

**MINUTES OF THE CITY COUNCIL**

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, MARCH 18, 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, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel – Anticipated Litigation: Initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code: Number of matter(s) to be discussed: 2; (B) 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) Robb, et al. v. City, et al.; (C) to confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: City Negotiator(s): Paul Krutko; Nanci Klein: (1) 1125 Coleman Avenue; City Negotiator(s): Katy Allen and Albert Balagso: (2) 3380 Woodside Lane; (D) 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; (3) International Association of Firefighters (IAFF), Local 230.

By unanimous consent, Council recessed from the Closed Session at 11:05 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.

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.

## **INVOCATION**

Rinban K. Ken Fujimoto of the San José Buddhist Church Betsuin presented the Invocation. (District 3)

## **PLEDGE OF ALLEGIANCE**

Students of San José Village School and Mayor Reed led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, the Orders of the Day and the Amended Agenda were approved. Items 2.1 and 3.7 were deferred to April 25, 2008, and Item 3.5 was dropped at the request of the City Auditor.

Mayor Reed and City Attorney Doyle recognized Assistant City Attorney Bill Hughes for his many years of service with the City of San José and congratulated him on his retirement.

## **CEREMONIAL ITEMS**

### **1.2 Presentation of a commendation to Morrill Girl's Varsity Basketball Team, winner of the 2008 San José Mayor's Basketball Tournament. (Chu)**

Action: Mayor Reed and Council Member Chu commended the Morrill Girl's Varsity Basketball Team, winner of the 2008 San José Mayor's Basketball Tournament.

## **CONSENT CALENDAR**

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

### **2.1 Approval of Minutes.**

- (a) Green Vision Study Session Minutes of February 1, 2008.**
- (b) Regular Minutes of February 5, 2008.**
- (c) Special San José Financing Authority Meeting Minutes of February 15, 2008.**

Action: The Minutes of the City Council were deferred to March 25, 2008.

## 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28260** – Amending Section 2.08.4830 of Chapter 2.08 of Title 2 of the San José Municipal Code to amend the term for members of the Youth Commission to two-year terms and to allow the Council to modify the term dates for Youth Commissioners in order to achieve continuity of membership on the Youth Commission.

Documents Filed: Proof of Publication of the title of Ordinance No. 28260 executed on March 11, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28260](#) was adopted. (11-0.)

- (b) **ORD. NO. 28262** – Rezoning certain real property, approximately 0.63 acres bounded between San Felipe Road and Rachaella Lane and approximately 2.06 acres located north of Rachaella Lane at the terminus of Gayley Place, to A(PD) Planned Development Zoning District. PDC06-104

Documents Filed: Proof of Publication of the title of Ordinance No. 28262 executed on March 11, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28262](#) was adopted. (11-0.)

- (c) **ORD. NO. 28263** – Rezoning certain real property situated at the south side of Tully Road 500 feet westerly of Capitol Expressway from the A-Agricultural and IP-Industrial Park Zoning Districts to A(PD) Planned Development Zoning District. PDC07-070

Documents Filed: Proof of Publication of the title of Ordinance No. 28263 executed on March 11, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28263](#) was adopted. (11-0.)

## 2.3 Report on bids and award of construction contract for the project RAS & SS Valve Replacement Project Secondary – Tunnel Battery A (A-1 Thru A-6) to the low bidder, Anderson Pacific Engineering Construction, Inc. in the amount of \$729,000, and approval of a contingency in the amount of \$73,000. CEQA: Exempt, File No. PP07-178. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated February 19, 2008, recommending acceptance of report on bids and award of construction contract. (2) Letter from the Treatment Plant Advisory Committee dated March 13, 2008, stating concurrence with the Staff recommendation.

Action: The report for bids and award of construction contract to the low bidder, Anderson Pacific Engineering Construction, Inc. with associated contingency was accepted. (11-0.)

