

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, FEBRUARY 5, 2008**

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

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (a) with respect to existing litigation to consider the case of: City of San José Financial Authority, et al. v. Green Valley Corporation dba Barry Swenson Builder, et al.; and related actions; Name: Names of Parties Involved: City of San José Financial Authority and the City of San José, Green Valley Corporation dba Barry Swenson Builder, and Does 1 through 100, Graves & Pascuzzo, Golf Course Architects, a California Corporation and Roes 1 through 50; Court: Superior Court of California, County of Santa Clara; Case No: 1-06-CV-064688; Amount of Money or other Relief Sought: Damages according to proof; (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Organization or Name and Title of Unrepresented Employees: San José Police Officers' Association; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement, City of San José and San José Police Association; (2) Organization or Name and Title of Unrepresented Employees: International Brotherhood of Electrical Workers, Local 332; 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 Brotherhood of Electrical Workers, Local 332; How to obtain a copy of existing contract or MOA: web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone - Employee Relations: 408-535-8150.

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.

**(Cont'd.)**

By unanimous consent, Council recessed from the Closed Session at 11:55 a.m. and reconvened at 1:30 p.m. in the Council Chambers.

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

Absent: Council Members - None.

## **INVOCATION**

Pastor Dave Sawkins, Venture Christian Church presented a prayer for the Invocation. (District 2)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 3.2 was deferred to February 12, 2008. (10-0-1. Absent: Campos.)

## **CEREMONIAL ITEMS**

- 1.1 Presentation of a commendation to the Parking and Traffic Committee, a group of volunteer residents, which met for six years as an oversight group for City Hall construction and were instrumental in completing the large civic project with little disruption to the surrounding neighborhoods. (Liccardo)**

Action: Deferred per Rules and Open Government Committee.

- 1.2 Presentation of a commendation to the Exchange Club of San José for their generous donation of the “Freedom Shrine” exhibit to San José City Hall and their commitment to the community. (Mayor)  
(Rules Committee referral 1/23/08)**

Action: Mayor Reed recognized and commended the Exchange Club of San José for their generous donation of the “Freedom Shrine” exhibit to the City of San José and their commitment to the residents.

**1.3 Presentation of a commendation to Sister Margaret Gregg for her tireless efforts to help the homeless and to end homelessness. (Mayor/Housing)  
(Rules Committee referral 1/30/08)**

Action: Mayor Reed and Director of Housing Leslye Krutko recognized and commended Sister Margaret Gregg for her diligent efforts to help the homeless and to stop homelessness.

**CONSENT CALENDAR**

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

**2.1 Approval of minutes.**

- (a) Special meeting minutes of December 17, 2007**
- (b) Regular minutes of December 18, 2007**

Documents Filed: (1) Special Meeting Minutes dated December 17, 2007. (2) Regular Minutes dated December 18, 2007.

Action: The Minutes of the City Council were approved. (11-0.)

**2.3 Adoption of a resolution authorizing the City Manager to execute a grant agreement with the Santa Clara Valley Transportation Authority in the total amount of \$606,393 to:**

- (a) Provide funding to assist in the upgrade of the Airport's Compressed Natural Gas fueling station; and**
- (b) Assist ground transportation operators, permitted to work at the Mineta San José International Airport, to convert their gasoline powered vehicles to compressed natural gas.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP08-005. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated January 14, 2008, recommending adoption of a resolution.

Assistant Director of Aviation Frank Kirkbride responded to Council Member Liccardo's questions about interest from the private sector about the Airport's compressed natural gas fueling station.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 74229](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept and Execute a Grant Agreement with the Santa Clara Valley Transportation Authority to Provide Funding for the Upgrade of the Airport's Compressed Natural Gas Fueling Station and for Compressed Natural Gas Vehicle Conversion at Mineta San José International Airport in an Amount Not To Exceed \$606,393", was adopted. (11-0.)

**2.4 Approval of an agreement with Beatrice Coron to fabricate and install artwork for the Santa Teresa Branch Library in a total amount not to exceed \$159,445. CEQA: Exempt, File No. PP05-184. Council District 2. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated January 14, 2008, recommending approval of an agreement.

Action: The agreement with Beatrice Coron to fabricate and install artwork for the Santa Teresa Branch Library in a total amount not to exceed \$159,445 was approved. (11-0.)

**2.5 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Cascadia Consulting Group, Inc., to provide waste characterization consulting services to the Environmental Services Department for a term from February 11, 2008 through July 31, 2008 in an amount not to exceed \$400,000. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated January 13, 2008, recommending adoption of a resolution.

Public Comments: Ross Signorino emphasized the need for recycle bins in fast food restaurants.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, [Resolution No. 74230](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Cascadia Consulting Group, Inc. to Provide Waste Characterization Services for an Amount Not To Exceed \$400,000”, was adopted. (11-0.)

**END OF CONSENT CALENDAR**

**STRATEGIC SUPPORT SERVICES**

**3.2 Report of the Rules and Open Government Committee – January 23, 2008  
Mayor Reed, Chair**

Action: Deferred to February 12, 2008 per Orders of the Day.

