules Committee referral 6/17/09)**

Documents Filed: Memorandum from Mayor Reed, dated June 15, 2009, recommending reappointment of Sharon Erickson as City Auditor.

Action: [Resolution No. 75053](#), entitled: “A Resolution of the Council of the City of San José Reappointing Sharon Erickson as City Auditor for a Four-Year Term Beginning July 1, 2009”, was adopted. (11-0.)

- 2.44 Adopt a resolution authorizing the City Attorney to negotiate and Execute a Thirteenth Amendment to the agreement with Orrick, Herrington & Sutcliffe LLP for legal services related to the financing of improvements at the Norman Y. Mineta San José International Airport and the City’s outstanding Airport revenue debt, to extend the term to June 30, 2010 and to increase the compensation by \$75,000, for a total amount not to exceed \$425,000. CEQA: Not a Project. (City Attorney’s Office)  
(Rules Committee referral 6/17/09)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 18, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75054](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Thirteenth Amendment to the Airport Legal Services Agreement with Orrick, Herrington & Sutcliffe LLP”, was adopted. (11-0.)

- 2.45 Adopt a resolution authorizing the City Attorney to cooperate with the League of California Cities, other cities and counties in litigation challenging the constitutionality of any seizure by State government of the City’s Street Maintenance Funds from the Highway Users Tax Account (HUTA). (City Attorney’s Office)  
(Rules Committee referral 6/17/09)**

**2.45 (Cont'd.)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 18, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75055](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Cooperate with the League of California Cities, Other Cities and Counties in Litigation Challenging the Constitutionality of Any Seizure by State Government of the City's Street Maintenance Funds and Directing Other Actions", was adopted. (11-0.)

- 2.46 (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2008-2009:**
- (1) Increase the estimate for Earned Revenue by \$245,157;**
  - (2) Establish an appropriation to the Department of Transportation for the Phase II Circle of Palms Plaza Lighting Enhancement Project (PSM 573) in the amount of \$7,500;**
  - (3) Establish an appropriation to the Department of Public Works for the William Street and Colton Place Sidewalk Improvement Project (PSM 584) in the amount of \$30,000; and,**
  - (4) Increase the Ending Fund Balance by \$207,657.**
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2009-2010:**
- (1) Increase the Beginning Fund Balance by \$207,657;**
  - (2) Increase the appropriation to the Public Works Department for the Hanchett Pillar Project (PSM 527 Amendment #1) in the amount of \$16,307;**
  - (3) Establish an appropriation to the Department of Transportation for the Phase II Circle of Palms Plaza Lighting Enhancement Project (PSM 573) in the amount of \$41,150;**
  - (4) Establish an appropriation to the Department of Transportation for the Park Avenue Tree Improvement Project (PSM 579) in the amount of \$15,200;**
  - (5) Establish an appropriation to the Department of Public Works for the William Street and Colton Place Sidewalk Improvement Project (PSM 584) in the amount of \$135,000.**
- (c) Adopt resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:**
- (1) The Park Avenue Tree Improvement Project as more specifically described in the memorandum from the Redevelopment Agency, dated April 6, 2009;**
  - (2) The Phase II Circle of Palms Lighting Enhancement Project as more specifically described in the memorandum from the Redevelopment Agency, dated March 5, 2009; and**

- 2.46 (c) (3) **The Williams Street and Colton Place Sidewalk Improvement Project as more specifically described in the memorandum from the Redevelopment Agency, dated May 8, 2009.**

**CEQA: Hanchett Pillar Project: Exempt, PP08-115; Phase II Circle of Palms Plaza Lighting Enhancement Project: Resolution No. 72767, Use of FEIR, San José Downtown Strategy 2000, File No. PP06-116; Park Avenue Tree Improvement Project: Exempt, File No. PP06-105; and William Street and Colton Place Sidewalk Improvement Project: Exempt, File No. PP09-133. (Public Works/Transportation/City Manager's Office)  
(Rules Committee referral 6/17/09)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Transportation James Helmer and Budget Director Jennifer Maguire, dated June 15, 2009, recommending adoption of appropriation ordinance and funding sources resolution amendments and resolutions.

Action: [Ordinance No. 28618](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Services for Redevelopment Capital Projects Funds for the Phase II Circle of Palms Plaza Lighting Enhancement Project and for the William Street and Colton Place Sidewalk Improvement Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" ; [Resolution No. 75056](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2008-2009 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund"; [Ordinance No. 28619](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Hanchett Pillar Project, for the Phase II Circle of Palms Plaza Lighting Enhancement Project, for the Park Avenue Tree Improvement Project and for the William Street and Colton Place Sidewalk Improvement Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 75057](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 74956 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2009-2010 to Adjust Revenues in the Redevelopment Capital Projects Fund"; [Resolution No. 75058](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Park Center Redevelopment Project Area in the Greater Downtown"; [Resolution No. 75059](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the San Antonio Redevelopment Project Area" and [Resolution No. 75060](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (11-0.)

- 2.47 Adopt a resolution authorizing the City Manager to submit a grant application for an amount not to exceed \$15 million dollars for Assistance to Firefighters Fire Station Construction Grant pursuant to the provisions of the American Recovery and Reinvestment Act of 2009. CEQA: Not a Project. (Fire)  
(Rules Committee referral 6/17/09)**

Documents Filed: Memorandum from Fire Chief Darryl Von Raesfeld, dated June 17, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75061](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the U.S. Department of Homeland Security, Federal Emergency Management Agency for an American Recovery and Reinvestment Act of 2009, Assistance to Firefighters Fire Station Construction Grant, in an Amount Not To Exceed \$15 Million”, was adopted. (11-0.)

- 2.48 As recommended by the Rules and Open Government Committee on June 17, 2009:**
- (a) Appoint to the Arts Commission Kaela Bernal to an unexpired term ending June 30, 2011 and Jessica Zenk to a term ending June 30, 2012. (Liccardo)**
  - (b) Appoint Alan Roberts, Center Director of the San José Job Corps Center, to serve as a public sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law. (Mayor)**
  - (c) Appoint Brian Darrow, Director of Land Use and Urban Policy for Working Partnerships USA, to the Envision San José 2040 General Plan Update Task Force. (Liccardo)**
- (Rules Committee referral 6/17/09 – Items 9.1, 9.2 and 9.3)**

Documents Filed: Memorandum from City Clerk Lee Price, dated June 18, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Action: Kaela Bernal (an unexpired term ending June 30, 2011) and Jessica Zenk (term ending June 30, 2012) were appointed to the Arts Commission; Alan Roberts was appointed to serve as a public sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law and Brian Darrow, Director of Land Use and Urban Policy for Working Partnerships USA, was appointed to the Envision San José 2040 General Plan Update Task Force. (11-0.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

### 3.2 Report of the Rules and Open Government Committee – June 3, 2009 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated June 3, 2009.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Pyle and carried unanimously, the Report of the Rules and Open Government Committee and the actions of June 3, 2009 were accepted. (11-0.)

