



## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, JANUARY 8, 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, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - Cortese, Liccardo. (Excused)

Upon motion unanimously adopted, Council recessed at 9:00 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 cases of: (1) Miller v. City of San José, et al.; (2) People v. Rust; (3) People, et al. v Dhillon, et al.

By unanimous consent, Council recessed from the Closed Session at 11:20 a.m. and reconvened at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - None. Note: due to illness, Constant departed at approximately 2:00 p.m. (Excused)

## INVOCATION

Father Sotiri Rousakis, St. Nicholas Greek Orthodox Church, presented the Invocation. (District 1)

## PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

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>

## **ORDERS OF THE DAY**

Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 3.2, 5.1, and 6.3 deferred to January 15, 2008 and Item 5.2 deferred to February 5, 2008. (11-0.)

## **CEREMONIAL ITEMS**

**1.1 Presentation of a commendation to Lynbrook High School as the only High School in the City of San José to make the Top 100 High Schools on the U.S. News & World Report List. (Constant)**

Action: Mayor Reed and Council Member Constant recognized and commended Lynbrook High School for its impressive achievement as San José's only Top 100 High School on the U.S. News & World Report List.

**1.2 Presentation of a commendation to Pamela J. Price for her dedication and generosity to the District 8 community. (Cortese)**

Action: Mayor Reed and Vice Mayor Cortese recognized and commended Pamela J. Price for her dedication and generosity to the District 8 community.

**1.3 Presentation of a commendation to Pastor Michael-Ray Mathews, senior pastor of Grace Baptist Church of San José, for his commitment to social justice and faith based community organizing. (Liccardo)**

Action: Mayor Reed and Council Member Liccardo recognized and commended Pastor Michael Ray Mathews for his commitment to social justice and faith based community organizing.

**1.4 Presentation of a commendation to the San José Museum of Quilts and Textiles celebrating 30 years of outstanding contributions to the City of San José. (Mayor) (Rules in-Lieu referral 12/19/07)**

Action: Mayor Reed, Council Member Williams and Council Member Liccardo recognized and commended the San José Museum of Quilts and Textiles for 30 years of outstanding contributions to the City of San José.

## **CONSENT CALENDAR**

Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated.

**2.1 Approval of minutes.**

- (a) **Regular Minutes of November 6, 2007**
- (b) **Special Meeting Minutes of November 13, 2007**
- (c) **Joint City Council/Redevelopment Agency Board/Santa Clara Valley Water District Study Session on Flood Management Issues Minutes of November 19, 2007**
- (d) **Regular Minutes of November 20, 2007**  
**(Deferred from 12/18/07 – Item 2.1)**

Documents Filed: (1) The Regular Minutes dated November 6, 2007 and November 20, 2007. (2) The Special Meeting Minutes of November 13, 2007. (3) The Joint City Council/Redevelopment Agency Board/Santa Clara Valley Water District Study Session on Flood Management Issues of November 19, 2007.

Action: The Minutes were approved. (10-0-1. Absent: Constant.)

**2.2 Final adoption of ordinances.**

- (a) **ORD. NO. 28212 – Amending Title 12 of the San José Municipal Code to repeal Part 8 of Chapter 12.06 regulating officeholder accounts; adopt interim officeholder account regulations; prohibit the establishment of officeholder accounts after July 1, 2008; and make other technical and clarifying changes.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28212 executed on December 28, 2007, submitted by the City Clerk.

Action: Ordinance No. 28212 was adopted. (10-0-1. Absent: Constant.)

- (b) **ORD. NO. 28213 – Amending Sections 12.04.110 and 12.04.120 of Chapter 12.04 of Title 12 of the San José Municipal Code to increase the total amount of penalties which may be imposed by the San José Elections Commission; making technical changes to Sections 12.06.030, 12.06.180, 12.06.290 and 12.06.610 of Chapter 12.06 and amending Chapter 12.06 of Title 12 by adding a new Part 10 to set out requirements for campaign communications and mass mailing disclosures and disclaimers**

Documents Filed: Proof of Publication of the title of Ordinance No. 28213 executed on December 28, 2007, submitted by the City Clerk.

Action: Ordinance No. 28213 was adopted. (10-0-1. Absent: Constant.)

