

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, FEBRUARY 13, 2007**

The Council of the City of San José convened in regular session at 9:00 a.m. in the City Hall Wing, Conference Room W133, at City Hall.

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

Absent: Council Members - None.

Vacant: - Districts 4 and 6.

Upon motion unanimously adopted, Council recessed at 9:01 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (c) with respect to initiation of litigation with respect to anticipated litigation with significant exposure in five (5) matters. (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) International Association of Firefighters, Local 230.

By unanimous consent, Council recessed from the Closed Session at 9:42 a.m. and reconvened at 1:31 p.m. in the Council Chambers

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

Absent: Council Members - Constant. (Excused, arrived at 3:45 p.m.)

Vacant: - Districts 4 and 6.

## INVOCATION

Santa Teresa High School's Black Student Union's *Dynasty Steppers* performed a step routine to celebrate and promote African American culture in the community, in celebration of February 2007 "Black History Month". (District 2)

## PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.8 heard after the Redevelopment Agency Agenda. (8-0-1. Absent: Constant.)

## CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Monarch Truck Center for their generous philanthropy towards Anne Darling Elementary School, Independence High School, and Our Lady Of Guadalupe Church as well as other San José establishments. (Campos/Liccardo)  
(Rules Committee referral 1/31/07)**

Action: Mayor Reed and Council Members Campos and Liccardo recognized and commended the Monarch Truck Center for their generous philanthropy efforts throughout the City of San José.

## CONSENT CALENDAR

Upon motion by Council Member Liccardo, seconded by Council Member Pyle, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (8-0-1. Absent: Constant.)

- 2.1 (b) Approval of Past Minutes**  
**(1) Regular minutes of June 20, 2006**  
**(2) Regular minutes of June 27, 2006**  
**(3) Special Council minutes of June 28, 2006**

Documents Filed: The regular minutes dated June 20 and June 27, 2006, and the Special Minutes dated June 28, 2006.

Action: The minutes were approved. (8-0-1. Absent: Constant.)

- 2.2 Final adoption of ordinances:**  
**(a) ORD. NO. 27971 – Expanding a public right-of-way to accommodate the Taylor Street Improvement Project and facilitate the construction/relocation of franchised utilities.**

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

Documents Filed: Proof of Publication of the title of Ordinance No. 27882 executed on February 7, 2007, submitted by the City Clerk.

Action: [Ordinance No. 27971](#) was adopted. (8-0-1. Absent: Constant.)

**2.3 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period November 16 through December 15, 2006. (City Auditor) (Rules Committee referral 1/31/07)**

Documents Filed: Report of Activities for the Period November 16 through December 15, 2006 from the Office of the City Auditor.

Action: The report was accepted (8-0-1. Absent: Constant.)

**2.4 Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**

- (a) **Increase the estimate for Earned Revenue by \$39,944.**
- (b) **Establish an appropriation to the Department of Public Works for the Edenvale Detention Basin and Trail Project (PSM #482) in the amount of \$39,944.**

**CEQA: Not a Project. Council District 2. SNI: Edenvale. (City Manager's Office)**

Documents Filed: Memorandum from Acting Budget Director Jennifer Maguire, dated January 24, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 27976](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Edenvale Detention Basin and Trail Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73640](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted. (8-0-1. Absent: Constant.)

**2.5 Approval of a second amendment to the agreement with artist Mel Chin to fabricate and install an additional artwork for the Dr. Martin Luther King Jr. Library, and increase the contract amount by \$75,000 from \$675,000 to an amount not to exceed \$750,000. CEQA: Exempt, File No. PP05-184. (Economic Development)**

**2.5 (Cont'd.)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated January 24, 2007, recommending approval of a second amendment to the agreement.

Action: The second amendment to the agreement was approved. (8-0-1. Absent: Constant.)

**2.6 Approval of an agreement with Environmental Engineering & Consulting, Inc., for a term of two years, to provide pretreatment program training to Environmental Enforcement staff at a cost not to exceed \$125,000 for basic services, with an option to request additional services in an amount not to exceed \$52,000, for a total of \$177,000. CEQA: Not a Project. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated January 24, 2007, recommending approval of an agreement. (2) Letter from the Treatment Plant Advisory Committee, dated February 8, 2007, stating concurrence with the Staff recommendation.

Action: The agreement was approved. (8-0-1. Absent: Constant.)

**2.7 Approval of an agreement with AEPC Group, LLC for consultant services for the development of design bid documents and construction management of the project entitled, "San José/Santa Clara Water Pollution Control Plant, Fiscal Year 2006-2007 Capital Improvement Program, Switchgear M5, Interim Ring Bus, and Cable Replacement," for a term commencing upon approval of the agreement and extending through March 31, 2009 in an amount not to exceed \$411,488. CEQA: Not a Project. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated January 24, 2007, recommending approval of an agreement. (2) Letter from the Treatment Plant Advisory Committee, dated February 8, 2007, stating concurrence with the Staff recommendation.