### 3.8 Based on previous Council direction to retain an executive search firm for recruitment of the Independent Police Auditor (IPA), Human Resources are bringing forward the following alternative recommendations:

- (a) **Direct the City Manager to negotiate and execute a contract with Avery and Associates in an amount not to exceed \$27,800 for professional fees and expenses to conduct the search for the City of San José Independent Police Auditor (IPA) position based on the a desire to start anew with this recruitment process, and the criteria of performance, references and expertise.**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated June 1, 2009, recommending two alternatives to retain an executive search firm for recruitment of an Independent Police Auditor.

Motion: Council Member Pyle moved approval of alternative (b): to direct the City Manager to negotiate and execute a contract with Bob Murray and Associates in an amount not to exceed \$6,900 for expenses only based on the criteria of performance, references, expertise with similar recruitments, as well as their willingness to conduct a new search without an additional professional fee. Council Member Oliverio seconded the motion.

Deputy Director of Human Resources Heather Ruiz responded to Council questions.

Substitute Motion: Vice Mayor Chirco moved approval of alternative (a) to direct the City Manager to negotiate and execute a contract with Avery and Associates in an amount not to exceed \$27,800 for professional fees and expenses to conduct the search for the City of San José Independent Police Auditor position based on the a desire to start anew with this recruitment process, and the criteria of performance, references and expertise.

Extensive Council discussion followed.

**3.8 (a) (Cont'd.)**

Action: On a call for the question, the substitute motion carried, the City Manager was directed to negotiate and execute a contract with Avery and Associates in an amount not to exceed \$27,800 for professional fees and expenses to conduct the search for the City of San José Independent Police Auditor position based on the a desire to start anew with this recruitment process, and the criteria of performance, references and expertise. (8-3-0. Noes: Constant, Oliverio, Pyle.)

**(b) Direct the City Manager to negotiate and execute a contract with Bob Murray and Associates in an amount not to exceed \$6,900 for expenses only based on the criteria of performance, references, expertise with similar recruitments, as well as their willingness to conduct a new search without an additional professional fee.**

**CEQA: Not a Project. (Human Resources)**

Action: Item 3.8(b) was not approved.

## RECESS/RECONVENE

The City Council recessed at 12:00 p.m. from the Morning Council Session and reconvened at 1:30 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

## CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Ramya Auroprem for being a finalist and the only San José student in the 82<sup>nd</sup> Scripps National Spelling Bee Competition. (Constant)  
(Rules Committee referral 6/17/09)**

Action: Mayor Reed and Council Member Constant recognized and commended Ramya Auroprem for being a finalist and the only San José student in the 82<sup>nd</sup> Scripps National Spelling Bee Competition.

- 1.2 Presentation of commendations to Sergeant Luan Nguyen and Officer Manny Vasquez for their proactive service which ensured the protection and safety of fellow passengers on a flight from Vietnam to San Francisco. (Constant)  
(Rules Committee referral 6/17/09)**

Action: Mayor Reed and Council Member Constant recognized and commended Sergeant Luan Nguyen and Officer Manny Vasquez for their proactive service which ensured the protection and safety of fellow passengers on a flight from Vietnam to San Francisco.

- 1.3 Presentation of a commendation to the Evergreen Business and Professional Association (EBPA) in honor of the EBPA High School Seniors Scholarships Program and their continuing support for business growth in the Evergreen-San José area. (Herrera)  
(Rules Committee referral 6/17/09)**

Action: Mayor Reed and Council Member Herrera recognized and commended the Evergreen Business and Professional Association in honor of the EBPA High School Seniors Scholarships Program and their continuing support for business growth in the Evergreen-San José area.

- 1.4 Presentation of a commendation to Children's Discovery Museum Kids Café and Vicki Yoshihara for their efforts modeling Zero Waste Practices and helping the City achieve its Green Vision Goal of Zero Waste to landfill. (Liccardo)  
(Rules Committee referral 6/17/09)**

#### 1.4 (Cont'd.)

Action: Mayor Reed and Council Member Liccardo recognized and commended the Children's Discovery Museum Kids Café and Vicki Yoshihara for their efforts modeling Zero Waste Practices and helping the City achieve its Green Vision Goal of Zero Waste to the landfill.

#### 1.5 **Presentation of a proclamation declaring the month of July 2009 as "National Recreation and Parks Month" in the City of San José. (Pyle)** **(Rules Committee referral 6/17/09)**

Action: Mayor Reed and Council Member Pyle recognized the month of July 2009 as "National Recreation and Parks Month" in the City of San José.

### COMMUNITY & ECONOMIC DEVELOPMENT

#### 4.2 **Adopt a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding between the City and the Earthquakes, LLC, regarding their intent to develop lease terms for use of approximately 2.5 acres of the 74.8 acre Airport West Property for a practice field for the Earthquakes, a major league soccer team and the practice field is proposed to be developed adjacent to the approved site for a soccer stadium. CEQA: Not a Project. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated June 12, 2009, recommending adoption of a resolution.

Mayor Reed provided meeting disclosures.

Chief Development Officer Paul Krutko summarized the memorandum of understanding between the City of San José and the Earthquakes LLC.

Discussion followed.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75062](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding Between the City of San José and the Earthquakes LLC for the Lease of a 2.4 Acre Practice Field as an Interim Use Adjacent to the Proposed Soccer Stadium Site on the Airport West Property Located at 1125 Coleman Avenue", was adopted. (11-0.)

## STRATEGIC SUPPORT SERVICES

### **3.6 Accept the consultant's report regarding the fiduciary governance model for the Police and Fire Department Retirement Plan and the Federated City Employees' Retirement System and direction to the City Manager to seek outreach from the stakeholders. (City Manager's Office)**

Documents Filed: (1) Memorandum from Mayor Reed and Council Members Constant, Kalra, Liccardo and Herrera, dated June 18, 2009, recommending receiving the report and direction to return in 90 days with final recommendations after conducting outreach. (2) Memorandum from City Manager Debra Figone, dated June 23, 2009, recommending acceptance of the report and direction to the City Manager to seek further outreach from the stakeholders.

Assistant City Manager Christine Shippey presented opening comments.

Tom Iannucci President of Cortex Applied Research, Inc. provided an overview of the governance models of the Police and Fire Department Retirement Plan and the Federated City Employees' Retirement System.