- 2.4 Approval of the fifth amendment to the construction service agreement with City of Santa Clara for the South Bay Water Recycling Program, revising the approved project list and extending the term of the agreement by two years, starting from the agreement execution date to June 30, 2010, at no additional cost to the City. CEQA: Resolution No. 64667, File No. PP91-090. Council District 4. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated February 25, 2008, recommending approval of the construction service agreement with the City of Santa Clara. (2) Letter from Patricia Mahan, Treatment Plant Advisory Committee Chairperson, dated March 13, 2008, transmitting TPAC recommendations for San José City Council action.

Action: The Fifth Amendment to the Agreement with the City of Santa Clara for Construction Services for the South Bay Water Recycling Program was accepted. (11-0.)

- 2.5 Adoption of a resolution approving a funding commitment of up to \$900,000 to provide second mortgages of up to \$60,000 to each moderate-income household purchasing a townhome in the Villa Almendra development, located on the corner of Almaden Avenue and West Alma Avenue. CEQA: Not a Project. Council District 3. SNI: Washington. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated February 26, 2008, recommending adoption of a resolution.

Action: [Resolution No. 74286](#), entitled: “A Resolution of the Council of the City of San José approving a Funding Commitment of up to \$900,000 to Provide Second Mortgages of up to \$60,000 Each to Moderate-Income Households Purchasing Townhomes in the Villa Almendra Development, Located on the Corner of Almaden Avenue and West Alma Avenue”, was adopted. (11-0.)

- 2.6 Approval of the first amendment to a lease agreement with Leyla Naderjah and Jon Hellesoe, owners of Rosies and Posies Downtown Florist for their use of City-owned property located at 98 Paseo de San Antonio amending said lease to provide for the terms, provisions, and conditions for installing and maintaining an exterior sign on the leased premises pursuant to a signage agreement with the Redevelopment Agency. CEQA: Not a Project. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 25, 2008, recommending approval of the first amendment to a lease agreement.

Action: The first amendment to a lease agreement with Leyla Naderjah and Jon Hellesoe to provide for the terms, provisions, and conditions for installing and maintaining an exterior sign on the their leased premises pursuant to a signage agreement with the Redevelopment Agency was approved. (11-0.)

- 2.7 Adoption of a resolution authorizing the City Manager to:**
- (a) Submit a grant application to the California Department of Forestry and Fire Protection for up to \$105,000 in grant funding from the Urban Forestry Grant Program entitled, “An Urban Forest for Every Community,” to be used for the development of Best Management Practices for San José’s urban forest, with a total local match requirement of up to \$105,000.**
  - (b) Submit a grant application to the California Department of Forestry and Fire Protection for up to \$114,000 in grant funding from the Urban Forestry Grant Program entitled, “An Urban Forest for Every Community,” to assist in the development of an inventory of San José’s urban forest, with a total local match requirement of up to \$114,000.**
  - (c) Execute all documents necessary to effectuate the applications and the grants. CEQA: Not a Project. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated March 3, 2008, recommending adoption of a resolution.

Public Comments: Matt Hood spoke in support of grant funding approval.

Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 74287](#) entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit a Grant Application to the California Department of Forestry and Fire Protection for up to \$105,000 in Grant Funding from the Urban Forestry Grant Program Entitled, ‘An Urban Forest for Every Community’ to be Used for the Development of Best Management Practices for San José’s Urban Forest, with a Total Local Match Requirement of up to \$105,000 and to Execute all Documents Necessary to Effectuate the Grant”, and [Resolution No. 74288](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit a Grant Application to the California Department of Forestry and Fire Protection for up to \$114,000 in Grant Funding from the Urban Forestry Grant Program Entitled, ‘An Urban Forest for Every Community’ to Assist in the Development of an Inventory of San José’s Urban Forest, with a Total Local Match Requirement of up to \$114,000 and to Execute all Documents Necessary to Effectuate the Grant”, were adopted. (11-0.)

- 2.8 Approval of travel by Councilmember Williams to Okayama, Japan on March 21 – 30, 2008 to lead the City of San José’s delegation to attend the 50<sup>th</sup> anniversary events commemorating San José and Okayama, Japan’s Sister City Relationship. Source of Funds: Mayor/Council Travel Fund. (Williams) (Rules Committee referral 3/5/08)**

Documents Filed: Memorandum from Council Member Williams, dated March 3, 2008, requesting approval of travel.