Council Member Williams pulled Item 2.7 from the Consent Calendar for clarification.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the agreement was approved. (8-0-1. Absent: Constant.)

- 2.8 (a) **Approval of master agreements with EOA, Inc. and Oakley Water Strategies, Inc. for environmental regulatory assistance and technical support to the City's Watershed Programs for a not-to-exceed amount of \$650,000 and \$250,000 respectively and for a term commencing upon approval of the agreement through December 31, 2009.**
- (b) **Adoption of a resolution authorizing the director of Environmental Services to execute a one time option to extend each agreement to December 31, 2012 at no additional cost to City.**

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

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated January 24, 2007, recommending approval of an agreement and adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee, dated February 8, 2007, stating concurrence with the Staff recommendation.

Action: The agreement was approved and [Resolution No. 73641](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Environmental Services to Execute a One Time Option to Extend the Agreements with EOA, Inc. and Oakley Water Strategies, Inc. to December 31, 2012 at No Additional Cost to the City", was adopted. (8-0-1. Absent: Constant.)

- 2.9 **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #16 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's Memorandum to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated January 24, 2007, recommending award of open purchase orders.

Action: The open purchase orders for FY 2006-2007 #16 was approved. (8-0-1. Absent: Constant.)

- 2.10 **Approval of the nominations of John Southwell, Pamela Moore and Henri Villalovoz to the Silicon Valley Workforce Investment Network Board (SVWIN). (Mayor)  
(Rules Committee referral 1/31/07)**

Documents Filed: Memorandum from Mayor Reed, dated February 2, 2007, recommending approval of the nominations to the SVWIN.

Action: The appointments were approved (8-0-1. Absent: Constant.)

**2.11 Adoption of a resolution nominating a portion of the Delmas Park SNI Area for designation as a City Landmark Historic District and directing the Department of Planning, Building and Code Enforcement to initiate the required process and proceedings to establish the City Landmark Historic District. CEQA: Exempt. Council District 3. SNI: Delmas Park. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated January 24, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73642](#), entitled: "A Resolution of the Council of the City of San José Initiating Proceeding on its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, to Designate the Lake House District, Generally Bounded on the North by West San Fernando Street, on the East by State Highway 87 and the VTA Light Rail Right-of-Way, on the West by Los Gatos Creek and on the South by the Rear Property Lines of Lots on the North Side of Park Avenue, and on the Southeast by Sonoma Street and Lakehouse Avenue, as a City Landmark Historic District of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historical Nature", was adopted. (8-0-1. Absent: Constant.)

**2.12 Adoption of a resolution initiating proceedings and setting February 27, 2007 at 1:30 p.m. for Council consideration on the reorganization of the territory designated as Evergreen No. 199 which involves the annexation to the City of San José of 0.39 acres more or less of land located at the east side of Ruby Avenue across from Rio Bravo Drive, and generally bounded by the City of San José Annexations Evergreen No. 186 and 189, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Services. CEQA: Resolution No. 65459, File No. C06-088. Council District 8. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated January 24, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73643](#), 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 Evergreen No. 199 and Described Herein and Setting the Date and Place for Consideration of Such Reorganization", was adopted. (8-0-1. Absent: Constant.)

**2.13 Adoption of a resolution affirming that the City’s current land use requirements, policies, and practices are consistent with the Santa Clara Valley Water Resources Protection Collaborative Guidelines & Standards for Land Use Near Streams. CEQA: Not a Project. (Planning, Building and Code Enforcement/Public Works/Environmental Services)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, Director of Public Works Katy Allen and Director of Environmental Services John Stufflebean, dated January 24, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73644](#), entitled: “A Resolution of the Council of the City of San José Affirming the City of San José’s Land Use Requirements, Policies and Practices are Consistent with the Santa Clara Valley Water Resources Protection Collaborative Guidelines and Standards for Land Use Near Streams”, was adopted. (8-0-1. Absent: Constant.)

**2.14 Adoption of a resolution authorizing the City Manager to execute a Temporary Construction Easement Agreement with the American Association of University Women for a period not to exceed two years. CEQA: Exempt, File No. PP06-117. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated January 24, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73645](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Temporary Construction Easement (TCE) Agreement with the American Association of University Women (AAUW) for a Period Not to Exceed Two Years”, was adopted. (8-0-1. Absent: Constant.)