Motion: Council Member Constant moved approval of the memorandum he cosigned with Mayor Reed and Council Members Kalra, Liccardo and Herrera. Council Member Liccardo seconded the motion.

Public Comments: Speaking to the fiduciary governance model were Ross Signorino, Bob Leninger, San José Retiree Employees Association and Bob Brownstein.

Action: On a call for the question, the motion carried unanimously, the joint memorandum from Mayor Reed and Council Members Constant, Kalra, Liccardo and Herrera, dated June 18, 2009 was approved, the Cortex report on governance models was received and Staff was directed to return in 90 days with final recommendations after conducting outreach. (11-0.)

### **3.7 Accept this Report on the Request for Proposal for a Power Purchase and Site Lease Agreement for Solar Photovoltaic Power Production rejecting the sole proposal that was received and authorizing the City Manager to:**

- (a) **Enter into negotiations with SunPower Corporation (San José, CA) for a Power Purchase Agreement (PPA) to purchase solar energy for a maximum 25 year term.**
- (b) **Present to Council a fully negotiated PPA for final review and approval after successful negotiation of the agreement.**

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

Action: Deferred to August 4, 2009 per Mayor's Office.

**3.10 Adopt a resolution:**

- (a) **Approving the terms of a Memorandum of Agreement with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 041 and 042, and authorizing the City Manager to execute the agreement with a term of July 1, 2009 to June 30, 2010.**
- (b) **Approving the terms of a Memorandum of Agreement with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 043, and authorizing the City Manager to execute the agreement with a term of July 1, 2009 to June 30, 2010.**

**CEQA: Not a Project. (City Manager's Office)**

**(Rules Committee referral 6/17/09)**

Action: Dropped per Administration.

**COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.3 (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund (290) for 2008-2009:**
- (1) **Establish an estimate for Recovery Act – Federal Revenue in the amount of \$109,000;**
  - (2) **Establish an estimate for the State Governor's Economic Stimulus Revenue in the amount of \$401,736;**
  - (3) **Establish a Recovery Act – Workforce Adult Program appropriation to the Office of Economic Development in the amount of \$34,000;**
  - (4) **Establish a Recovery Act – Workforce Federal Dislocated Worker Program appropriation to the Office of Economic Development in the amount of \$75,000; and,**
  - (5) **Establish an appropriation to the Office of Economic Development for the State Governor's Economic Stimulus Dislocated Worker Program in the amount of \$401,736.**
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund (290) for 2009-2010:**
- (1) **Establish an estimate for Recovery Act – Federal Revenue in the amount of \$11,748,306;**
  - (2) **Establish a Recovery Act – Workforce Adult Program appropriation to the Office of Economic Development in the amount of \$1,992,103;**
  - (3) **Establish a Recovery Act – Workforce Federal Dislocated Worker Program appropriation to the Office of Economic Development in the amount of \$4,373,400;**
  - (4) **Establish a Recovery Act – Workforce Federal Youth Worker Program appropriation to the Office of Economic Development in the amount of \$4,744,413;**

- 4.3 (b) (5) **Establish a Recovery Act – Workforce Federal Rapid Response Program appropriation to the Office of Economic Development in the amount of \$638,390.**

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

Documents Filed: Memorandum from Chief Development Officer Paul Krutko and Budget Director Jennifer Maguire, dated June 1, 2009, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 28620](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Workforce Investment Act Fund for the Recovery Act - Workforce Adult Program, for the Recovery Act - Workforce Federal Dislocated Worker Program and for the State Governor’s Economic Stimulus Dislocated Worker Program; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 75063](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2008-2009 to Adjust Revenues in the Workforce Investment Act Fund”; [Ordinance No. 28621](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the Workforce Investment Act Fund for the Recovery Act – Workforce Adult Program, for the Recovery Act – Workforce Federal Dislocated Worker Program, for the Recovery Act – Workforce Federal Youth Worker Program and for the Recovery Act – Workforce Federal Rapid Response Program; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 75064](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74956 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2009-2010 to Adjust Revenues in the Workforce Investment Act Fund”, were adopted. (9-0-2. Absent: Chu, Constant.)

4.4 **Adopt a resolution to:**

- (a) **Amend the Administrative Schedule of Fines to do the Following:**
- (1) **Increase the administrative fine amount for violation of San José Municipal Code Section 9.54.010, discing of vacant parcels without permit, from \$25 to \$2,500 per violation;**
  - (2) **Set administrative fine amounts for violation of San José Municipal Code Section 20.40.500, late night activity in Commercial Districts located within 150 feet of residential property, at \$250, \$500, and \$1,000 for initial and repeat violations;**
  - (3) **Set administrative fine amounts for violation of San José Municipal Code Section 20.100.310, violation of development permit requirements, at \$250, \$500, and \$1,000 for initial and repeat violations;**
  - (4) **Increase administrative fine amounts for violation of San José Municipal Code Section 9.44.010, smoking or allowing smoking, from \$100, \$200 and \$500 to \$250, \$500 and \$1,000 for initial and repeat violations; and**

- 4.4 (a) (5) **Increase the administrative fine amount for violation of San José Municipal Code Section 17.72.600, parking on an unpaved surface, from \$75 to \$100.**
- (b) **Repeal Resolution No. 74986, the prior Administrative Citation Schedule of Fines resolution.**

**CEQA: Not a Project. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 1, 2009, recommending adoption of a resolution.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, [Resolution No. 75065](#), 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 Amended Administrative Fines for Various Violations and Repealing Resolution No. 74986”, was adopted. (9-0-2. Absent: Chu, Constant.)

4.5 **Review the Preliminary Alum Rock Form Based Zoning Design Standards and Guidelines, and direct staff to:**

- (a) **Develop, in coordination with the City Attorney’s Office, an amendment to the Zoning Code to establish a new Alum Rock Form Based Zoning District based on these preliminary standards; and**
- (b) **Conduct additional public outreach regarding the proposed Zoning Code amendment.**

**CEQA: Negative Declaration, File No. PP09-012. Council District 5. SNI: Mayfair and Gateway East. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 3, 2009, recommending review of the preliminary Alum Rock Form Based Zoning Design Standards and Guidelines, with direction to Staff. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated June 11, 2009, transmitting the Planning Commission recommendation.

Senior Planner Carol Hamilton provided a brief Staff report on the Preliminary Alum Rock Form Based Zoning Design Standards and Guidelines.

Council Member Campos requested that the Department of Transportation Staff work closely with Valley Transportation Authority to address the limited parking, to showcase art in the open spaces and to encourage frontage retail as a requirement.

