

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, FEBRUARY 12, 2008

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

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

Absent: Council Members - Cortese. (Excused)

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) Watson, et al. v. Albin, et al.; (2) City of San José, et al. v. Syverain, et al.; (B) to confer with Legal Counsel – Anticipated Litigation (Claim Not Filed): Significant exposure to litigation pursuant to subsection (b) of Section 54956.9 of the Government Code: Number of matter(s) to be discussed: 1; (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association; (2) International Brotherhood of Electrical Workers, Local 332.

By unanimous consent, Council recessed from the Closed Session at 10:45 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

Santa Teresa High School Choir presented the Invocation. (District 2)

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.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Campos, seconded by Council Member Liccardo and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 2.11 and 3.5 deferred to February 26, 2008.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of February 12, 2008:

A. Authority to initiate Litigation:

Authority to initiate litigation was given in one (1) matter(s). The names of the action(s) and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action(s) is/are formally commenced.

Council Vote:

Ayes: Campos, Chirco, Chu, Constant, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Noes: None.

Disqualified: None.

Absent: Cortese. (Excused)

CEREMONIAL ITEMS

1.1 Presentation of a commendation recognizing the Department of Transportation's pavement staff and various private partners for their innovative and collaborative approach to delivering the 2007 Residential Street Sealing maintenance project. (Transportation)

Action: Mayor Reed and Director of Transportation James R. Helmer recognized and commended the Department of Transportation's pavement staff and private partners for their dedication and successful completion of the 2007 Residential Street Sealing maintenance project.

- 1.2 Presentation of proclamation honoring Univision’s 20th Annual “Premio Lo Nuestro a La Música Latina,” the most-watched Latin music awards show in the United States. (Campos)
(Rules Committee referral 2/6/08)**

Action: Mayor Reed and Council Member Campos recognized Univision’s 20th Annual “Premio Lo Nuestro a La Música Latina,” as the most-watched Latin music awards show in the United States.

- 1.3 Ceremonial presentation of a check from the Tech Museum of Innovation to Team San José of proceeds from the Body Worlds exhibit. (Constant)
(Rules Committee referral 2/6/08)**

Action: Mayor Reed and Council Member Constant accepted a check from the Tech Museum of Innovation to Team San José of proceeds from the Body Worlds exhibit.

- 1.4 Presentation of a commendation to Daniel Keegan, Executive Director for the San José Museum of Art since 2000, upon leaving the museum after successfully managing the museum through challenging economic times while completing a successful endowment campaign and significantly increasing the size of the museum’s permanent collection. (Liccardo)
(Rules Committee referral 2/6/08)**

Action: Mayor Reed and Council Member Liccardo recognized and commended Daniel Keegan, Executive Director for the San José Museum of Art for his dedication and important contributions to the San José Museum of Art.

- 1.5 Presentation of Business Appreciation Commendations recognizing Edison Pharmaceuticals and Tacere Therapeutics for their outstanding achievements in advancing the forefront of drug discovery and development, creating jobs, and building a public private partnership with the City of San José and the San José BioCenter. (Mayor/Williams)**

Action: Mayor Reed and Council Member Williams recognized and commended Edison Pharmaceuticals and Tacere Therapeutics for their outstanding achievements and significant contributions to the City of San José.

CONSENT CALENDAR

- 2.2 Final adoption of ordinances.**
(a) ORD. NO. 28237 – Rezoning certain real property situated at the northwest corner of Palm Street and West Alma Avenue to A(PD) Planned Development Zoning District. PDC06-057

2.2 (Cont'd.)

- (a) Documents Filed: Proof of Publication of the title of Ordinance No. 28237 executed on February 5, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28237](#) was adopted. (11-0.)

- (b) **ORD. NO. 28238 – Rezoning certain real property situated at the north side of East Santa Clara Street, approximately 360 feet east of 21st Street (1051 East Santa Clara Street) to A(PD) Planned Development Zoning District. PDC06-009**

Documents Filed: Proof of Publication of the title of Ordinance No. 28238 executed on February 5, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28238](#) was adopted. (11-0.)

- (c) **ORD. NO. 28239 – Rezoning certain real property situated at the north side of Ridder Park Drive at the southeast corner of Interstate 880 and Brokaw Road to the CG – Commercial General Zoning District. C07-048**

Documents Filed: Proof of Publication of the title of Ordinance No. 28239 executed on February 5, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28239](#) was adopted. (11-0.)