**2.15 (a) Report on bids and award of contract for the Zanker Road Median Island Landscape Improvement Project (Trimble Rd. to Plumeria Dr.) to the lowest responsive bidder, Lone Star Landscape, Inc., in the amount of \$445,000, and approval of a contingency in the amount of \$22,000.**

**(b) Adoption of the following 2006-2007 Appropriation Ordinance Amendments in the Services for Redevelopment Capital Projects Fund:**

**(1) Increase the appropriation to the Public Works Department for the Zanker Road Median Island Project by \$48,000.**

**(2) Decrease Ending Fund Balance by \$48,000.**

**CEQA: Exempt, PP06-167. Council District 4. (Public Works/City Manager’s Office)**

## 2.15 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Acting Budget Director Jennifer Maguire, dated January 24, 2007, recommending award of the contract and adoption of appropriation ordinance amendments.

Action: The award of the contract to the lowest responsive bidder was approved and [Ordinance No. 27977](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Zanker Road Medium Island Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (8-0-1. Absent: Constant.)

- 2.16 (a) **Approval of an agreement with Biggs Cardoso Associates, Inc. for structural engineering consulting services for the Julian Street Bridge at Coyote Creek Seismic Retrofit Project from the date of execution to December 31, 2008, for a total agreement amount not to exceed \$236,482.**
- (b) **Approval of an agreement with Biggs Cardoso Associates, Inc. for structural engineering consulting services for the William Street Bridge at Coyote Creek Seismic Retrofit Project from the date of execution to December 31, 2008, for a total agreement amount not to exceed \$231,225.**
- (c) **Approval of an agreement with Lim and Nascimento Engineering Corporation for structural engineering consulting services for the Southwest Expressway over Meridian Avenue Bridge Retrofit Project from the date of execution to August 31, 2008, for a total agreement amount not to exceed \$172,000.**
- (d) **Adoption of a resolution authorizing the City Director of Public Works or the Director's designee to extend the term of the above agreements up to six months.**

**CEQA: Not a Project. Council Districts 3 and 6. (Public Works/Transportation)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Transportation James Helmer, dated January 24, 2007, recommending approval of the agreements and adoption of a resolution.

Action: The three agreements were approved and [Resolution No. 73646](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Extend the Term of Consultant Agreements with Biggs Cardoso and Lim & Nascimento for Bridge Seismic Retrofit Projects for a Period of Up to Six Months", was adopted. (8-0-1. Absent: Constant.)

**2.17 Repeal Resolution No. 72968 related to the establishment of speed limits in the City of San José, and adoption of a resolution to:**

- (a) **Re-establish speed limits with changes to the following roadways within the City of San José:**
- (1) **East Hills Drive, between Gunn Court and Mahoney Avenue, from 30 MPH to 25 MPH.**
  - (2) **Fleming Avenue, between Story Road and South City Limit, from 30 MPH to 25 MPH.**
  - (3) **Lewis Road, between Monterey Highway and Senter Road, from 35 MPH to 30 MPH.**
  - (4) **Ringwood Avenue, between Murphy Avenue and McKay Drive, from 40 MPH to 35 MPH.**
  - (5) **Tasman Drive, between North First Street and Guadalupe River, from 40 MPH to 35 MPH.**
  - (6) **Trimble Road, between Montague Expressway and Central Expressway, from 50 MPH to 45 MPH.**
- (b) **Establish speed limits on the following roadways within the City of San José:**
- (1) **Camden Avenue, between Montalban Drive and Montego Drive (E), 40 MPH.**
  - (2) **Harwood Road, between Little Branham Lane and Blossom Hill Road, 25 MPH.**

**CEQA: Exempt, File No. PP05-030. Council Districts 4, 5, 7, 9&10. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated January 24, 2007, recommending repealing Resolution No. 72968 and adoption of a resolution.

Action: [Resolution No. 73647](#), entitled: “A Resolution of the Council of the City of San José Reestablishing Speed Limits with Changes on Sections of East Hills Drive, Fleming Avenue, Lewis Road, Ringwood Avenue, Tasman Drive and Trimble Road; Establishing Speed Limits on Sections of Camden Avenue and Harwood Road; Reestablishing, Without Change, Speed Limits on Other Streets Within the City of San José; and Repealing Resolution No. 72968”, was adopted. (8-0-1. Absent: Constant.)

**2.18 Approval of an agreement with the Santa Clara Valley Transportation Authority and the City of Santa Clara for preparing a Santa Clara BART Station Area Plan and providing a City funding contribution in an amount not to exceed \$50,000. CEQA: Exempt. Council Districts 3 and 6. (Transportation/Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Transportation James Helmer and Director of Planning, Building and Code Enforcement Joe Horwedel, dated January 24, 2007, recommending approval of an agreement.