Action: The travel request for Council Member Williams was approved. (11-0.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

### 3.1 Report of the City Manager, Debra Figone (Verbal Report)

City Manager Debra Figone provided an update on the City's historical structure protection program and presented a brief update on the variable bond rate program.

Action: The City Manager's report was accepted.

### 3.2 Report of the Rules and Open Government Committee – March 5, 2008 Mayor Reed, Chair

Action: Deferred to April 8, 2008 per City Clerk.

### 3.4 Approval of an ordinance that amends Section 12.16.040 of Chapter 12.16 of Title 12 of the San José Municipal Code to require that disclosure reports for fundraising solicitations be filed by candidates in accordance with the deadlines for campaign statements. (City Attorney's Office/City Clerk)

Action: Deferred to March 25, 2008 per City Attorney and City Clerk.

### 3.5 As referred by the Rules and Open Government Committee of March 5, 2008, consider the request of the City Auditor to direct the Boards of the Federated Retirement System and Police and Fire Retirement Plan to cooperate with an audit of the boards' travel expenditures. (City Auditor) [Rules Committee referral 3/5/08 – Item (G)(1)]

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated March 6, 2008, recommending direction to the retirement boards to cooperate with an audit. (2) Supplemental memorandum from City Auditor Sharon Erikson, dated March 17, 2008, confirming agreement with Boards to cooperate in a travel expenditure audit.

Action: Dropped per City Auditor.

### 3.7 (a) Report on Request for Proposal for Security Guard Services for the Departments of General Services, Transportation, Parks Recreation and Neighborhood Services, Aviation, Environmental Services (Water Pollution Control Plant), and Office of Economic Development (Work2Future) and

#### (b) Adoption of a resolution authorizing the Director of Finance to:

- (1) Execute an agreement with First Alarm Security & Patrol, Inc. for security guard services for a one year term and a not-to-exceed compensation of \$2,182,500.
- (2) Execute amendments to the agreement to add and delete guard services as required subject to appropriation of funds.

- 3.7 (b) (3) Exercise four one-year options to renew the agreement subject to annual appropriation of funds. CEQA: Not a Project. (Finance)**

Action: Deferred to March 25, 2008 per Orders of the Day.

- 3.8 Report of the Rules and Open Government Committee – February 27, 2008  
Mayor Reed, Chair  
(Deferred from 3/11/08 – Item 3.2)**

Action: Deferred to April 8, 2008 per City Clerk.

## **COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.2 (a) Adoption of a resolution:**

- (1) Approving a funding commitment of up to \$17,925,000 to CORE Affordable Housing, LLC, or its designee, of which \$9,010,400 will finance land acquisition for the development of the 180-unit Belovida at Newbury Park affordable senior rental project located northeasterly of the intersection of King Road and Dobbin Drive, to be made available to extremely low-income and very low-income households.**
- (2) Finding that the use of 20% Housing Funds for the Belovida at Newbury Park housing development is of benefit to the Redevelopment Project Areas in San José.**

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Low- and Moderate-Income Housing Fund (Fund 443) for 2007-2008:**

- (1) Increase the Loans, Grants and Site Acquisition appropriation by \$17,925,000.**
- (2) Increase the estimate for Earned Revenue in the amount of \$17,925,000.**

**CEQA: Resolution No. 74196, File No. PDC07-015. Council District 3. (Housing/City Manager's Office)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko and Budget Director Larry D. Lisenbee, dated February 25, 2008, recommending adoption of funding sources resolutions and an appropriation ordinance.

Council Member Liccardo spoke in support of the project and urged creative solutions for adding parks to new affordable housing developments.

Director of Housing Leslye Krutko offered comments on the housing project and discussed application of Proposition 1C Funds.