Public Comment: Ross Signorino spoke in support to the Staff recommendations.

#### 4.5 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Herrera and carried unanimously, Staff was directed to develop, in coordination with the City Attorney's Office, an amendment to the Zoning Code to establish a new Alum Rock Form Based Zoning District based on these preliminary standards and conduct additional public outreach regarding the proposed Zoning Code amendment. (10-0-1. Absent: Kalra.)

### NEIGHBORHOOD SERVICES

#### 5.1 Report of the Neighborhood Services and Education Committee Council Member Campos, Chair

Documents Filed: The Neighborhood Services and Education Committee Report dated June 11, 2009.

Action: The Committee meeting scheduled for June 11, 2009 was canceled.

#### 5.2 (a) Proposed actions regarding the Healthy Neighborhoods Venture Fund (H.N.V.F.):

- (1) Consider the following amendments to the 2009-2010 Adopted Operating Budget in the Anti-Tobacco Master Settlement Agreement Fund:
  - (a) Establish an Education/Health: Children's Health Initiative appropriation in the amount of \$2,100,000;
  - (b) Establish an Education/Health: San Jose After School appropriation in the amount of \$2,254,263;
  - (c) Establish an Education/Health: Community Based Organizations appropriation in the amount of \$2,645,675;
  - (d) Decrease the Education/Health appropriation by \$4,565,000;
  - (e) Increase the Administration appropriation by \$210,737;
  - (f) Decrease the Senior Services/Health appropriation by \$670,000;
  - (g) Establish a Senior Services/Health: Senior Nutrition appropriation in the amount of \$670,000;
  - (h) Establish a Senior Services/Health: Community Based Organizations appropriation in the amount of \$1,395,825;
  - (i) Decrease the To Be Allocated portion of the Ending Fund Balance by \$4,011,087; and
  - (j) Decrease the Unrestricted Ending Fund Balance by \$30,413
- (2) Approve the funding allocations, according to a Tiered Funding Strategy, in the Anti-Tobacco Master Settlement Agreement Fund, as outlined in Attachment A and approved by the Healthy Neighborhoods Leadership Committee on June 11, 2009.
- (3) Incorporate changes included in this memorandum into the 2009-2010 Adopted Operating Budget document.

- 5.2 (b) **As referred by the Public Safety, Finance and Strategic Support Committee on June 18, 2009, consider the proposed actions regarding the Bringing Everyone's Strengths Together (B.E.S.T.):**
- (1) **Accept the 2007-2008 San José Bringing Everyone's Strengths Together and Mayor's Gang Prevention Task Force (MGPTF) evaluation report.**
  - (2) **Approve the Resource Allocation Plan of the San José B.E.S.T. program for FY 2009-2010.**
- (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Supplemental memorandum from City Attorney Richard Doyle, dated June 17, 2009, regarding HNVF Funding of Sacred Heart Nativity Schools. (2) Memorandum from City Clerk Lee Price, dated June 18, 2009, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (3) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 10, 2009, providing the Healthy Neighborhoods Venture Fund Budget recommendations. (4) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Jennifer Maguire, dated June 15, 2009, recommending a tiered funding strategy. (5) Letter from Silicon Valley Council of Nonprofits, dated June 22, 2009, regarding the HNVF Tiered allocation recommendation.

Director of Parks, Recreation and Neighborhood Services Albert Balagso and Deputy Director Angel Rios provided the Staff report.

Motion: Vice Mayor Chirco moved approval of the Staff recommendations with direction to Staff to identify any potential savings and to return to the HNVF Committee with any funds left over after the process. Council Member Campos seconded the motion.

Council Members Constant and Oliverio expressed opposition to the motion.

Public Comments: Patricia Gardner, Executive Director, Silicon Valley Council of Nonprofits, expressed support to the Staff recommendations. Quyen Vuong, ICAN, requested that all the returning programs be funded plus thirteen more. Jeff Bornefeld, CCPY, expressed concern about the current economic crisis and that 25 projects will be cut, which had been funded in the past.

Director of Parks, Recreation and Neighborhood Services Albert Balagso responded to Council questions. Extensive discussion followed.

Council Member Nguyen requested to amend the motion to reevaluate some of the ethnic organizations such as ICAN and other small nonprofits. Council Member Chu seconded the motion.

Vice Mayor Chirco declined to accept the amendment.

## 5.2 (Cont'd.)

Mayor Reed requested that Staff perform an analysis and circulate an information memorandum regarding any potential gaps in service to the Asian community before the next budget cycle.

Action: On a call for the question, the motion carried, the Staff recommendations as depicted on Page 42, Item 5.2(a)(b), were approved. Staff was directed to: (1) Return to the HNVF Committee for redistribution of any remaining funds. (2) Perform an analysis and circulate an information memorandum regarding any potential gaps in service to the Asian community before the next budget cycle. (9-2-0. Noes: Constant, Oliverio.)

## 5.3 **Conduct an Administrative Hearing to consider the request of Gonsalves & Stronck Construction Company, the general contractor on the new Seven Trees Community Center and Branch Library Project, to substitute itself and Jos. J. Albanese for General Development Industries, Inc., the listed subcontractor for the concrete work. The Director of Public Works recommends granting the request for those reasons set forth in the staff report. CEQA: Not a Project. Council District 7. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated June 1, 2009, recommending an administrative hearing to consider the request of Gonsalves & Stronck and adoption of a resolution if the Council approves the request for substitution. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated June 15, 2009, addressing the receipt of all the documents submitted by Gonsalves & Stronck and General Development Industries.

Assistant Director of Public Works David Sykes provided a recap of the subject contract, stating that the General Development Industries, the Subcontractor, walked off the job and there was a failure to perform.

City Attorney Richard Doyle clarified that the City has to consent to the substitution and whether the subcontractor has failed to perform.

Public Comments: Chris Hersey, Miller Morton, representing Gonsalves & Stronck, expressed his support to adopt the Staff recommendations. Robert Ring, General Development Industries, Subcontractor for Gonsalves & Stronck, argued that there are seven mechanisms where a subcontractor can be substituted and that his company has a payment dispute with Gonsalves & Stronck but the City can not interfere or take a position in the dispute.

Director of Public Works Katy Allen noted that the strategy was to offer to remedy the situation with a stop work notice process and hold back the funds to the general contractor to allow them to work it out. She added if the two parties do not come to an agreeable conclusion, it will affect the timeline of the project.

Brief discussion followed.