Action: The agreement was approved. (8-0-1. Absent: Constant.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

### 3.2 Report of the Rules and Open Government Committee – January 24, 2007 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated January 24, 2007.

(a) City Council

- (1) Review February 6, 2007 Draft City Council Agenda
  - (a) Add New Items to Draft Agenda
  - (b) Review number of commendations
  - (c) Assign Time Certain for Agenda Items (if needed)

The Committee approved the February 6, 2007 Draft City Council Agenda with two additions.

- (2) Review New Add Items to January 30, 2007 Agenda
  - (a) Review number of commendations
  - (b) Review Exceptions to the 10-day rule
  - (c) Assign Time Certain for Agenda Items (if needed)

The Committee approved the January 30, 2007 City Council Agenda with three additions.

- (3) List of Reports Outstanding - There were none.

(b) Redevelopment Agency items reported out at Redevelopment Agency meeting

(c) Legislative Update

- (1) State. Attachment: (1) Memorandum from Vice Mayor Cortese, dated January 23, 2007, recommending approval of the guidelines. (2) Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated January 19, 2007, recommending acceptance of the guidelines.

- (a) 2007 Legislative Guidelines Priorities. (City Manager's Office)  
The Committee approved the recommendation and forwarded the item to the City Council for approval at the January 30, 2007 City Council Meeting. Heard by the Council on 1/30/07, Item 3.6.

- (2) Federal - There were none.

**3.2 Report of the Rules and Open Government Committee – January 24, 2007 (Cont’d.)  
Mayor Reed, Chair**

(d) Meeting Schedules

- (1) Approve a Study Session on the Evergreen \*East Hills Strategy on February 1, 2007. (Planning, Building and Code Enforcement): Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated January 12, 2007, recommending approval of a study session.  
(Deferred from 1/17/07)

The Committee deferred this action at the request of Staff.

- (2) Discussion of setting the following study sessions. Attachment: Replacement memorandum from Assistant to the City Manager Nadine Nader, dated January 18, 2007, providing a revised study session list.

| DATE               | TOPIC  | TIME                  |
|--------------------|--|-----------------------|
| 2-05-07            | General Plan: Major Strategies                             | 1:00 p.m. – 5:00 p.m. |
| 2-20-07            | City Council Priority Setting Session                      | 9:00 a.m. – 4:00 p.m. |
| 2-22-07            | Unfunded Programs/New Initiatives                          | 9:00 a.m. – Noon      |
| 3-01-07            | Old City Hall  | 9:00 a.m. – Noon      |
| 3-19-07            | Convention Center Expansion                                | 1:00 p.m. – 4:00 p.m. |
| 3-22-07            | BART   | 8:30 a.m. – Noon      |
| 3-29-07            | Airport Obstruction Study                                  | 9:00 a.m. – Noon      |
| 4-05-07            | General Plan: Economic Development and Employment Lands    | 9:00 a.m. – Noon      |
| 4-19-07            | Community Center Re-Use                                    | 9:00 a.m. – Noon      |
| 4-26-07            | General Plan Downtown Revitalization/First Act             | 1:00 p.m. – 4:00 p.m. |
| 5-3-07             | General Plan: Formal Initiation of the General Plan Update | 9:00 a.m. – Noon      |
| 5/7/07-<br>5/18/07 | Budget Study Sessions                                      | TBD                   |

The Committee approved the proposed study sessions as revised. The final schedule will return to the Rules and Open Government Committee.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated January 19, 2007, transmitting items for the Public Record for the period of January 12-18, 2007.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.

**3.2 Report of the Rules and Open Government Committee – January 24, 2007 (Cont'd.)  
Mayor Reed, Chair**

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Discussion on Council Expenditure and Reimbursement Policy. (City Attorney/City Clerk). Attachment: Memorandum from City Attorney Richard Doyle and City Clerk Lee Price, dated January 18, 2007, transmitting the background on the Council Expenditure and Reimbursement Policy.

Deferred to January 31, 2007 Rules and Open Government Committee Meeting.

- (2) Mayor's Transition Report. (Mayor). Attachment: Memorandum from Mayor Reed, dated January 18, 2007, requesting the Mayor's Transition Government Reform and Ethics Subcommittee Report be placed on the agenda.

The Committee referred the report to Staff for further analysis and to return to the Rules and Open Government Committee at a later time for discussion.

- (3) Mayor's Transition Government Reforms & Ethics Subcommittee Report Recommendations. (Mayor). Attachment: Memorandum from Mayor Reed, dated January 17, 2007, transmitting the report.