## 4.2 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74289](#), entitled: “A Resolution of the Council of the City of San José (I) approving a Funding Commitment of up to \$17,925,000 to Core Affordable Housing, LLC., or its Designee, of which \$9,010,400 Will Finance Land Acquisition for the Development of the 180-Unit Belovida at Newbury Park Affordable Senior Rental Project Located Northeasterly of the Intersection of King Road and Dobbin Drive, to be Made Available to Extremely Low-Income and Very Low-Income Households, and (II) Finding that the Use of 20% Housing Funds for the Belovida at Newbury Park Housing Development is of Benefit to the Redevelopment Project Areas in San José”, [Ordinance No. 28273](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Low and Moderate Income Housing Fund for Loans, Grants and Site Acquisition; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, and [Resolution No. 74290](#), 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 Low and Moderate Income Housing Fund”, were adopted. (11-0.)

## 4.3 (a) Adoption of a resolution:

- (1) **Approving a funding commitment of up to \$5,315,000 of 20% Housing Funds to Charities Housing Development Corporation (CHDC), or its designee, for a land acquisition/permanent loan for the 94-unit Kings Crossing affordable family rental project located at 686 North King Road, to be made available to extremely low-income (ELI) and very low-income (VLI) households.**
  - (2) **Approving a conditional funding commitment of up to \$5,250,700 of HOME Funds to CHDC, or its designee, for a predevelopment/construction/ permanent loan for the Kings Crossing project.**
  - (3) **Approving an exception to City policy to allow disbursement of funds which will create a combined loan-to-value ratio for the City loans in excess of 100%.**
  - (4) **Finding that the use of 20% Housing Funds for the Kings Crossing project is of benefit to the Redevelopment Project Areas in San José.**
- (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the HOME Investment Partnership Program Fund (Fund 445) for 2007-2008:**
- (1) **Increase the Loans and Grants appropriation by \$5,250,700.**
  - (2) **Increase the estimate for Grant Revenue in the amount of \$5,250,700.**
- (c) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Low- and Moderate-Income Housing Fund (Fund 443) for 2007-2008:**
- (1) **Increase the Loans, Grants and Site Acquisition appropriation by \$5,315,000.**

**4.3 (c) (2) Increase the estimate for Earned Revenue in the amount of \$5,315,000.**

**CEQA: Resolution No. 74196, File No. PDC07-015. Council District 3.  
(Housing/City Manager's Office)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko and Budget Director Larry D. Lisenbee, dated February 25, 2008, recommending adoption of funding source resolutions and an appropriation ordinance.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 74291](#), entitled: "A Resolution of the Council of the City of San José (I) Approving a Funding Commitment of up to \$5,315,000 of 20% Housing Funds to Charities Housing Development Corporation, or its Designee, for a Land Acquisition/Permanent Loan for the 94-Unit Kings Crossing Affordable Family Rental Project Located at 687 North King road, to be made available to Extremely Low-Income and Very Low-Income Households; (II) Approving a Conditional Funding Commitment for up to \$5,250,700 of Home Funds to CHDC, or its Designee, for a Predevelopment/Construction/Permanent Loan for the Kings Crossing Project; (III) Approving an Exception to City Policy to Allow Disbursement of Funds which will Create a Combined Loan-to-Value Ratio for the City Loans in Excess of 100%; and (IV) Finding that the Use of 20% Housing Funds for the Kings Crossing Housing Development is of Benefit to the Redevelopment Project Areas in San José", [Ordinance No. 28274](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Home Investment Partnership Program Fund for Loans and Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", [Resolution No. 74292](#), 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 Home Investment Partnership Program Fund", [Ordinance No. 28275](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Low and Moderate Income Housing Fund for Loans, Grants and site Acquisitions; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 74293](#), 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 Low and Moderate Income Housing Fund" were adopted. (11-0.)

## TRANSPORTATION & AVIATION SERVICES

### 6.1 Report of the Transportation and Environment Committee – March 3, 2008 Councilmember Williams, Chair

Documents Filed: Report of the Transportation and Environment Committee of March 3, 2008.

Council Member Williams provided an overview of Item (b): Clean Bay Strategy Report and Permit Update.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the Transportation and Environment Committee Report and Actions of March 3, 2008, were accepted. (11-0.)