- (c) **ORD. NO. 28220 – Amending Sections 22.08.010 and 22.08.020 of Chapter 22.08 of Title 22 of the San José Municipal Code to provide that the City Council may adjust the public art allocation for the Police Southside Substation Project outside of the annual capital budget approval process.**

2.2 (c) (Cont'd.)

Documents Filed: (1) Proof of Publication of the title of Ordinance No. 28220 executed on December 28, 2007, submitted by the City Clerk. (2) Letter from Sharon Sweeney, dated January 4, 2008, asking Council to reconsider this proposal. (3) Email from Robert Lynch (President and CEO, Americans for the Arts), dated January 7, 2008, in opposition to the amendment.

Public Comments: Speaking in opposition to the ordinance were Sharon Sweeney, Sharon Gustafson, Ernest Guzman (San José Arts Commission), Michael Bernier, Patricia McDonald, David Elsbach, Ross Signorino and Connie Martinez.

Deputy City Manager Ed Shikada responded to Council questions regarding actions taken in December.

Director of Public Works Katy Allen and City Attorney Doyle responded to questions regarding the repercussions of delaying this project.

Council Member Williams spoke in opposition to reducing funding for the arts and moved approval to defer this item for one month. Council Member Campos seconded the motion. The motion failed. (3-7-1. Noes: Chirco, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Reed. Absent: Constant.)

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Cortese and carried, Ordinance No. 28220 was adopted. Staff was directed to return to Council on February 12, 2008 for further discussion, as part of the Mid-Year Budget Review. (7-3-1. Noes: Campos, Chu, Williams. Absent: Constant.)

(d) **ORD. NO. 28221 – Rezoning certain real property situated on the southeast corner of Bollinger Road and Miller Avenue (6148 Bollinger Road) to CN Commercial Neighborhood Zoning District. C07-085**

Documents Filed: Proof of Publication of the title of Ordinance No. 28221 executed on December 28, 2007, submitted by the City Clerk.

Action: Ordinance No. 28221 was adopted. (10-0-1. Absent: Constant.)

(e) **ORD. NO. 28222 – Rezoning certain real property situated at the (1) north west corner of Clinton Place and Stockton Avenue (299 Stockton Avenue) and (2) the south side of Clinton Place approximately 200 feet west of Stockton Avenue from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC07-074**

2.2 (e) (Cont'd.)

Documents Filed: Proof of Publication of the title of Ordinance No. 28222 executed on December 28, 2007, submitted by the City Clerk.

Action: Ordinance No. 28222 was adopted. (10-0-1. Absent: Constant.)

- (f) **ORD. NO. 28224 – Rezoning certain real property situated at the northeasterly side of North King Road, approximately 640 feet south of Mabury Road, to A(PD) Planned Development Zoning District. PDC07-015**

Documents Filed: Proof of Publication of the title of Ordinance No. 28224 executed on December 28, 2007, submitted by the City Clerk.

Action: Ordinance No. 28224 was adopted. (10-0-1. Absent: Constant.)

- (g) **ORD. NO. 28225 – Rezoning certain real property situated at the southwest corner of East Hedding and North Tenth Street (899 North 10<sup>th</sup> Street) to A(PD) Planned Development Zoning District. PDC07-025**

Documents Filed: Proof of Publication of the title of Ordinance No. 28225 executed on December 28, 2007, submitted by the City Clerk.

Action: Ordinance No. 28225 was adopted. (10-0-1. Absent: Constant.)

- (h) **ORD. NO. 28226 – Rezoning certain real property generally bounded by East Virginia Street to the north, South 6<sup>th</sup> Street to the east, Martha Street to the south, and South 5<sup>th</sup> Street to the west to A(PD) Planned Development Zoning District. PDC07-035**

Documents Filed: Proof of Publication of the title of Ordinance No. 28226 executed on December 28, 2007, submitted by the City Clerk.

Action: Ordinance No. 28226 was adopted. (10-0-1. Absent: Constant.)

2.3 **Approval of Councilmember Campos' travel to Sacramento, CA on January 17, 2008 to attend the League of CA Cities – Transportation, Communications & Public Works Committee. Source of Funds: Mayor/Council Travel Fund. (Campos) (Rules in-Lieu referral 12/19/07)**

Documents Filed: Memorandum from Council Member Campos, dated December 17, 2007, requesting approval of travel.