The Committee approved the Mayor's recommendations with the exception of Item (A)(4) Cost Benefit Analysis and asked Staff to return to the Rules and Open Government Committee in two weeks with a workload assessment on that recommendation.

- (4) Approval of travel by Council Member Williams to attend Conference of Mayors. (Council Member Williams)  
The Committee approved the travel request.

- (5) Acceptance of the 6-month City Council Horizon Report: January 2007 – June 2007. (City Manager's Office)  
The Committee accepted the report.

**3.2 Report of the Rules and Open Government Committee – January 24, 2007 (Cont'd.)  
Mayor Reed, Chair**

- (h) Public Records Act Requests
  - (1) Review of Significant Public Records Act Requests.
    - (a) San José Police Department's Response to Public Record Requests made by Californians Aware. (Mayor) Attachment: (1) Memorandum from Mayor Reed, dated January 12, 2007, recommending a discussion regarding the San José Police Department's response. (2) Memorandum from Police Chief Robert Davis, dated January 19, 2007, transmitting the report for acceptance.
  - (2) Receive Public Concerns - None were presented.
- (i) Review of Council Policy Updates per Sunshine Reforms - There were none.
- (j) Open Forum - None were presented.
- (k) Adjournment - The meeting was adjourned at 4:30 p.m. (Deferred from 2/6/07 – Item 3.2)

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the Rules and Open Government Committee Report and the actions of January 24, 2007, were accepted. (8-0-1. Absent: Constant.)

- 3.4**
- (a) **Approval of the 2006-2007 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 2006-2007 Mid-Year Budget Review.**
  - (c) **Approval of the 3.0 position additions recommended in this report, 1.0 position for the City Attorney's Office and 2.0 positions for the Office of Emergency Services, also described in Section III of the 2006-2007 Mid-Year Budget Review.**
  - (d) (1) **Adoption of the following Appropriation Ordinance amendments in the City Hall Debt Service Fund:**
    - (a) **Increase the City Hall Debt Service appropriation in the amount of \$594,704; and**
    - (b) **Decrease the City Hall Garage Debt Service appropriation in the amount of \$594,704.**

- 3.4 (d) (2) **Adoption of the following Appropriation Ordinance amendments in the Ice Centre Revenue Fund:**
- (a) **Increase the Transfer for Debt Service Payment for the Ice Centre appropriation in the amount of \$72,615; and**
  - (b) **Decrease the Ending Fund in the amount of \$72,615.**
- CEQA: Not a Project. (City Manager's Office)**

Documents Filed: The Mid-Year Budget Review for 2006-2007, dated January 2007, from the Office of the City Manager.

Budget Director Larry Lisenbee presented an overview of the 2006-2007 Mid-Year Budget Review and responded to Council questions.

A short discussion followed.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Liccardo and carried unanimously, the Mid-Year 2006-2007 Report was accepted, as amended: (1) Actions on the Alviso Masterplan and the Selma Olinder Dog Park were deferred to the 2007-2008 budget process; (2) Staff was directed to bring back for review the Use of City Surplus Property Policy early in the 2007-2008 budget process; the positions as outlined were approved; [Ordinance No. 27973](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund and Various Special and Capital Funds; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73639](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the General Fund and Various Special and Capital Funds"; [Ordinance No. 27974](#) and [Ordinance No. 27975](#) were adopted. (8-0-1. Absent: Constant.)

**Note: Item 3.5 was heard in the evening.**

- 3.6 (a) **Adoption of a resolution approving, authorizing and directing the Director of Finance to execute a Joint Exercise of Powers Agreement related to the California Municipal Finance Authority ("CMFA").**
- (b) **Adoption of a resolution authorizing the Director of Finance to execute an agreement with CMFA for the sharing of CMFA's issuer fees.**
- (c) **Approval to take the following actions regarding the Notre Dame High School, San José Project ("Notre Dame HS") located at 596 S. Second Street, San José, California:**
- (1) **Hold a Tax Equity and Fiscal Responsibility Act ("TEFRA") Hearing for the issuance of \$10,500,000 of tax-exempt 501(c)(3) revenue bonds by CMFA.**
  - (2) **Adoption of a resolution approving the issuance of Tax-Exempt Revenue Bonds, Series 2007 by CMFA in an aggregate principal amount not to exceed \$10,500,000 to be used to finance or refinance the acquisition and construction of Notre Dame HS and pay certain expenses incurred in connection with the issuance of the bonds.**