- (d) **ORD. NO. 28240 – Adding Chapter 14.30 to Title 14 of the San José Municipal Code in order to adopt a traffic impact fee on new industrial, commercial, and residential development in the proximity of the US-101/Oakland and US-101/Mabury interchanges.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28240 executed on February 5, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28240](#) was adopted. (11-0.)

2.3 **Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period November 16 through December 15, 2007. (City Auditor)**

Documents Filed: Report of Activities for the Period November 16 through December 15, 2007, dated January 22, 2008, submitted by Interim City Auditor Steven Hendrickson.

Action: The Staff report was accepted. (11-0.)

2.4 Adoption of a resolution for San José to be a charter signatory to the Bay Friendly Coalition Declaration supporting the Seven Principles of Bay Friendly Landscaping and Gardening which provide a model approach to sustainable landscaping for residents and businesses City-wide. CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated January 23, 2008, recommending adoption of a resolution.

Action: [Resolution No. 74231](#), entitled “A Resolution of the Council of the City of San José Declaring that the City of San José is a Charter Signatory to the 7 Principles of Bay-Friendly Landscaping and Gardening as a Model Approach to Sustainable Landscaping” was adopted. (11-0.)

2.5 Approval of a Memorandum of Agreement with the Santa Clara Valley Water District for Trash Prevention and Removal to supersede the agreement executed in 2004 and include City support for cleanup of illegal creekside encampments within City boundaries. CEQA: Exempt, File No. PP04-248. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated January 22, 2008, recommending approval of a Memorandum of Agreement with the Santa Clara Valley Water District for Trash Prevention and Removal, superseding the agreement executed in 2004 and including City support for cleanup of illegal creekside encampments within City boundaries.

Council Member Liccardo expressed appreciation for the hard work and dedication involved in undertaking this important project.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the Memorandum of Agreement with the Santa Clara Valley Water District for Trash Prevention and Removal was approved. (11-0.)

**2.6 Approval of actions related to the City Auditor compensation package and employment agreement. (Mayor)
(Rules Committee referral 1/30/08)**

Documents Filed: (1) Memorandum from Mayor Reed, dated January 29, 2008, recommending approval of the City Auditor Compensation Package and execution of an employment agreement for City Auditor services. (2) Memorandum from City Clerk Lee Price, dated January 31, 2008, submitting referral from the Rules and Open Government Committee Meeting of January 30, 2008, recommending approval of the City Auditor Compensation Package and execution of an employment agreement for City Auditor services.

Action: The actions related to the City Auditor’s compensation package and employment agreement were approved. (11-0.)

- 2.7 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with the Grace Baptist Church for the lease of 132 South 10th Street, #1, San José and additional storage space at 484 E. San Fernando Street to:
- (1) Increase the square footage to be leased by the City by 1,710 square feet; and
 - (2) Increase the lease by \$1,566 per month, or \$12,528 effective November 1, 2007 through June 30, 2008 and \$18,794 thereafter.
- (b) Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):
- (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Grace Baptist Lease by \$13,000; and
 - (2) Decrease the Ending Fund Balance by \$13,000.

CEQA: Exempt, File No. PP08-012. Council District 3. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry D. Lisenbee, dated January 22, 2008, recommending an amendment to the agreement between the City of San José and Grace Baptist Church and adoption of appropriation ordinance amendments.

Public Comments: William Garbett spoke in opposition to Staff's recommendation, suggesting that use of existing space would be a better use of funds.

Action: [Resolution No. 74232](#), entitled "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Agreement with Grace Baptist Church for the Lease of 132 South 10th Street, #1, and Additional Storage Space at 484 East San Fernando Street in the City of San José", and [Ordinance No. 28242](#), entitled "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Construction and Conveyance Tax Fund: City-wide Parks Purposes for the Grace Baptist Lease; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" were adopted. (11-0.)

- 2.8 **Adoption of a resolution initiating proceedings and setting February 26, 2008 at 1:30 p.m. for Council consideration on the reorganization of the territory designated as Burbank No. 39 which involves the annexation to the City of San José of 0.11 acres more or less of land located at the east side of North Bascom Avenue approximately 225 feet north of Olive Avenue, and generally bounded by City of San José Annexations Burbank Nos. 34 and 37, and the detachment of the same from the appropriate special districts including Central Fire Protection, Area No. 01 (Library Services) County Service, Burbank Sanitary and County Lighting County Services. Council District 6. CEQA: Resolution No. 65459, File No C07-036. (Planning, Building and Code Enforcement)**

2.8 (Cont'd.)