### 5.3 (Cont'd.)

Action: Upon motion by Council Member Nguyen, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 75008](#), entitled: “A Resolution of the Council of the City of San José Giving Its Consent, Retroactive to March 26, 2009, to the Request of Gonsalves & Stronck Construction Company to Substitute Itself and Joseph J. Albanese Construction for General Development Industries, Inc., the Listed Subcontractor for the Concrete Work”, was adopted. (11-0.)

### 5.4 (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.

Documents Filed: (1) Memorandum from Director of Library Department Jane Light and Director of Public Works Katy Allen, dated May 26, 2009, recommending award of the contract to the low bidder, with related contingency and approval of the first amendment to the agreement. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated June 22, 2009, providing additional information after receiving two letters from the California-Arizona-Nevada District Organization Contract Compliance Administrator to the Public Works Department in support of the bid protest on the above referenced project and a responding letter from Barry Swenson Builders. These letters do not warrant any change in the recommendation to award the construction contract to Barry Swenson Builder. (3) Letter from Neil Struthers, CEO, Santa Clara & San Benito Counties Building & Construction Trades Council, dated June 23, 2009, urging Council not to award this contract based on the general contractor not being responsive to the bid contracts.

Director of Public Works Katy Allen provided comments about the Educational Park Branch Library and the award for the construction contract.

Public Comments: James Shydowski, Barry Swenson Builder, expressed support to the award of the contract to Barry Swenson Builder.

Expressing concerns about the award of the contract to Barry Swenson Builder were Rick Solis, Carpenters Union 405, Dennis Meakin, Eduardo Reyes, Ironworkers Local 377 and Neil Struthers, CEO, Santa Clara & San Benito Counties Building & Construction Trades Council.

Director of Public Works Katy Allen and City Attorney Richard Doyle responded to Council questions.

Extensive discussion followed.

Vice Mayor Chirco left the City Council Meeting at 5:15 p.m.

Motion: Council Member Kalra moved approval to reject all bids, with direction to Staff to rebid. Council Member Nguyen seconded the motion.

#### 5.4 (Cont'd.)

Council Member Campos expressed support to the motion. Council Members Campos and Nguyen concurred that the language in the all the documents should be very clear.

Council Members Liccardo and Constant objected to the motion on the floor on the basis that the project should not be delayed.

Action: On a call for the question, the motion carried, all bids were rejected and Staff was directed to rebid. (6-4-1. Noes: Constant, Liccardo, Oliverio; Reed. Absent: Chirco.)

- 5.4 (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) (Deferred from 6/16/09 – Item 5.3)**

Action: There was no action taken on Item 5.4(b).

## TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) **Adopt a resolution authorizing the City Manager to determine the lowest responsive and responsible bidder, to award a construction contract for the Federal Recovery Act Tier I Resurfacing Project to the lowest responsive bidder, in the amount not to exceed funds appropriated for the Project, or to reject all bids and re-bid the Project.**

(b) **Approve a contingency equal to five percent of the award amount.**

(c) **Adopt a resolution ratifying the City Manager's execution of a California Department of Transportation implementation agreement setting forth the disadvantaged business enterprise program that the City of San José must implement as a condition of receiving federal funding for roadway projects.**

**CEQA: Exempt, File No. PP06-066. Council Districts 3, 4, 5, 6, 7, 8, 9 and 10. (Transportation)**

Documents Filed: (1) Memorandum from Director of Transportation James Helmer, dated June 8, 2009, recommending adoption of a resolution and approval of a contingency. (2) Memorandum from Director of Public Works Katy Allen, dated June 17, 2009, recommending adoption of a resolution.

## 6.2 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75066](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Determine the Lowest Responsive and Responsible Bidder, To Award a Construction Contract for the Federal Recovery Act Tier 1 Resurfacing Project to the Lowest Responsive Bidder, in the Amount Not To Exceed Funds Appropriated for the Project, Or to Reject All Bids and Rebid the Project”, including an approved contingency equal to five percent of the award amount and [Resolution No. 75067](#), entitled: “A Resolution of the Council of the City of San José Ratifying the City Manager’s Execution of a California Department of Transportation Implementation Agreement that Sets Forth the Disadvantaged Business Enterprise Program the City Must Implement as a Condition of Receiving Federal Funding for Roadway Projects”, were adopted. (10-0-1. Absent: Chirco.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Agreement with International Disposal Corporation of California, Inc. to:**
- (1) **Provide for the disposal of grease, grit, and screening, and the beneficial reuse of biosolids from the Water Pollution Control Plant, at an estimated annual expenditure of \$1,614,520 for Fiscal Year 2009-2010.**
  - (2) **Reflect changes to the residential and commercial solid waste management program including, but not limited to, enabling the exclusive commercial franchisees to use the City’s disposal capacity at the Newby Island Landfill at the City’s rate, clarifying the compensation for baled residential recycling residue, providing for the processing of certain waste generated from the performance of municipal services, and redefining the basis for reimbursement of regulatory costs.**
- (b) **Direct staff to explore feasibility, options and terms and conditions for an agreement that would allow International Disposal Corporation of California, Inc., to deliver leachate from Newby Island Sanitary Landfill to the San José/Santa Clara Water Pollution Control Plant and for the delivery of recycled water from the Plant to Newby using existing pipelines. (Environmental Services)**

- 7.1 (c) **Adopt a resolution authorizing the City Attorney to execute a Settlement Agreement and Release that provides for the payment of \$700,000 to International Disposal Corporation of California, Inc. (“IDC”) by the City of San Jose in exchange for IDC’s release of all existing and potential claims for costs required by regulations adopted before January 1, 2009; and for amending the Agreement between the City of San Jose and International Disposal Corporation of California, Inc. to establish a new basis for future regulatory costs, and to reflect changes to the residential and commercial solid waste management program, as authorized by the City Council in Closed Session on June 2, 2009.**

**CEQA: Hauling and disposal of grease, grit, and screenings: Exempt, File No. PP09-044; Hauling and beneficial use of biosolids: Exempt, File No. PP08-038; Newby Island Sanitary Landfill, 1997 Revised Solid Waste Facility Permit (43-AN-0003): Negative Declaration (H95-03-022).**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated June 2, 2009, recommending adoption of resolutions and direction to staff. (2) Letter from the Treatment Plant Advisory Committee Chair Chuck Reed, dated June 11, 2009, stating concurrence with the Staff recommendations.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 75068](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with International Disposal Corporation of California for Disposal of Municipal Solid Waste” and [Resolution No. 75069](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Execute a Settlement Agreement and Release that Provides for the Payment of \$700,000 to International Disposal Corporation of California, Inc. (IDC) by the City of San José in Exchange for IDC’s Release of All Existing and Potential Claims for Costs Required by Regulations Adopted Before January 1, 2009; and for Amending the Agreement Between the City of San José and IDC to Establish a New Basis for Future Regulatory Costs and To Reflect Changes to the Residential and Commercial Solid Management Program as Authorized by the City Council in Closed Session on June 2, 2009”, were adopted. Staff was directed to explore feasibility, options and terms and conditions for an agreement that would allow International Disposal Corporation of California, Inc., to deliver leachate from Newby Island Sanitary Landfill to the San José/Santa Clara Water Pollution Control Plant and for the delivery of recycled water from the Plant to Newby using existing pipelines. (10-0-1. Absent: Chirco.)