- 3.6 (d) **Take the following actions, on behalf of Allied Waste North America (“Allied Waste”) and its affiliates regarding the Newby Island Landfill, located in San José, and other projects located elsewhere in the state:**
- (1) **Hold a TEFRA Hearing for the issuance of \$250,000,000 of tax-exempt solid waste disposal facility revenue bonds by CMFA.**
  - (2) **Adoption of a resolution approving the issuance of Tax-Exempt Revenue Bonds by the CMFA in an aggregate principal amount not to exceed \$250,000,000 to be used to:**
    - (a) **Equip and construct certain solid waste disposal facilities; and**
    - (b) **Pay certain expenses incurred in connection with the issuance of the bonds.**

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

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated January 24, 2007, recommending adoption of resolutions and holding TEFRA Hearings.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the TEFRA Hearing were approved, [Resolution No. 73648](#), entitled: “A Resolution of the Council of the City of San José Approving, Authorizing and Directing Execution of Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority”; [Resolution No. 73649](#), entitled: “A Resolution of the Council of the City of San José Approving, Authorizing and Directing Execution of an Agreement Relating to Sharing of Fees with the California Municipal Finance Authority”; [Resolution No. 73650](#), entitled: “A Resolution of the Council of the City of San José Approving the Issuance of Revenue Bonds by the California Municipal Finance Authority (“Authority”) for the Purpose of Financing or Refinancing the Acquisition, Construction and Improvement of Certain Educational Facilities for Notre Dame High School, San José” and [Resolution No. 73651](#), entitled: “A Resolution of the Council of the City of San José Approving a Revenue Bond Financing to be Issued by the California Municipal Finance Authority to Benefit Allied Waste North America, Inc.”, was adopted. (8-0-1. Absent: Constant.)

- 3.7 **Approval of the proposed Workers’ Compensation Gain Sharing Program to encourage departments to continue to promote a culture of safety and to work toward reducing injuries to employees and cost to the City. CEQA: Not a Project. (Human Resources)**

Documents Filed: Memorandum from Director Human Resources Mark Danaj, dated January 24, 2007, recommending approval of the program.

Director Human Resources Mark Danaj presented an outline of Workers’ Compensation Gain and Sharing Program and responded to Council questions.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Cortese and carried unanimously, the Workers’ Compensation Gain and Sharing Program was approved. (8-0-1. Absent: Constant.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 Adoption of a resolution approving a funding commitment of up to \$7,679,570 to Affirmed Housing Group, or its designated affiliate (“Sponsor”), of which \$2,120,000 will finance land acquisition, for the development of the 86-unit Fairways at San Antonio Affordable Family Housing Project located at 305 San Antonio Court, to be made available to extremely low, very low, and low income households. CEQA: Mitigated Negative Declaration, File No. PDC05-104. Council District 5. SNI: Gateway East. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated January 24, 2007, recommending adoption of a resolution.

Council Member Campos requested a timeline for the project.

Public Comment: David Nielsen spoke in favor of the staff recommendation.

Action: Upon motion by Council Member Campos, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 73652](#), entitled: “A Resolution of the Council of the City of San José Approving a Funding Commitment of Up to \$7,679,570 to Affirmed Housing Group, or Its Designated Affiliate, of Which \$2,120,000 will Finance Land Acquisition, for the Development of the 86 Unit Fairways at San Antonio Court, to be Made Available to Extremely Low, Very Low and Low Income Households”, was adopted. (7-0-2. Absent: Constant, Liccardo.)

## NEIGHBORHOOD SERVICES

- 5.2 Approval of an ordinance amending Chapters 13.28 and 13.32 of Title 13 of the San Jose Municipal Code to require any persons who trim, prune, cut, or remove a street tree or cause the same to be done to a street tree to show the permit allowing this activity upon request, and to require any persons who remove or cause to be removed a tree from a private parcel to show the tree removal permit upon request and to post the permit. CEQA: Exempt, File No. PP07-016. (City Attorney’s Office)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated February 1, 2007, recommending consideration of the tree removal ordinance amendments. (2) Supplemental memorandum from City Attorney Richard Doyle, dated February 8, 2007, transmitting modifications to the ordinance.

City Attorney Richard Doyle presented an overview of the changes on the draft ordinance and clarified that a permit or a copy of the permit must be on display or furnished and only trees on private property over 56” in circumference require a tree removal permit. City Attorney Doyle responded to Council questions.

## 5.2 (Cont'd.)

Public Comment: Brad Hayden observed that it is expensive to cut down trees and suggested saving the tree in lieu of cutting it down in order to save money. Ross Signorino noted that the trees in the parking strip are doing damage to the sidewalks.