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

- 2.4 Approval of Councilmember Campos' travel to La Jolla, CA on February 8-9, 2008 to attend the League of CA Cities Board of Director's Meeting. Source of Funds: Mayor/Council Travel Fund. (Campos)  
(Rules in-Lieu referral 12/19/07)**

Documents Filed: Memorandum from Council Member Campos, dated December 17, 2007, requesting approval of travel.

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

- 2.5 Request for excused absences for Councilmember Chirco.**  
**(a) Request for an excused absence from the City Council Study Session of December 17, 2007 due to Illness.**  
**(b) Request for an excused absence from the Regular City Council Meeting of December 18, 2007 due to Illness.**  
**(Chirco)**  
**(Rules in-Lieu referral 12/19/07)**

Documents Filed: Memoranda from Council Member Campos, dated December 7, 2007 and December 18, 2007, requesting absences due to illness.

Action: The absences were excused. (10-0-1. Absent: Constant.)

- 2.6 Adoption of a resolution authorizing the City Attorney to negotiate and execute a Fourth Amendment and Continuation Agreement with Nossaman Guthner Knox & Elliot LLP for legal services related to the Design-Build Agreement for the Airport Terminal Area Improvement Program, continuing the term from January 1, 2008 through December 31, 2008 with no increase in total compensation. CEQA: Not a Project. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Doyle, dated December 12, 2007, recommending adoption of a resolution.

Action: Resolution No. 74200, entitled "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Fourth Amendment and Continuation Agreement with Nossaman Guthner Knox & Elliot LLP for Legal Services, continuing the Term from January 1, 2008 through December 31, 2008 with No Increase in Total Compensation", was adopted. (10-0-1. Absent: Constant.)

- 2.7 Approval of City Manager Debra Figone's travel to Louisville, Kentucky on January 24-26, 2008 to participate in the Large Cities Executive Forum. (Source Funds: City Manager's Non-Personal Appropriation). CEQA: Not a Project. (City Manager's Office)**

**2.7 (Cont'd.)**

Documents Filed: Memorandum from City Manager Debra Figone, dated December 12, 2007, requesting approval of travel.

Action: The travel request for City Manager Debra Figone was approved. (10-0-1. Absent: Constant.)

**2.8 Adoption of a resolution authorizing the Office of Economic Development to develop, produce and conduct the second annual San José King-Of-The-Mountain Ride on City streets on February 16, 2008, as a City event with registration fees of \$100 and \$50. CEQA: Exempt, File No. PP05-277. Council Districts 3, 4 and 5. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated December 10, 2007, recommending adoption of a resolution.

Action: Resolution No. 74201, entitled “A Resolution of the Council of the City of San José Authorizing the Office of Economic Development to Develop, Produce and Conduct the Second Annual San José King-of-the-Mountain Ride on City Streets on February 16, 2008 as a City Event”, was adopted. (10-0-1. Absent: Constant.)

**2.9 Request for an excused absence for Councilmember Nguyen from the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on December 20, 2007 due to Prior Long Standing Commitment. (Nguyen) (Rules in-Lieu referral 12/19/07)**

Documents Filed: Memorandum from Council Member Nguyen, dated December 19, 2007 requesting an absence due to a prior long-standing commitment.

Action: The absence was excused. (10-0-1. Absent: Constant.)

**2.10 Approval to take no action regarding acquisition of an approximately 10-acre surplus site (formerly Calero School) in the Oak Grove School District. Approval to notify the District that the City does not currently have an interest in acquisition of the property and encourages the District to work closely with the City’s Planning Division staff regarding potential redevelopment of the site in the future by a third party. Council District 2. CEQA: Not a Project. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated December 13, 2007, regarding acquisition of Oak Grove Elementary School District surplus property.

Action: The Staff recommendation as stated above was approved. (10-0-1. Absent: Constant.)

**2.11 (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2007-2008:**

- (1) Increase the estimate for Earned Revenue by \$447,000.**
- (2) Establish an appropriation to the Department of Public Works for the Improvement District 99-218SJ Deferral of Assessments FY07-08 (PSM 515) in the amount of \$150,000.**
- (3) Establish an appropriation to the Department of the City Manager's Office for the Reimbursement for Consultant Services Provided by RHI project (PSM 516) in the amount of \$7,000.**
- (4) Establish an appropriation to the Department of Housing for the Neighborhood Housing Services Silicon Valley project (PSM 517) in the amount of \$250,000.**
- (5) Establish an appropriation to the Department of Transportation for the Agency Site Improvement project (PSM 522) in the amount of \$40,000.**

**(b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Agency Site Improvement Project as more specifically described in the memorandum from the Redevelopment Agency, dated December 10, 2007.**

**CEQA: Resolution No. 68905, File No. PP07-278. (Public Works/City Manager's Office/Housing/Transportation)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Deputy City Manager Mark Linder, Director of Housing Leslye Krutko, Director of Transportation James R. Helmer and Acting Budget Director Jennifer A. Maguire, dated December 10, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments and resolution.