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated January 22, 2008, recommending adoption of a resolution.

Action: [Resolution No. 74233](#), entitled "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Burbank No. 39 and Described herein, and Setting the Date and Place for Consideration of Such Reorganization", was adopted. (11-0.)

2.9 Adoption of a resolution authorizing the City Manager to:

- (a) **Execute an Agreement with Law Enforcement Psychological Services, Inc. related to providing psychological services to the San José Police Department for the period of February 1, 2008 to June 30, 2008 in an amount not to exceed \$83,500, and**
- (b) **Execute up to four additional annual renewal options for the periods and amounts not to exceed the amounts for the periods as follows:**
 - (1) **\$214,535 for the period of July 1, 2008 through June 30, 2009;**
 - (2) **\$229,552 for the period of July 1, 2009 through June 30, 2010;**
 - (3) **\$245,621 for the period of July 1, 2010 through June 30, 2011;**
 - (4) **\$262,815 for the period of July 1, 2011 through June 30, 2012; and**
 - (5) **The total amount of compensation for all periods of the contract not to exceed \$1,036,023.**

CEQA: Not a Project. (Police)

Documents Filed: Memorandum from Chief of Police Robert L. Davis, dated January 25, 2008, recommending adoption of a resolution.

Public Comments: (1) William Garbett expressed his opinion that all City employees should be offered benefits equal to those received by the Police Department. (2) Mark Trout spoke off topic.

Action: [Resolution No. 74234](#), entitled "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Law Enforcement Psychological Services, Inc. for Psychological Services for the Period of February 1, 2008 to June 30, 2008, in an Amount Not to Exceed \$83,500, and to Exercise up to Four One-Year Options to Extend the Term of the Agreement", was adopted. (10-0-1. Absent: Constant.)

2.10 Adoption of a resolution authorizing the City Manager to:

- (a) **Execute an Agreement with Central Coast Polygraph Associates, Inc. related to providing polygraph examinations to the San José Police Department for the period of February 1, 2008 through January 31, 2009 in an amount not to exceed \$82,000, and**

- 2.10 (b) Execute four additional annual renewal options for the periods and amounts not to exceed the amounts for the periods as follows:**
- (1) \$86,000 for the period of February 1, 2009 through January 31, 2010,**
 - (2) \$90,000 for the period of February 1, 2010 through January 31, 2011,**
 - (3) \$90,000 for the period of February 1, 2011 through January 31, 2012,**
 - (4) \$92,000 for the period of February 1, 2012 through January 31, 2013,**
and
 - (5) The total amount of compensation for all periods of the contract not to exceed \$440,000.**

CEQA: Not a Project. (Police)

Documents Filed: Memorandum from Chief of Police Robert L. Davis, dated January 22, 2008, recommending adoption of a resolution.

Action: [Resolution No. 74235](#), entitled "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Central Coast Polygraph Associates, Inc. for Polygraph Services for the Period of February 1, 2008 through January 31, 2009, in an Amount Not to Exceed \$82,000, and to Exercise up to Four One-Year Options to Extend the Term of the Agreement" with additional annual renewal options was adopted. (10-0-1. Absent: Constant.)

- 2.11 (a) Approval of consultant master agreements with the following firms for various City projects:**
- (1) Consolidated Engineering Laboratories for a variety of special inspections and material testing services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.**
 - (2) Kleinfelder West, Inc. for a variety of special inspections and material testing services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.**
 - (3) Krazan & Associates, Inc. for a variety of special inspections and material testing services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.**
- (b) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute amendments to the above master agreements to amend the scope of services and to add additional standard services.**
- (c) Adoption of a resolution authorizing the Director of Public Works to negotiate and amend the Schedule of Charges on an annual basis upon the request of the consultant for all of the above master agreements.**

CEQA: Not a Project. (Public Works)

Action: Deferred to 2/26/08 per Orders of the Day.

- 2.12 Request for an excused absence for Council Member Constant from the Green Vision City Council Study Session on February 1, 2008 due to Authorized City Business: Personnel Matter. (Constant) (Rules Committee referral 2/6/08)**

2.12 (Cont'd.)

Documents Filed: Memorandum from Council Member Constant, dated February 2, 2008, requesting an absence due to authorized City business.