**3.4 Report of the Rules and Open Government Committee – January 16, 2008  
Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated January 16, 2008.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, The Rules and Open Government Committee Report and the Actions of January 16, 2008 were accepted. (11-0.)

- 3.5 As recommended by the Rules and Open Government Committee of January 30, 2008, adopt a position of support for the following Federal Housing Legislation:**
- (a) HR3915 (Miller) – Mortgage Reform and Anti-Predatory Lending Act of 2007, if amended.**
  - (b) S2036 (Schumer) – Protecting Access to Safe Mortgages Act.**
  - (c) S2452 (Dodd) – Homeownership Preservation and Protection Act of 2007.**
- (Housing)**  
**(Rules Committee referral 1/30/08)**

Documents Filed: Memorandum from City Clerk Lee Price, dated January 31, 2008, transmitting the recommendations of the Rules and Open Government Committee.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the Federal Housing Legislation support positions for HR3915, S2036 and S2452 were adopted. (11-0.)

## **COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.2 Tentative Denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) on a 1.82-acre site located on the east side of Almaden Expressway approximately 300 feet northerly of Fleetwood Drive (Tom Mazzone, Owner and Applicant). CEQA: Incomplete. Director of Planning, Building and Code Enforcement recommends denial. Planning Commission recommends continued processing of the application (6-0-1, Commissioner Platten Absent).**  
**GP07-10-01 – District 10**

Action: Deferred to February 26, 2008 per Administration.

## **NEIGHBORHOOD SERVICES**

- 5.2 Adoption of a resolution determining that the public interest and necessity require the acquisition of a billboard owned by Clear Channel Outdoor (“CCO”) located at 1000 South Bascom, San José, CA (APN Numbers 282-29-002, 003, and 004) and authorizing the City Attorney to file suit in eminent domain to acquire such property interest, to apply for an order for possession before judgment, and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available. CEQA: Exempt, File No. PP05-0126. Council District 6. (Public Works)**  
**(Deferred from 12/4/07 – Item 3.6, 12/18/07 – Item 5.2 and 1/8/08 – Item 5.2)**

Action: Dropped per Administration.

## **ADJOURNMENT**

The Council of the City of San José adjourned the meeting at 1:53 p.m. in the memory of William Dalrymple Smythe, a longtime activist and philanthropist in Santa Clara Valley who contributed generously and passionately to those in need.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

smd/2-5-08 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.

## PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) **Consideration of an ordinance rezoning the real property located at the northwest corner of Los Gatos-Almaden Road and Warwick Road (14861 Los Gatos-Almaden Road) from R-1-2 Residence Zoning District to R-1-8 Residence Zoning District to allow residential uses on a 0.99 gross acre site (Abdy Mirzadegan, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

**C07-087 - District 9**

**[Deferred from 1/29/08 – Item 11.1(f)]**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-087, dated January 14, 2008, recommending approval. (2) Proof of Publication of the title of Ordinance No. 28230 executed on January 18, 2008, submitted by the City Clerk.

Action: Dropped, to be renoticed.

- (b) **Consideration of an ordinance rezoning the real property located at/on the west side of South 22<sup>nd</sup> Street, approximately 400 feet northerly of East San Fernando Street (29 S 22<sup>nd</sup> Street) from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District to allow one existing and one new single-family detached residence on a 0.17 gross acre site. SNI: Five Wounds/ Brookwood Terrace. CEQA: Incomplete.**

**PDC06-091 – District 3**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on January 4, 2008, submitted by the City Clerk.

Action: Dropped, withdrawn by Applicant.

- (c) **Consideration of an ordinance rezoning the real property located on the north side of San Felipe Road, approximately 650 feet south of Fowler Road (3810 San Felipe Road) from Agriculture to R-1-5 Single Family Residence Zoning District on a 0.46 gross acre site (Li Chaoyang and Cao Hong, Owner). CEQA: Resolution No. 65459.**

**C07-093 – District 8**

Action: Continued to February 26, 2008 per Administration.

- 11.1 (d) Consideration of an ordinance rezoning the real property located at/on the east side of Almaden Road, approximately 450 feet south of McKean Road (19600 Almaden Road) from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to six single-family detached residences on a 1.09 gross acre site (Masoumi Mike Et Al, Owner; Mike Masoumi, Developer). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).  
PDC07-037 – District 10**

Action: Continued to February 26, 2008 per Administration.

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

**PUBLIC HEARINGS**

- 11.2 Consideration of an ordinance rezoning the real property located on the north side of East Taylor Street approximately 110 feet east of North Second Street (65 E. Taylor Street) from R-M Multi-Family Residential District to A(PD) Planned Development Zoning District to allow office uses in an existing single-family residence on a 0.13 gross acre site (Lindstrom Cary O., Owner). CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (6-0-1).  
PDC05-123 – District 3**

Action: Continued to February 26, 2008 per Administration.