Action: Ordinance No. 28223, entitled "A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", and Resolution No. 74202, entitled: A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", and Resolution No. 74203, entitled: "Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Civic Plaza Redevelopment Project Area", were adopted. (10-0-1. Absent: Constant.)

## STRATEGIC SUPPORT SERVICES

### **3.2 Report of the Public Safety, Finance and Strategic Support Committee – December 20, 2007 Council Member Nguyen, Chair**

Action: Deferred to January 15, 2008 per Orders of the Day.

- 3.3 (a) As recommended by the Rules and Open Government Committee, consider communications and information received by the committee regarding the Human Right Commission meeting of November 15, 2007.**
- (b) Consideration of removal of a Human Rights Commissioner, David Parker (Rules and Open Government referral with no recommendation – December 5, 2007).**

**[Rules Committee referral 12/5/07 – Item (f)(1)]**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated December 6, 2007, providing communications and information received by the Committee regarding the Human Rights Commission meeting of November 15, 2007. (2) Email from Robert Sippel, Vice Chair (Human Rights Commission), dated January 7, 2008, asking for the removal of David Parker from the Human Rights Commission. (3) Letter from David Parker, dated January 8, 2008, requesting that he be allowed to serve out the remainder of his term on the Human Rights Commission.

Public Comments: David Parker read a prepared statement asking that he be allowed to complete his term on the Human Rights Commission. Calling for David Parker's removal from the Human Rights Commission were Bob Sippel (Vice Chair, Human Rights Commission) and Robert Bailey (Member, HRC).

Council discussion ensued.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Council acknowledged the concerns raised by members of the Human Rights Commission and agreed to allow David Parker to serve out the remainder of his term on the Human Rights Commission with an admonishment to him for his past actions as a Commissioner. (10-0-1. Absent: Constant.)

### **3.4 Acceptance of the 2008 Legislative Priorities for the second year of the two-year Legislative Session in Sacramento and 110<sup>th</sup> Congress. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Intergovernmental Relations Director Betsy Shotwell, dated December 14, 2007, recommending acceptance of the 2008 Legislative Priorities.

### 3.4 (Cont'd.)

Director of Intergovernmental Relations Betsy Shotwell responded to questions from Council.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the 2008 Legislative Priorities for the second year of the two-year Legislative Session in Sacramento and 110<sup>th</sup> Congress was accepted, with direction to the City Manager develop a priority ranking system for state and federal legislative objectives to be brought to the Rules Committee. (9-0-2. Absent: Constant, Liccardo.)

### 3.5 **Adoption of a resolution approving the terms of an agreement with the Association of Building, Mechanical and Electrical Inspectors (ABMEI) and authorizing the City Manager to execute the agreement with a term of December 11, 2007 to December 10, 2009. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated December 17, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, Resolution No. 74204, entitled: "A Resolution by the City of San José Approving an Agreement between the City of San José and Association of Building, Mechanical and Electrical Inspectors for the Period of December 11, 2007 to December 10, 2009", was adopted. (10-0-1. Absent: Constant.)

### 3.6 **Acceptance of the staff report on Annual Summary of Upcoming Labor Negotiations as proposed by the Sunshine Reform Task Force. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated December 18, 2007, recommending acceptance of the staff report.

City Manager Debra Figone provided introductory remarks. Director of Employee Relations Alex Gurza presented an overview of labor relations and applicable regulations.

Budget Director Larry D. Lisenbee responded to questions from Council.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the staff report was accepted. (10-0-1. Absent: Constant.)

- 3.7 (a) Direction to the City Attorney to prepare an ordinance for Council consideration in early January that would define the lowest-cost plans for retiree health care in calendar year 2008 to be the Kaiser plans without new co-payments.**  
**(b) Approval of this one-year change to be retroactive to January 1, 2008.**  
**CEQA: Not a Project. (City Manager's Office/City Attorney's Office)**

Documents Filed: (1) Memorandum from City Manager Debra Figone and City Attorney Doyle, dated December 17, 2007, recommending preparation of an ordinance for Council consideration defining plans for 2008 retiree health care. (2) Memorandum from Bruce De Mers, President Association of Retire San José Police Officers & Firefighters, dated January 7, 2008, supporting Staff's recommendation.