Action: The absence was excused. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.8 (a) Acceptance of report on the January 19, 2008 Neighborhood Association Priority Setting Session.**
(b) Acceptance of report on the Telephone Community Survey.
(Mayor)
(Rules Committee referral 1/30/08)

Documents Filed: (1) Memorandum from Mayor Reed, dated January 31, 2008, recommending acceptance of the reports. (2) City of San José 2008 Budget Priorities Survey conducted January 7-13, 2008 by Fairbank, Maslin, Maullin & Associates.

Mayor Reed provided introductory remarks. Consultant David Metz, Senior Vice President of Fairbank, Maslin, Maullin & Associates presented results of the 2008 Telephone Community Survey and answered questions.

Public Comments: Expressing concerns about the reliability of the Telephone Community Survey and urging more stakeholder engagement in the process were: Michael Bernier, William Garbett, Clark Williams, Linda Dittes (AFSCME), Tamara Alverado, Helen Chapman (SHPNA), and Ross Signorino.

Council discussion followed.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously the reports were accepted, with Staff directed to post the Telephone Community Survey on the City website. (11-0.)

- 3.9 Initial review and discussion of the Mayor's Budget Shortfall Advisory Group recommendations. (Mayor)**
(Rules Committee referral 1/30/08)

Documents Filed: (1) Memorandum from Mayor Reed, dated February 1, 2008, submitting the Budget Shortfall Advisory Group Recommendations. (2) Letter from Mayor's Budget Advisory Group Member John Kennett, dated January 30, 2008, supporting the Advisory Groups' recommendations.

3.9 (Cont'd.)

Mayor Reed outlined the recommendations of the Budget Shortfall Advisory Group as outlined in his memorandum of February 1, 2008, and recommended that an additional study session be held in May.

Public Comments: Offering recommendations on the budget process, the following speakers provided input: Ross Signorino, Jean Cohen (Sacred Heart Community Service), Yolanda Cruz and Erik Larsen (AFSCME MEF), Nancy Ostrowski (AEA/IFPTE Local 21), Trish Glassey, Bob Brownstein, Ed Rast, Richard Zappelli (Willow Glen Neighborhood Association), Dennis King (Hispanic Chamber of Commerce/Silicon Valley), Gay Gale (City Association of Management Personnel), Phaedra Ellis-Lamkins, Daniel Finn (OE-3) and Brian Darrow.

Extensive Council discussion ensued.

Action: The City Manager was directed to develop an outreach plan to engage stakeholder groups and report back via an information memorandum. The Plan was referred to the March 5, 2008 Rules and Open Government Committee meeting.

Note: Budget Discussion to be continued with Item 3.4 on page 11.

3.1 Report of the City Manager, Debra City Manager Debra Figone

City Manager Debra Figone reported that the City Clerk was soliciting applications from the public to serve on City boards and commissions. She also provided updates on the airport construction project and recycling program outreach to local businesses.

3.2 Report of the Rules and Open Government Committee – January 30, 2008 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated January 30, 2008.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the Report of the Rules and Open Government Committee and the actions of January 30, 2008 were accepted. (8-0-3. Absent: Campos, Constant, Cortese.)

- 3.3 (a) Report of the Public Safety, Finance and Strategic Support Committee –
December 20, 2007
Council Member Nguyen, Chair**
- (b) Report of the Public Safety, Finance and Strategic Support Committee –
January 17, 2008
Council Member Nguyen, Chair**

3.3 (Cont'd.)

Documents Filed: (1) The Public Safety, Finance and Strategic Support Committee Report dated December 20, 2007. (2) The Public Safety, Finance and Strategic Support Committee Report dated January 17, 2008.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Reports of the Public Safety, Finance and Strategic Support Committee and actions of December 20, 2007 and January 17, 2008 were accepted. (8-0-3. Absent: Campos, Constant, Cortese.)