### 6.2 Adoption of a resolution authorizing the City Manager to negotiate and execute a master agreement with M. Arthur Gensler, Jr. & Associates, Inc. for architectural consultant services for the Airport and Airlines Tenant Improvements Project at the Norman Y. Mineta San José International Airport from the date of execution through December 31, 2010 in an amount not to exceed \$3,000,000. CEQA: Resolution Nos. 67380 and 71451, File No. PP08-019. (Public Works/Airport)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Aviation William F. Sherry, dated February 25, 2008, recommending approval of an agreement for architectural consultant services.

Action: Upon motion by Council Member Williams, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 74294](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Master Agreement with M. Arthur Gensler, Jr. & Associates, Inc., for Architectural Consultant Services for the Airport and Airlines Tenant Improvements Project at the Norman Y. Mineta San José International Airport from the Date of Execution through December 31, 2010 in an Amount not to Exceed \$3,000,000”, was adopted. (11-0.)

### 6.3 As recommended by the Transportation and Environment Committee City Council discussion of the recommendations by Council Member Oliverio as noted below, and upon Council consideration of the recommendations, take the following actions: item (a) be referred to the budget process for further Council consideration, and items (b) through (g) be referred back to the Transportation and Environment Committee for discussion at its May 5, 2008 meeting.

- (a) Direction to the Administration to bring forth to the City Council, as part of budget deliberations, the cost of one-time and on-going funding necessary to hire more police officers for enforcement of traffic calming regulations in the neighborhoods.
- (b) Direction to the Administration to research the feasibility of "red light running" (RLR) systems for the purpose of possible consideration of a "RLR" pilot program for the City of San José.

- 6.3 (c) **Direction to the Administration to research the viability of increasing fines for traffic violations.**
- (d) **Direction to the Administration to update the current traffic calming policy with the recommendations proposed from the attached report to include expanding the installation of physical and electronic devices and to update the policy to allow for cumulative impacts of speed, volume, crashes, pedestrian activity and proximity to schools and/or parks to be used when gathering information.**
- (e) **Direction to the Administration to bring recommendations back to the City Council that would allow for provisions for neighborhoods to self-fund physical traffic calming devices.**
- (f) **Direction to the Administration to investigate a partnership with the school districts in San José as a way of using bond monies for radar signs and other traffic calming devices near schools.**
- (g) **Direction to the Administration to implement Assembly Bill 321 which allows municipalities to lower speed limits to 15 mph in qualifying school zones after analysis by the City Attorney's Office is completed.**

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

**[Transportation and Environment Committee referral 03/03/08 – Item (d)]**

Documents Filed: Memorandum from Agenda Service Manager Nadine Nader, dated March 4, 2008, transmitting the Traffic Calming Policy Update of March 3, 2008.

Director of Transportation James R. Helmer and Department of Transportation Division Manager Laura Wells summarized the Policy Update.

San José City Police Sergeant Melanie Bertelsen provided an overview of resource and manpower allocation and responded to questions from Council regarding crossing guards.

San José City Police Captain Diane Irwin responded to questions from Council.

Public Comments: Speaking in support of traffic calming measures were Michael LaRocca, William Garbett, Ross Signorino, Gurpreet Rondhawa and Richard Allen.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, the Transportation and Environment Committee City Council recommendations of March 3, 2008 were accepted. (11-0.)

## **ENVIRONMENTAL & UTILITY SERVICES**

- 7.1 **Adopt a “Green Cities California Sustainability Resolution” expressing San José’s commitment to work cooperatively with other California local governments to accelerate local, regional, national, and international efforts to achieve sustainability.**

Action: Deferred per Administration.

**7.2 As recommended by the Rules and Open Government Committee of March 12, 2008, accept the Solar Summit Recommendations for CleanTech Policy Priorities to serve as the City’s legislative priorities in the areas of solar and CleanTech for 2008-2009. (Mayor)**

Documents Filed: Memorandum from Mayor Reed, dated March 5, 2008, providing solar summit recommendations for CleanTech policy priorities.