City Attorney Rick Doyle and City Manager Debra Figone provided the Staff recommendation.

Public Comments: Russ Signorino offered viewpoints regarding retiree benefits and co-pays.

Director of Human Resources Mark Danaj responded to questions from the Council. Council Member Oliverio suggested that the Administration look at options to reimburse retirees for co-payments.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Liccardo, the motion carried unanimously, with direction to staff to return with a draft ordinance and to further explore options for co-pays. (10-0-1. Absent: Constant.)

- 3.8 Adoption of a resolution authorizing the Director of Finance to execute any necessary documentation to make purchases for six years under the pricing, terms, and conditions obtained under CALNET 2, a public agency cooperative agreement between the State of California and AT&T, in a cumulative amount not to exceed \$3,500,000 for the first year, and subsequent year purchases, as may be required, subject to annual appropriations, for:**
- (a) Core telecommunication services;**
  - (b) Long distance services; and**
  - (c) Internet services.**
- CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated December 10, 2007, recommending adoption of a resolution.

Public Comments: William Garbett objected to the Staff recommendation.

### 3.8 (Cont'd.)

Chief Purchasing Officer Walter C. Rossman responded to questions from the Council regarding the competitive bid process.

Action: Upon motion by Council Member Williams, seconded by Council Member Chu and carried unanimously, Resolution No. 74205, entitled: A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute any Necessary Documentation to Make Purchases Under CALNET 2 for Core Telecommunication Services, Long Distance Services and Internet Services”, was adopted. (8-0-3. Absent: Chirco, Constant, Liccardo.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.2 General Plan Items - Continuation of December 18, 2007 General Plan Hearings

- (a) **Text Amendment to allow a change in the maximum allowable height for structures where height is an intrinsic part of the structure’s function.**  
**Tentative approval of a General Plan text amendment request to change the *San José 2020 General Plan* text to allow solar panels and other structures, where height is an intrinsic part of the structure’s function, to have a maximum allowable height not to exceed 100 feet or the maximum allowable building height in the General Plan, whichever is greater. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1, Platten absent). CEQA: Resolution No. 65459. GP07-T-07 – Citywide**  
**[Continued from 12/18/07 – Item 10.1(c)]**

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 30, 2007, recommending approval of the subject General Plan text amendment request. (2) Supplemental Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated December 21, 2007, providing additional information on the General Plan text amendment, GP07-T-07, and to recommend approval of all General Plan amendment actions. (3) Letter from Mark J. Connolly, Airport Land Use Commission Staff Coordinator, dated December 14, 2007, requesting a continuance of this item.

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

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Liccardo and carried unanimously, the Staff/Planning recommendation was tentatively approved.

## 4.2 (Cont'd.)

- (b) **Adoption of a resolution approving all General Plan amendment actions taken on December 18, 2007 and January 8, 2008, and adoption of any related CEQA resolutions. (Planning, Building and Code Enforcement) (Continued from 12/18/07 – Item 10.7)**

Documents Filed: (1) Supplemental memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated December 18, 2007, providing additional information on the General Plan text amendment, GP07-T-07. (2) Supplemental memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated December 21, 2007, recommending the proposed text amendment to the San José 2020 General Plan with the language proposed by Vice Mayor Cortese, in his memorandum dated December 18, 2007.

Public Comments: Mayor Reed opened the public hearing. William Garbett voiced objections to recommendations regarding solar panels. Mayor Reed closed the public hearing.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Liccardo and carried unanimously, Resolution No. 74206, entitled: A Resolution of the Council of the City of San José Specifying the Council's Determinations on Proposed Amendments to the San José 2020 General Plan Pursuant to Title 18 of the San José Municipal Code", was adopted (10-0-1. Absent: Constant.)

- 4.3 **Adoption of a resolution pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to make an application to the Santa Clara County Local Agency Formation Commission to allow the reorganization of territory designated as Riverside No. 52, which involves the annexation to the City of San José of approximately 15 gross acres of land, located at the southeast corner of Piercy Road and Tennant Avenue, and the detachment of the same from the Central Fire Protection District and the Santa Clara County Library Service Area. CEQA: Mitigated Negative Declaration, File No. PDC06-102. Council District 2. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated December 10, 2007, recommending adoption of a resolution.