A short discussion followed.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, [Ordinance No. 27978](#), entitled: "An Ordinance of the City of San José Amending Chapter 13.28 and Chapter 13.32 of Title 13 of the San José Municipal Code to Add New Sections to Require Any Person Who Trims, Prunes, Cuts or Removes or Causes the Same to be Done to a Street Tree to Show the Permit for this Activity Upon Request and to Require Any Person Who Removes or Causes to be Removed a Tree from a Private Parcel to Show the Permit Upon Request and to Post the Permit", was passed for publication, as amended, by the City Attorney, a permit or a copy of the permit must be on display or furnished and only trees on private property over 56" in circumference require a tree removal permit. (8-0-1. Absent: Constant.)

## STRATEGIC SUPPORT SERVICES

- 3.5 (a) Acceptance of report on the January 20, 2007 Neighborhood Association Priority Setting Session.**  
**(b) Acceptance of report on the Telephone Community Survey.**  
**CEQA: Not a Project. (City Manager's Office)**

Documents Filed: (1) Memorandum from Chief Deputy City Manager Kay Winer, dated January 24, 2007, recommending acceptance of the reports. (2) Staff presentation of San José Residents' Opinions on Budget Issues, dated January 2007.

Council heard Item 3.5 at 3:10 p.m.

Chief Deputy City Manager Kay Winer outlined the Neighborhood Association Priority Setting Session. Frank Maslin, Fairbank, Maslin, Maullin & Associates, outlined the San José Resident's Opinions on Budget Issues and responded to Council questions.

Vice Mayor Cortese requested a full report of the San José Resident's Opinions on Budget Issues be available for view in the Office of the City Clerk.

Public Comment: Helen Chapman spoke in support of investing in open space and parks.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the reports were accepted with Staff requested to furnish a complete copy of the Telephone Community Survey to be available for reference at the Office of the City Clerk. (8-0-1. Absent: Constant.)

## NEIGHBORHOOD SERVICES

- 5.3 (a) **Report on bids and award of contract for the Lake Cunningham Regional Park Perimeter Landscaping Phase 3 Rebid Project to the low bidder, Suarez & Munoz Construction, Inc., in the amount of \$1,147,030, and approval of a contingency in the amount of \$57,352.**
- (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction and Conveyance Tax Fund: City-wide Parks Purposes (Fund 391):**
- (1) **Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the Lake Cunningham Regional Park Perimeter Landscaping Project in the amount of \$330,000;**
  - (2) **Increase the Grants revenue estimate by \$290,000; and**
  - (3) **Decrease the Ending Fund Balance by \$40,000.**

**CEQA: Mitigated Negative Declaration, File No. PP05-115. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso and Acting Budget Director Jennifer Maguire, dated January 24, 2007, recommending award of the contract and adoption of appropriation ordinance and funding sources resolution amendments.

Vice Mayor Cortese thanked Staff for their efforts on this project.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the award of the contract to Suarez & Munoz Construction, Inc., with related contingency, was approved and [Ordinance No. 27979](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction and Conveyance Tax Fund: Citywide Parks Purposes for the Lake Cunningham Regional Park Perimeter Landscaping Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73653](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Construction and Conveyance Tax Fund: Citywide Parks Purposes", were adopted. (8-0-1. Absent: Constant.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Approval of master agreements with CH2M Hill and Carollo Engineers for operation and maintenance technical support services for the San José/Santa Clara Water Pollution Control Plant, including technical support in biosolids management, each for a total amount not to exceed \$500,000, for a total amount not to exceed \$1,000,000, and for a term commencing upon approval of the agreement through June 30, 2008.**
- (b) **Adoption of a resolution authorizing the Director of Environmental Services to execute up to four one year options to extend each of the agreements, and to increase the annual payable amount up to \$1,000,000 for each firm, subject to the annual appropriation of funds by the City Council.**
- CEQA: Not a Project. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated January 24, 2007, recommending approval of the master agreements and adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee, dated February 8, 2007, stating concurrence with the Staff recommendation.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the master agreements were approved and [Resolution No. 73654](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Environmental Services to Execute Up to Four One Year Options to Extend the Agreements with CH2M Hill and Carollo Engineers and to Increase the Annual Payable Amount up to \$1,000,000 for Each Firm, Subject to the Annual Appropriation of Funds by City Council", was adopted. (8-0-1. Absent: Constant.)

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board was convened at 3:43 p.m. to consider Item 9.1 in a Joint Session.

- 9.1 (a) **Adoption of a resolution terminating a Ground Lease with Almaden Hills United Methodist Church for the Hoffman/Via Monte Neighborhood Center; and,**
- (b) **Approval of the termination of the Cooperation Agreement between the City and the Redevelopment Agency for the Hoffman/Via Monte Neighborhood Center.**
- CEQA: Not a Project. SNI: Hoffman/Via Monte. Council District 10. (Redevelopment Agency/City Manager's Office)**  
**(Deferred from 1/9/07 – Item 9.1)**

**9.1 (Cont'd.)**

Documents Filed: Supplemental memorandum from City Manager Les White and Redevelopment Agency Director Harry S. Mavrogenes, dated February 2, 2007, transmitting additional information and recommending adoption of a resolution and termination of the cooperation agreement.