- 7.2 **For lack of quorum, transmitted by the Transportation and Environment Committee on June 1, 2009, accept the staff report and consider approval of an ordinance amending Title 17 of the San José Municipal Code to add a new Chapter 17.84 to establish Green Building Regulations for Private Development to include the following:**

- (a) **Establishing the U.S. Green Building Council’s (USGBC), Leadership in Energy and Environmental Design (LEED) and Build it Green’s (BIG) Green Point Rated rating systems as the mandatory green building standards for the City of San José.**

- 7.2 (b) **Establishing the Green Building Refundable Deposit and procedures for the collection and refund of the deposit.**
- (c) **Describing the process for requesting an exemption from the established Green Building Standards and pipeline provisions for determining how the standards apply to projects already in progress.**
- (d) **Listing implementation guidelines to illustrate the application of green building requirements to projects with multiple buildings.**
- (e) **Analyzing the cost implications resulting from green building requirements in accordance with California Energy Commission requirements.**

**CEQA: Exempt. (Planning, Building and Code Enforcement)**

**(Transportation and Environment Committee referral 6/1/09 – Item 3.9)**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated June 10, 2009, transmitting the recommendations of the Transportation and Environment Committee. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 11, 2009, transmitting an updated version of the Draft Green Building Ordinance for New Private Sector Construction and final Energy Cost Effectiveness Study. (3) Letter from Berg & Berg Developers, Inc., dated October 4, 2008, expressing objection to the imposition of mandatory Green Building Standards. (4) Two letters from Pat Dando, President/CEO, San José Silicon Valley Chamber of Commerce, dated June 18, 2009 and June 23, 2009, regarding the Green Building Ordinance for New Private Sector Construction. (5) Letter from AIA Santa Clara Valley Architects, dated June 18, 2009, regarding the Green Building Ordinance for New Private Sector Construction. (6) Letter from Carl Guardino, President/CEO, Silicon Valley Leadership Group, dated June 22, 2009, regarding the Green Building Ordinance for New Private Sector Construction. (7) Letter from Integrated Design Associates, Inc., dated June 22, 2009, regarding the Green Building Ordinance for New Private Sector Construction.

Motion: Council Member Liccardo moved approval of the Staff recommendations. Council Member Pyle seconded the motion.

Public Comments: Speaking in support to the Green Building Ordinance for New Private Sector Construction were Phillip Williams, Webcor Builders, Marty Keller, First Community Housing, Ron Mitchell, Bay Area SMACNA, Steve Stenton, USGBC, Mary Follenweider, from AIA Santa Clara Valley Architects, Kara La Pierre, Joint Venture: Silicon Valley Network and Jody Hansen, San José Silicon Valley Chamber of Commerce.

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

Action: On a call for the question, the motion carried unanimously, [Ordinance No. 28622](#), entitled: “An Ordinance of the City of San José Amending Title 17 of the San José Municipal Code To Add a Chapter 17.84 To Establish Green Building Regulations for Private Development”, was passed for publication. (10-0-1. Absent: Chirco.)

## NEIGHBORHOOD SERVICES

- 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. The Director of Public Works recommends granting the request for those reasons set forth in the staff report. 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 and 6/16/09 – Item 5.5)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated May 28, 2009, recommending approval of the substitution of subcontractor. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated June 11, 2009, transmitting from West Bay Builders and Green Growth Industries, Inc., a full explanation along with supporting documentation of their respective positions with regard to the substitution of subcontractor issues and recommending the substitution of Jensen Corporation for Green Growth Industries, Inc. (3) Supplemental memorandum from Director of Public Works Katy Allen, dated June 22, 2009, responding to two additional letters, one submitted on June 15, 2009 from West Bay Builders and one submitted on June 16, 2009 from Green Growth Industries. The two additional letters do not warrant changing the Staff recommendation to consent to West Bay Builders' substitution request. (4) Letter from Roger Eckholm, President, Green Growth Industries, Inc., dated June 22, 2009, regarding West Bay Builders substitution request of Green Growth Industries.

Assistant Director of Public Works David Sykes provided a brief summary on the substitution request.

Public Comments: Tim McNerney, West Bay Builders, Inc., spoke about the merits of substituting the Jensen Corporation for Green Growth Industries.

H. Paul Bryant, representing Green Growth Industries, argued against the substitution of the Jensen Corporation.

Assistant Director of Public Works David Sykes and City Attorney Richard Doyle responded to Council questions.

Motion: Council Member Nguyen moved approval of the Staff recommendations. Council Member Pyle seconded the motion.

Extensive discussion followed.

Amendment to the Motion: Council Member Kalra requested to amend the motion to delegate authority to Staff and to order an Administrative Hearing to be held on Friday, June 26, 2009 which shall be binding. The amendment was accepted by Council Members Nguyen and Pyle.

## 5.5 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75009](#), entitled: "A Resolution of the Council of the City of San José Consenting to the Subcontractor Substitution Request of West Bay Builders, Inc. Provided that the Subcontractor Green Growth Industries, Inc. is First Given a Reasonable Opportunity to Execute a Subcontract Without Certain Bond Requirements", was adopted, as modified by delegating authority to Staff and ordering an Administrative Hearing to be held on Friday, June 26, 2009 which shall be binding. (10-0-1. Absent: Chirco.)

## OPEN FORUM

- (1) Socorro McCord voiced objections to having missed the opportunity to address the Council on the selection of a firm to conduct the recruitment of the Independent Police Auditor because of confusion when the matter would be heard.
- (2) Betsy Wolf-Graves spoke in support of the contract with Avery and Associates for the recruitment of the Independent Police Auditor

## ADJOURNMENT

The Council of the City of San José was adjourned at 6:46 p.m. in memory of Joan Doss, a board member of the League of Women Voters San José/Santa Clara and the Willow Glen Neighborhood Association, as well as an active member of the NorCal Golden Retriever Rescue Association, AAUW and the Friends of the Cambrian Library. She was also a civil rights worker in the 1960's, traveling to the South and working on a hot line to help address civil rights violations. Joan is survived by her sons, Tom and Phil. (Chirco);

In memory of Tyrone Cheng, Recreation Program Specialist, who passed away on April 22, 2009. Tyrone had dedicated 34 years of service to the Parks, Recreation and Neighborhood Services Department, recently in the Clean Slate Program. His passion was to mentor, encourage and support youth to become productive members of society. (Balagso)

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

smd/6-23-09 MIN

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.