Environmental Program Manager Mary Tucker offered an overview on the issue of feed-in tariffs and responded to questions from Council.

Intergovernmental Relations Director Betsy Shotwell responded to questions from Council.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Cortese and passed unanimously, the Solar Summit Recommendations for CleanTech Policy Priorities to serve as the City’s legislative priorities in the areas of solar and CleanTech for 2008-2009 as outlined in Mayor Reed’s memorandum of March 5, 2008 was accepted with the following amendments: (1) Spur State government to expand and extend current State solar rebates. (2) Modify wording in #6 of the “2008-2009 Clean Tech Legislative Agenda Guiding Principles” in reference to jobs being “outsourced”; stress instead meaningful employment in occupations developed in San José. (11-0.)

**OPEN FORUM**

- (1) Ross Signorino supported the proposal to establish a medical center in downtown San José and suggested that there be tighter restrictions for public ‘camping out’ on San José’s City Hall property.

**RECESS/RECONVENE**

The City Council recessed at 3:10 p.m. from the afternoon Council Session and reconvened at 7:00 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Vice Mayor Cortese, seconded by Council Member Williams and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

## CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Parking and Traffic Committee, a group of volunteer residents, which met for six years as an oversight group for City Hall construction, and were instrumental in completing this large civic project with little disruption to the surrounding neighborhoods. (Liccardo)  
(Deferred from 2/5/08 – Item 1.1)**

Action: Mayor Reed and Council Member Liccardo recognized and commended members of the Parking and Traffic Committee for their dedication and commitment serving as an oversight group for City Hall construction, and for their part in completing this large civic project with little disruption to the surrounding neighborhoods.

- 1.3 Presentation of a commendation to senior students from Harker and Lynbrook High School for being named semifinalists in the prestigious National Intel Science Talent Search contest. (Constant)**

Action: Mayor Reed and Council Member Constant recognized and commended the senior students from Harker and Lynbrook High School for being named semifinalists in the prestigious National Intel Science Talent Search contest.

- 1.4 Presentation of a proclamation declaring the week of March 16 through March 22, 2008 as “Jade Ribbon Week” to unite against HBV and promote Liver Cancer Awareness in the City of San José. (Pyle/Nguyen/Chu)  
(Rules Committee referral 3/12/08)**

Action: Mayor Reed and Council Members Pyle, Nguyen and Chu recognized the week of March 16 through March 22, 2008 as “Jade Ribbon Week” to unite against HBV and promote Liver Cancer Awareness in the City of San José.

## OPEN FORUM

- (1) Mark Trout expressed concerns about military veterans’ health.
- (2) Ed Rast expressed concern over difficulties obtaining records requested. Mayor Reed directed Staff to follow-up with Mr. Rast.

## PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Public Hearings on Consent Calendar were approved and the below listed actions were taken as indicated. (11-0.)

- 11.1 (a) **Consideration of an ordinance rezoning the real property located on the south side of Stevens Creek Boulevard, approximately 300 feet easterly of Loma Linda Drive (5000 Stevens Creek Boulevard) from CG Commercial General Zoning District to CN Commercial Neighborhood Zoning District to allow commercial use on a 0.96 gross acre site (Tronis Steven Cr Tully Props Fam Lp, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C08-007 – District 1**

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 28277](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Stevens Creek Boulevard, approximately 300 Feet Easterly of Loma Linda Drive (5000 Stevens Creek Boulevard) to CN Commercial Neighborhood Zoning District” was passed for publication. (11-0.)

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report for 5000 Stevens Creek Boulevard. (2) Proof of Publication of Notice of Public Hearing, executed on March 7, 2008, submitted by the City Clerk.

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

- (b) **Consideration of an ordinance rezoning the real property located on the northwest corner of West San Carlos and Brooklyn Avenue (1915 W San Carlos Street) from County to CP-Commercial Pedestrian Zoning District and R-1-8 Single Family Residence District and to allow commercial uses on a 0.74 gross acre site (99 Centers Only Stores, Owner; RHL Design Group/Martin Lakey, Developer). SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C07-065 – District 6.**

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report for 1915 W. San Carlos Street. (2) Proof of Publication of Notice of Public Hearing, executed on March 7, 2008, submitted by the City Clerk.