- 3.4
- (a) **Approval of the 2007-2008 Mid-Year Budget Review Report.**
 - (b) **Adoption of related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Appropriation/Clean-Up Adjustment Actions) in the 2007-2008 Mid-Year Budget Review.**
 - (c) **Approval of the addition of 2.5 positions in the Parks, Recreation and Neighborhood Services Department and the elimination of 6.0 positions in the Planning, Building and Code Enforcement Department as described in Section III of the 2007-2008 Mid-Year Review document.**
 - (d) **Approve funding strategy for interior artwork at the South Police Substation, to use Districts 2, 4, and 5 Construction Tax and Property Conveyance Tax funds to reimburse the General Fund \$400,000 for prior expenditures on eligible projects, and return to Council within 30 days with appropriation actions;**
 - (e) **Continue to evaluate options for exterior artwork at the South Police Substation, with funding recommendations to be brought forward in the 2008-2009 Proposed Budget.**

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

Documents Filed: (1) 2007-2008 Mid-Year Budget Review Report from the Office of the City Manager. (2) Memorandum from City Manager Debra Figone dated January 29, 2008 recommending approval of the 2007-2008 Mid-Year Budget Review Report. (3) Supplemental memorandum from Deputy City Manager Ed Shikada dated January 29, 2008, providing background and recommendations related to the funding of public art at the South Police Substation and supplementing actions recommended in the Mid-Year Budget Review.

Budget Director Larry D. Lisenbee presented a status report of the 2007-08 Mid-Year Budget Review.

Public Comments: Russ Signorino offered personal viewpoints on the budget process.

3.4 Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and carried unanimously, [Ordinance No. 28241](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund and Various Special and Capital Funds; and Providing that this Ordinance shall become Effective Immediately upon Adoption”, and [Resolution No. 74228](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Surces of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the General Fund and Various Special and Capital Funds” were adopted, with a motion to include the supplemental memorandum regarding funding options for the South Police Substation. (11-0.)

- 3.5**
- (a) Approval of Amendment No. 3 to the Naming Rights and Trademark License Agreement among the City, San José Arena Management, San José Sharks and Hewlett Packard Corporation removing restrictions on the use of a portion of the funds received by the City in exchange for the Arena naming rights.**
 - (b) Adoption of a resolution specifying the City Council’s intent to use the additional funds from the Naming Rights Agreement for constituent outreach in compliance with the Council Expenditure and Reimbursement Policy.**

(City Attorney)

(Rules Committee referral 1/30/08)

Documents Filed: Memorandum from City Attorney Doyle dated January 31, 2008 recommending approval of the amendment and adoption of the resolution.

Action: Deferred to February 26, 2008 per the City Attorney.

3.6 Acceptance of the final report on the Public-Private Partnership case studies and approve, and provide direction on the following:

- (a) Proposed framework for advancing future public-private partnerships;**
- (b) Develop a proposed structure and work plan to establish a citywide Parks Foundation and agenda for future Council consideration;**
- (c) Develop a Parks community volunteer program;**
- (d) Review Council policies applicable to demonstration projects and recommend revisions to the Council to facilitate public-private partnerships;**
- (e) City Attorney to prepare an amended Prevailing Wage Policy (i) reflecting City Council direction on September 25, 2007 clarifying that the Prevailing Wage Policy excludes all of the following: volunteers, volunteer coordinators, work performed by employees of San José Conservation Corps, Habitat for Humanity, and Our City Forest and community service days by paid employees of corporations, (ii) and modifying City Council direction regarding maintenance agreements for City owned buildings, structures and ground facilities to provide an exemption for agreements for donated parks maintenance services (including landscaping, restroom cleaning, and other routine maintenance), when those services are paid for solely by the donor, subject to the following criteria:**

3.6 (Cont'd.)

- (1) Donors must not have been affiliated with a development application within two years prior or during the term of the partnership agreement, and agreements shall have durations of no less than two years; and,**
- (2) Staff shall consult with applicable labor organizations prior to entering into new parks maintenance donations or extensions of such agreements, and donations valued in excess of \$100,000 annually shall be presented to the City Council for approval.**

CEQA: Not a Project. (City Manager's Office/Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Deputy City Manager Ed Shikada and Director of Parks, Recreation and Neighborhood Services Albert Balagso dated January 30, 2008, recommending acceptance of the report.

Deputy City Manager Ed Shikada gave an overview of the Public/Private Partnership Initiative and responded to questions from Council.

Public Comments: William Garbett suggested rescinding the prevailing wage policy and replacing it with a new ordinance with fewer conflicts. Linda Dittes spoke in support of the Staff recommendation.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, the report was accepted and Staff was directed to expand outreach to include community groups. (11-0.)