**NOTICE OF CONTRACTS EXECUTED BY COUNCIL APPOINTEES**

In accordance with Municipal Code Section 4.04.080, titled “Quarterly Reports”, the following is submitted as a report on contracts executed by Council Appointees or designee during the third quarter of Fiscal Year 2008-2009 (January 1, 2009 –March 31, 2009). The list includes contracts or amendments to contracts for services with a value greater than \$100,000 and up to \$250,000, contracts or amendments to contracts for grants with a value greater than \$100,000 and up to \$250,000, or contracts and amendments to contracts for equipment, supplies, and material with a value greater than \$100,000 and up to \$1 million. Contract amounts are rounded to the nearest dollar. No Council action is being requested with respect to this report.

City Attorney’s Contract Activity

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Hanson Bridgett Marcus Vlahos Rudy LLP	Legal services to assist with the development of City owned property. Second amendment to extend term and add \$50,000.	\$150,000

City Auditor’s Contract Activity

The City Auditor’s Office has no contract activity to report.

City Clerk’s Contract Activity

The City Clerk’s Office has no contract activity to report.

City Manager’s Contract Activity

<u>Department</u>	<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Airport	Ricondo Associates, INC	& Conduct financial feasibility analysis including reports updating passenger, operations, and fleet mix activity; demand projections with facility requirements; and a financial model update for Airline Operating Agreements.	\$250,000
Environmental Services	Camp Dresser & McKee Inc.	Provide services for solid waste management.	\$250,000

**NOTICE OF CONTRACTS EXECUTED BY COUNCIL APPOINTEES (Cont'd.)**

City Manager's Contract Activity

<u>Department</u>	<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Environmental Services	Pacific Waste Consulting Group	Analysis of the recyclable materials market and material assessment of San José residential recyclable materials.	\$147,275
Library	National Hispanic University (NHU)	Grant funds for Early Childhood Education (ECE) providers participating in Smart Start San José Program at NHU.	\$221,659
PBCE	Pacific Municipal Consultants	Conduct an update of sign code regulations for the Downtown sign zone and for commercial and industrial uses citywide.	\$105,500

Director of Finance Contract Activity – Services

<u>Department</u>	<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Airport	San Jose Mercury News	Newspaper advertising to promote Airport usage. Amendment to add \$40,000	\$140,000
Environmental Services	Conhagen, Alfred Inc.	Large Pump Overhaul and Repair Services.	\$130,000
Environmental Services	Rain for Rent	Pipe maintenance and repair services. Amendment to add \$20,000.	\$105,000
Environmental Services	Trendtec Inc.	Temporary Environmental Inspectors (2). Amendment to add \$120,000.	\$168,252
Finance	Accountemps	Temporary Senior Accountant in Payroll Accounting. Amendment to add \$43,500.	\$105,136
General Services	O'Grady Paving Inc.	Rental of Self Propelled Asphalt Paving Equipment. Amendment to add \$80,000.	\$102,375
General Services	Pro Door and Glass	Citywide repair and maintenance of automatic doors.	\$249,000
General Services	Safety-Kleen Systems, Inc.	Recycling and disposal of hazardous waste.	\$200,000
General Services	Sheldrake & Mumford	Resurfacing courts and play areas.	\$230,000
Information Technology	Apropos Consulting, LLC	Asset Management Software, Support & Maintenance Services.	\$197,100
Police	Dataworks Plus, LLC	Mugshot System Maintenance	\$111,231
PRNS	Fricke Parks Press	Printing of Citywide Activity Guide. Amendment to add \$15,000.	\$107,063

**NOTICE OF CONTRACTS EXECUTED BY COUNCIL APPOINTEES (Cont'd.)**

Director of Finance Contract Activity – Equipment, Materials, and Supplies

<u>Department</u>	<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Airport	Wright Line, LLC	Console workstations for TSA and Airport Security.	\$108,741
Environmental Services	US Peroxide, LLC	Hydrogen Peroxide for odor control	\$310,000
General Services	Albany Ford, Inc.	2009 Ford Escape Hybrid Vehicles (4).	\$101,470
General Services	Coast Counties	Sewer cleaning truck.	\$279,647
General Services	Graybar Electric Company	Telecommunication supplies.	\$131,000
General Services	Maita Chevrolet Geo & GMAC	2009 SUV Vehicles (4) with Police package.	\$126,873
General Services	Maita Chevrolet Geo & GMAC	2009 Chevrolet Impalas (10) with Police package.	\$258,718
General Services	Nixon EGLI Equipment Co.	Asphalt Paver Engineering Vehicle.	\$132,355
Human Resources	Contract Office Group	Ergonomic chairs.	\$150,000
Transportation	Echelon Corporation	Low energy street lights and communication system pilot project.	\$128,613
Transportation	Pervo Paint	Traffic marking paint and solvents. Amendment to add \$50,000.	\$150,000

## JOINT REDEVELOPMENT AGENCY BOARD ITEMS

The Joint Redevelopment Agency Board convened at 10:38 a.m. to consider Items 8.1, 8.2, 8.3, 8.4 and 8.5 in a Joint Session.

- 8.1**
- (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency funding of the proposed improvements for the expansion and renovation of the San José McEnery Convention Center.**
  - (b) Adoption of a resolution by the City Council authorizing the Redevelopment Agency to submit an application, together with accompanying certification letter and other relevant documents, to the State Public Works Board to permit the use of design build for the expansion and renovation of the San José McEnery Convention Center under Public Contract Code Section 20688.6.**
  - (c) Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to complete, execute and submit an application, together with accompanying certification letter and other relevant documents, to the State Public Works Board to permit the use of design build for the expansion and renovation of the San José McEnery Convention Center under Public Contract Code Section 20688.6.**

**CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002. [MERGED]**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 11, 2009, recommending adoption of resolutions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, [Resolution No. 75012](#), entitled: “A Resolution of the Council of the City of San José Making Certain Determinations Required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency Funding of the Public Improvements for the Expansion and Renovation of the San José McEnery Convention Center”; [Resolution No. 75013](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Redevelopment Agency to Submit the Application, Together with an Accompanying Certification Letter and Other Relevant Documents, to the State Public Works Board to Permit the Use of Design Build for the Expansion and Renovation of the San José McEnery Convention Center Under California Public Contract Code Section 20688.6” and [Redevelopment Agency Board Resolution No. 5922](#), entitled: “A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing the Executive Director to Complete, Execute and Submit an Application, Together with Accompanying Certification Letter and Other Relevant Documents, to the State Public Works Board to Permit the Use of Design Building for the Expansion and Renovation of the San José McEnery Convention Center Under Public Contract Code Section 20688.6”, were adopted. (11-0.)