Assistant Director of Planning and Code Enforcement Laurel Prevetti responded to Council questions regarding urban growth boundaries.

#### 4.3 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, Resolution No. 74207, entitled “A Resolution of the Council of the City of San José Making Application to the Local Agency Formation Commission Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to Initiate Reorganization Proceedings for Annexation and Detachment of Certain Uninhabited Territory Designated as Riverside No. 52”, was adopted. (10-0-1. Absent: Constant.)

#### 4.4 **Adoption of a resolution pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to make application to the Santa Clara County Local Agency Formation Commission to amend the City’s Urban Service Area (USA) to include approximately 4.75 acres at the southeast corner of Piercy Road and Tennant Avenue within the USA. CEQA: Mitigated Negative Declaration, File Nos. GP05-02-04 and UGB05-001. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated December 10, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, Resolution No. 74208, entitled “A Resolution of the Council of the City of San José Making Application Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to Amend the City of San José Urban Service Area Boundary”, was adopted. (10-0-1. Absent: Constant.)

### NEIGHBORHOOD SERVICES

#### 5.1 **Report of the Neighborhood Services and Education Committee December 13, 2007 Council Member Chirco, Chair**

Action: Deferred to January 15, 2008 per Orders of the Day.

#### 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 and 12/18/07 – Item 5.2)**

Action: Deferred to February 5, 2008 per Orders of the Day

**5.3 Report on Request for Proposal (RFP) for Branch Libraries Opening Day Collection Services and adoption of a resolution authorizing the Director of Finance to:**

- (a) Execute an agreement with Baker and Taylor Inc., (Charlotte, NC) for Opening Day Collection Services which include the purchase, processing, cataloging, delivery and shelving of material and applicable sales taxes for a three-year term for an amount not to exceed \$4,200,000 subject to annual appropriations.**
- (b) Execute change orders not to exceed a 10% contingency in the amount of \$420,000 to cover supplemental services and any unanticipated changes or requirements subject to annual appropriations.**

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

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated December 4, 2007, recommending approval of a report on Request for Proposal for Branch Libraries Opening Day Collection Services and adoption of a resolution.

Library Director Jane Light responded to Council questions.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Chirco and carried unanimously, Resolution No. 74209, entitled “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Baker and Taylor, Inc., for Branch Libraries Opening Day Collection Services”, was adopted; with direction to Staff to provide a press release and an information memo acknowledging the Library Foundation’s efforts to raise money for libraries. (10-0-1. Absent: Constant.)

**5.4 (a) Approval of an agreement with Krong Design, Inc. for consultant services including project design, preparation of construction documents, and construction administration services for the Calabazas Branch Library project, from the date of execution to February 28, 2011 in an amount not to exceed \$858,000.**

- (b) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):**
  - (1) Establish an appropriation to the Library Department for the Calabazas Branch Community Room in the amount of \$517,000; and**
  - (2) Decrease the Reserve: Rainbow Park Improvements by \$517,000.**

**CEQA: Not a Project. Council District 1. (Public Works/Library/Parks, Recreation and Neighborhood Services/City Manager’s Office)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Library Director Jane Light, Director of Parks, Recreation and Neighborhood Services Albert Balagso, and Acting Budget Director Jennifer A. Maguire, dated December 10, 2007, recommending approval of an agreement with Krong Design, Inc., for consultant services and adoption of appropriation ordinance amendments.

#### 5.4 (Cont'd.)

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, Ordinance No. 28227, entitled “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Subdivision Park Trust Fund for the Calabazas Branch Community Room; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (10-0-1. Absent: Constant.)

### TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) **Adoption of a resolution to repeal Resolution No. 74183 and amend the Master Parking Rate Schedule to discontinue the \$5 pilot program after 10:00 pm on Thursday, Friday and Saturday evenings; and to authorize the Director of Transportation to accelerate the previously approved January 2010 adjustment of the \$2 flat rate to \$3 after 6 pm at various City parking facilities to January 2009, with increases of \$1 every two years up to a maximum of \$5 by 2013.**
- (b) **Direction to staff to provide quarterly updates to the Downtown Parking Board regarding the \$2 flat rate after 6:00 pm, with a formal review of the rate in June 2008 to include the revenues generated, the expenses for continuing the enhanced security and cleaning efforts in various City parking facilities, and the potential impact on Downtown businesses.**

**CEQA: Not a Project. Council District 3. (Transportation/Police)**

Documents Filed: Memorandum from Director of Transportation, James R. Helmer and Chief of Police Robert L. Davis, dated December 20, 2008, recommending adoption of a resolution and acceptance of final report.