Public Comment: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, [Resolution No. 73655](#), entitled: "A Resolution of the Council of the City of San José Terminating a Ground Lease with Almaden Hills United Methodist Church for the Hoffman/Via Monte Neighborhood Center", was adopted. (8-0-1. Absent: Constant.)

**STRATEGIC SUPPORT SERVICES**

**3.8 Interview Planning Commission applicants and consider appointment to fill one unexpired term ending June 30, 2008. (City Clerk)  
(Rules Committee referral 2/7/07)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated February 12, 2007, providing background for the Planning Commissioner evaluations. (2) Memorandum from City Clerk Lee Price, dated February 12, 2007, transmitting the Planning Commission applicants.

City Council heard Item 3.8 at 4:04 p.m.

Action: The following five applicants were interviewed by the Mayor and Council Members: Joseph Bentley, Bob Gill, Lisa Jensen, Randi Jean Kinman, Robert Levy, and Bonnie Mace. Lisa Jensen was appointed to serve the unexpired term ending June 30, 2008. (9-0.)

**NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

| <u>Tract</u> | <u>Location</u>  | <u>Council District</u> | <u>Developer</u>                                    | <u>Lots/ Units</u>  | <u>Type</u> | <u>Proposed Decision</u> |
|--------------|--|-------------------------|---|---------------------|-------------|--------------------------|
| 9825         | Southeast corner<br>St. Elizabeth Drive<br>and Curci Drive | 6                       | Pinn Bros./<br>Pfeiffer Ranch<br>Investors II, Inc. | 8 Lots/<br>46 Units | SFA         | Approve                  |

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

| <u>Tract</u> | <u>Location</u>   | <u>Council District</u> | <u>Developer</u>     | <u>Lots/Units</u>     | <u>Type</u>            |
|--------------|---|-------------------------|----------------------|-----------------------|------------------------|
| 9895         | South Side of Paula Street, 160 feet east of Meridian Way | 6                       | Rockwell Homes, Inc. | 16 Lots /<br>15 Units | Single Family Attached |

### NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

On October 25, 2005, City Council approved a one year pilot program that delegated authority to the Director of Public Works to award or reject bids on construction projects where the base contract amount is below \$1,000,000. In accordance with this policy, the following is a list of projects that were awarded or rejected by the Director of Public Works in January 2007.

AWARD:

| <u>Project Name</u>   | <u>Council District</u> | <u>Contractor</u>                   | <u>Contract Award Amount</u>                             | <u>Award Date</u> |
|---|-------------------------|-------------------------------------|--|-------------------|
| Miyuki Dog Park Improvement Project   | 2                       | Ranis Construction & Electric, Inc. | \$186,384  | 1/8/07            |
| Norman Y. Mineta San José International Airport General Electric Contract 06-07     | Citywide                | Cupertino Electric, Inc.            | 22% overhead & profit, in amount not to exceed \$125,000 | 1/26/07           |
| Norman Y. Mineta San José International Airport, Airport Communication Center (ACC) | Citywide                | Cupertino Electric, Inc.            | \$143,500  | 1/26/07           |
| Discovery Community Garden  | 2                       | ESR Construction, Inc.              | \$221,086  | 1/26/07           |

Council Member Constant arrived at 3:45 p.m.

## **OPEN FORUM**

Documents Filed: Documentation dated February 13, 2007 submitted by a member of the public.

- (1) Mark Trout expressed religious viewpoints.
- (2) William Garbett presented his view of blight in San José.
- (3) Stephen Hazel expressed personal viewpoints on worldwide event.
- (4) Robert Apgar voiced personal observations.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 5:39 p.m. in memory of David Abad, an active member of the community, who passed away over the weekend.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

smd/02-13-07MIN

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>

## **JOINT COUNCIL/REDEVELOPMENT AGENCY BOARD**

The Joint Redevelopment Agency Board convened at 4:03 p.m. to consider Item 8.1 in a Joint Session.

- 8.1 Consent to the sublease of office space at the US Market Access Center between the Office of Economic Development and the San Jose State University Foundation, providing the use of the subleased space to the East of England. [MERGED] (Deferred from 1/30/07 - Item 7.1)**

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated January 19, 2007, recommending consent to the sublease of office space.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the sublease of office space at the US Market Access Center was approved. (9-0.)

The Joint Redevelopment Agency Board was adjourned at 4:04 p.m.