3.7 Adoption of a resolution of the City Council authorizing the Director of Finance or the Director's authorized designee to:

- (a) Negotiate and execute the Broker-Dealer Agreement among the City of San José, U.S. Bank National Association, and Citigroup Global Markets, Inc. relating to the City of San José Airport Revenue Bonds, Series 2004B;**
- (b) Negotiate and execute the Broker-Dealer Agreement among the City of San José, U.S. Bank National Association, and Lehman Brothers, Inc. relating to the City of San José Airport Revenue Bonds, Series 2004A; and**
- (c) Enter into broker-dealer agreements with other broker-dealers to participate in the auctions of the Series 2004A and the Series 2004B Bonds and make amendments to the broker-dealer agreements within the parameters specified in the resolution.**

CEQA: Resolution Nos. 67380 and 71451. (Finance)

3.7 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson dated January 22, 2008 recommending adoption of a resolution. (2) Memorandum from Julia H. Cooper, Deputy Director of Finance, dated February 11, 2008, transmitting the Broker-Dealer Agreement for the City of San José Airport Revenue Bonds, Series 2004B.

Director of Finance Scott P. Johnson provided an overview of the municipal market and its impact on the City's bond program.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74236](#), entitled "A Resolution of the Council of the City of San José Authorizing the Director of Finance or the Director's Authorized Designee to Take Various Actions with Respect to the Broker-Dealer Agreements Entered into in Connection with the City of San José Airport Revenue Bonds Series 2004A and Series 2004B", was adopted. (10-0-1. Absent: Cortese.)

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

Documents Filed: Report of the Rules and Open Government Committee, dated January 23, 2008.

Action: Upon motion by Council Member Constant, seconded by Council Member Chirco and carried unanimously, the Rules and Open Government Committee Report and the Actions of January 23, 2008 were accepted. (10-0-1. Absent: Cortese.)

3.11 As recommended by the Rules and Open Government Committee on February 6, 2008, direct the City Attorney to draft an Ordinance based on the State Property and Business Improvement District law that would allow for more flexibility in forming and operating such districts. (Oliverio) [Rules Committee referral 2/6/08 – Item G(3)]

Documents Filed: (1) Memorandum from Council Member Oliverio, dated February 1, 2008, recommending that the Council direct the City Attorney's Office to draft an ordinance allowing flexibility in forming and operating Community Benefit Assessment Districts. (2) Memorandum from City Clerk Lee Price, dated February 7, 2008, submitting recommendation by the Rules and Open Government Committee.

Council Member Oliverio spoke in support of his recommendation and responded to questions from Council Member Campos. Council Member Campos expressed concerns relating to potential abuse of this tool and emphasized the need that it be beneficial to communities.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, the recommendation for drafting an ordinance based on the State Property and Business Improvement District law allowing for more flexibility in forming and operating such districts was approved. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – January 28, 2008 Council Member Pyle, Chair

Documents Filed: The Community & Economic Development Committee Report of January 28, 2008.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, the Community & Economic Development Committee Report and the Actions of January 28, 2008 were accepted. (10-0-1. Absent: Cortese.)

NEIGHBORHOOD SERVICES

5.2 Report on bids and award of contract for the Julian-Sunol Supplement Sanitary Sewer Rehabilitation Project to the low bidder, Insituform Technologies, Inc. in the amount of \$1,631,085, and approval of a contingency in the amount of \$163,000. CEQA: Exempt, File No. PP07-191. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated January 22, 2008, recommending approval of report on bids and award of contract for the Julian-Sunol Supplement Sanitary Sewer Rehabilitation project to the low bidder.

Action: Upon motion by Council Member Chirco, seconded by Council Member Constant and carried unanimously, the award of a contract for the Julian-Sunol Supplement Sanitary Sewer Rehabilitation Project to the low bidder with related contingency was approved. (10-0-1. Absent: Cortese.)

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

In accordance with Council Resolution No. 73532, the construction Contract Process Streamlining Policy approved on December 5, 2006, the following is a list of projects that were awarded or rejected by the Director of Public Works in January 2008:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Traveler Information Center at City Hall	3	Alde Construction	\$168,750	1/8/08
Alum Rock Park New Entrance Restroom	4	CRW Industries, Inc.	\$261,150	1/18/08

OPEN FORUM

- (1) Ross Signorino suggested the Council's meeting conduct policy be revised to encourage the use of tap water (instead of purchased bottle water) and a reminder to keep the stairway clear in Chambers.
- (2) William Garbett recommended a consistent standard for public arts projects.
- (3) Mark Trout expressed religious viewpoints.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:08 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

rmk/02-12-08MIN

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