Assistant Director of Transportation Jim Ortbal provided a report on the six-month pilot parking program.

Public Comments: Ross Signorino commended the Staff for their efforts on this project.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Cortese and carried unanimously, Resolution No. 74210, entitled “A Resolution of the Council of the City of San José Amending the Master Parking Rate Schedule to Discontinue the \$5 Pilot Program After 10 p.m. on Thursday, Friday and Saturday Evenings and to Authorize the Director of Transportation to Accelerate the Adjustment of the \$2 Flat Rate Fee After 6 p.m. at Certain Designated City Parking Facilities to a \$3 Flat Rate Fee from January 1, 2010 to January 1, 2009, with Increases to the Flat Fee of \$1 Every Two Years up to a Maximum of \$5 by January 1, 2013; and Repeal Resolution No. 74183 Effective Upon Council Approval”, was adopted with direction to Staff to provide a status report to the Transportation and Environment Committee in August. (10-0-1. Absent: Constant.)

**6.3 Approval of an agreement with the San José Downtown Property Owners Association and the San José Downtown Association to provide services for the Downtown Property and Business Improvement District as specified in the agreement and as outlined in the Downtown Property and Business Improvement District Management Plan/Engineer’s Report. CEQA: Not a Project. (Transportation)**

Action: Deferred to January 15, 2008 per Administration.

**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 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>
9968	South side of Rose Avenue, 120 feet east of Nancy Lane	5	Capital Towne House	8 Lots / 82 Units	Conversion of Apartments to Condominiums

**REPORT FROM CITY MANAGER**

Documents Filed: Memorandum from City Manager Debra Figone, dated January 8, 2007 providing a report on response and assistance during the recent storm.

City Manager Debra Figone provided a report on the storm-related activities and actions taken by City crews over the past few days.

**OPEN FORUM**

Documents Filed: Letter from Barry Hung Do (San José Voters for Democracy), dated January 8, 2008, asking that the Council reconsider the naming of the Vietnamese Business District, and a retraction of comments made on 11/20/07, and calling for Council Member Nguyen’s resignation.

- (1) David Wall urged reform of the methodology used for assessing property taxes.
- (2) My Phuong Le, representing San José Voters for Democracy, read a prepared statement urging the Council to reconsider the naming of the Vietnamese Business District, asking for a retraction of comments made on 11/20/07, and calling for Council Member Nguyen’s resignation.
- (3) Mark Trout offered religious viewpoints.
- (4) Ross Signorino addressed comments made by other public speakers.

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 4:05 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

rmk/1-08-08MIN

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## JOINT REDEVELOPMENT AGENCY ITEM

- 8.1 (a) **City Council approval of an ordinance amending the Alum Rock Avenue Redevelopment Project Area Plan to approve the inclusion of Fire Station #2 as a specific project in the Alum Rock Avenue Redevelopment Plan; and,**
- (b) **Adoption of a resolution by the Redevelopment Agency Board approving a shift of \$2,700,000 from the Adopted FY 2008-09 Capital Improvement Program to the FY 2007-08 Adopted Capital Budget for the Alum Rock Fire Station #2 project line in the Neighborhood Business Investment Program Redevelopment Area, and amending the FY 2007-08 appropriations resolution.**

**CEQA: Exempt. File No. PP05-220 [Alum Rock]**

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency of the City of San José, Harry S. Mavrogenes, dated December 20, 2008, recommending adoption of an ordinance and resolution.

Action: Upon motion by Council Member Campos, seconded by Council Member Liccardo and carried unanimously Ordinance No. 28228, entitled “An Ordinance of the City of San José Adopting the Twenty-Third Amended Alum Rock Avenue Redevelopment Plan to Include Fire Station #2 as a Specific Project; and Making Certain Findings”, was passed for publication, and Redevelopment Agency Resolution were adopted.

The Joint Redevelopment Agency meeting was adjourned at 4:28 p.m.

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