- 8.2 (a) **Adoption of a resolution by the Redevelopment Agency Board approving the award of a construction contract to Pioneer Contractors, Inc., the low bidder, for a base bid plus alternates 2, 4 and 5, in the amount of \$3,554,000, for construction of the San Jose McEnery Convention Center Existing Roof and Terrace Capital Repair and Replacement Project, and authorizing a construction contingency in the amount of \$355,400, for a total funding authorization of \$3,909,400. CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002.**
- (b) **City Council adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (Cityside Redevelopment Fund) for 2008-2009:**
- (1) **Increase the estimate for Earned Revenue by \$90,000.**
- (2) **Establish an appropriation to the Department of Public Works for the San José Convention Center Roof Replacement project (PSM 580) in the amount of \$90,000.**

**CEQA: Not a Project. [Deferred from Council Agenda 9/9/09 - Item 2.12(a)(7)]**

**[MERGED]**

Documents Filed: (1) Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 9, 2009, recommending adoption of a resolution. (2) Supplemental memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 18, 2009, providing information of a formal bid of protest of bid award received from the third apparent low bidder, Petersen-Dean, Inc., the results of Staff's investigation into the allegations made, the action taken by the Agency's Executive Director and Staff's recommendations regarding the protest. (3) Supplemental memorandum from Director of Public Works Katy Allen and Budget Director Jennifer Maguire, dated June 11, 2009, providing additional information and recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Redevelopment Agency Board Resolution No. 5923, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving the Award of a Construction Contract to Pioneer Contractors, Inc., the Low Bidder, for a Base Bid Plus Alternates 2, 4 and 5, in the Amount of \$3,554,000, for the Construction of the San José McEnery Convention Center Existing Roof and Terrace Capital Repair and Replacement Project and Authorizing a Construction Contingency in the Amount of \$355,400, for a Total Funding Authorization of \$3,909,400"; Ordinance No. 28612, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the San José Convention Center Roof Replacement Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 75014, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2008-2009 to Adjust Revenues in the Redevelopment Capital Projects Fund", were adopted. (11-0.)

- 8.3 (a) Adoption of a resolution by the City Council accepting the summary of costs and findings of the Amended Summary 33433 Report, pursuant to California Health and Safety Code Section 33433 for the lease with Cupertino Flames, LLC, for ground floor retail space at 88 South Fourth Street.
- (b) Redevelopment Agency Board approval of the Fourth Amendment to the Restaurant Lease with Cupertino Flames, LLC, for the property located at 88 South Fourth Street, increasing the total square footage of the premises, revising the schedule and scope of the project, extending the lease term, and financing the Shell Improvements through a Shell Improvement Allowance of \$260,000.
- (c) City Council approval of a First Amended Certificate of Nondisturbance and Attornment with Cupertino Flames, LLC under the terms of the Master Lease between the City and the Redevelopment Agency.

**CEQA: Resolution No. 64273, Use of San José Downtown Strategy Plan FEIR. File No. CP98-054. [MERGED]**

Action: Deferred to August 11, 2009.

- 8.4 (a) Adoption of a resolution by the City Council making certain determinations required under California Health and Safety Code Section 33445 for Redevelopment Agency funding of the acquisition and demolition of existing vacant structures located at 1171 Mesa Drive and 5647 Gallup Drive and construction of the proposed Hoffman/Via Monte Neighborhood Center Project.
- (b) Adoption of a resolution by the Redevelopment Agency Board approving the award of a contract to Pantano Excavating, Inc., the low bidder in the amount of \$95,663, and authorizing a contingency in the amount of \$9,566 for a total funding authorization of \$105,229, for the removal of asbestos containing materials and the demolition of two vacant structures located at 1171 Mesa Drive and 5647 Gallup Drive.

**CEQA: Exempt, File No. PP09-131. [HOFFMAN/VIA MONTE SNI]**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 11, 2009, recommending adoption of resolutions.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chirco and carried unanimously, [Resolution No. 75015](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency Funding of the Acquisition and Demolition of Existing Vacant Structures Located at 1171 Mesa Drive and 5647 Gallup Drive and Construction of the Proposed Hoffman/Via Monte Neighborhood Center Project" and [Redevelopment Agency Board Resolution No. 5924](#), entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving the Award of the Contract to Pantano Excavating, Inc., the Low Bidder, in the Amount of \$95,663 and Authorizing a Contingency in the Amount of \$9,566, for a Total Funding Authorization of \$105,229, for the Removal of Asbestos Containing Materials and the Demolition of Two Vacant Structures Located at 1171 Mesa Drive and 5647 Gallup Drive", were adopted. (11-0.)

- 8.5 (a) **Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to negotiate and execute a second amendment to the agreement with ELS Architecture and Urban Design (ELS), in the amount of \$1,012,000, for a total contract amount not to exceed \$1,912,000, for continued architectural design services for the Civic Auditorium and Montgomery Theatre Rehabilitation Projects. CEQA: Not a Project.**
- (b) **Adoption of a resolution by the City Council making certain findings required under California Health and Safety Code Section 33445 for Agency funding for demolition of two City owned buildings known as meeting rooms 1A and 1B, adjacent to Parkside Hall, located at 180 Park Avenue. CEQA: Resolution No. 72767, File No. PP09-137.**

**[PARK CENTER]**

Documents Filed: Supplemental memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 10, 2009, providing findings required under California Health and Safety Code Section 33445 and recommending adoption of resolutions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Redevelopment Agency Board Resolution No. 5925, entitled: “A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing the Executive Director to Negotiate and Execute a Second Amendment to the Agreement with ELS Architecture and Urban Design, in the Amount of \$1,012,000, for a Total Contract Amount Not To Exceed \$1,912,000, for Continued Architectural Design Services for the Civic Auditorium and Montgomery Theatre Rehabilitation Projects” and Resolution No. 75016, 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 of the Demolition of Two City-Owned Buildings Known as Meeting Rooms 1A and 1B, Adjacent to Parkside Hall, Located at 180 Park Avenue”, were adopted. (11-0.)

The Council of the City of San José and the San José Redevelopment Agency Board was adjourned at 10:41 a.m.