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

11.1 (b) Action: The recommendation of the Planning Director was approved, and [Ordinance No. 28278](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of West San Carlos Street and Brooklyn Avenue (1915 West San Carlos Street) to CP-Commercial Pedestrian Zoning District on a Portion of the Real Property and to R-1-8 Single Family Residence Zoning District on another Portion of the Real Property, all as more Particularly Described Herein” was passed for publication. (11-0.)

11.2 **Administrative Hearing and consideration of an appeal of the Planning Commission’s decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow demolition of 78,409 square feet of existing commercial building and allow construction of 80,800 square feet resulting in a total of 122,584 square feet for commercial uses including the off-sale of alcohol for a new grocery store (Whole Foods) on a 10.2 gross acres (Mandatory denial by the Planning Commission 12/10/07), in the CG General Commercial Zoning District, located in the area generally bound by Blossom Hill Road on the north, Gallup Drive to the west, Mesa drive to the south, and Almaden Expressway to the east (1110 Blossom Hill Road) (Pueblo Plaza Partnership, Owner). SNI: Hoffman/Via Monte. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to uphold the appeal and approve the subject Conditional Use Permit and make a Determination of Public Convenience or Necessity by finding that the required findings for a Determination of Public Convenience or Necessity can be made and that there is a significant overriding public benefit served by the proposed off-sale of alcohol. [CP07-072/ABC07-006](#) – District 10 (Deferred from 1/29/08 – Item 11.3 and 2/26/08 – Item 11.3)**

Action: Continued to April 8, 2008 per Applicant.

11.3 **Consideration of an ordinance rezoning the real property located on the southwest corner between Keesling Avenue and Hamilton Way (1500 Keesling Avenue) from R-1-8 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow 3 single family, detached residences on a 0.4 gross acre site (Robert Cullen, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (4-1-1-1). [PDC07-079](#) – District 6**

Action: Deferred to April 8, 2008 per Administration.

11.4 **Consideration of an ordinance rezoning the real property located at the southeast corner of Yerba Buena Road and Highway 101 (3800 Dove Hill Road) from the A(PD) Residential Zoning District to the A(PD) Residential Zoning District to allow 29 single-family detached residences on a 7.24 gross acre site (Joey and Frances Lo, Owners). CEQA: Incomplete. [PDC07-097](#) – District 8**

Action: Deferred to April 22, 2008 per Administration.

**11.5 Consideration of a Conforming Rezoning and Tentative Map Permit for the real property located on the northwest corner of Los Gatos-Almaden Road and Warwick Road (14861 & 14879 Los Gatos-Almaden Road), in the R-1-2 Single-Family Residence Zoning District (Mirzadegan and Farajollah Ettefagh, Owners).**

Action: Continued to April 8, 2008 per Administration..

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

**JOINT COUNCIL/REDEVELOPMENT AGENCY**

**9.2 Public Hearing and approval of the FY 2008-2009 Mayor's March Budget Message. (Mayor)**

Documents Filed: (1) Memorandum from Mayor Reed, dated March 7, 2008, transmitting March Budget Message for Fiscal Year 2008-2009. (2) Memorandum from Mayor Reed, dated March 14, 2008, requesting nominees for Plan Stakeholder Group. (3) 2008-2009 City Manager's Budget Request and 2009-2013 Five-Year Forecast and Revenue Projections provided by the Office of the City Manager. (4) San José Department of Economic Development job loss/gain chart provided by Ed Rast.

Public Comments: Albert Carrasco, Daniel Albizo, Raymond Estrada, Michael Garewal and Pastor Sonny Lara (Firehouse Gang Intervention Group) and Ron Soto (California Youth Outreach) spoke on the importance of continuing funding for gang intervention and youth outreach programs. Richard Zappelli, Ed Rast, Jean Dresden and Matt Hood (Willow Glen Neighborhood Association) presented recommendations for solving the City's budget crisis. Lorie Bird suggested the City reduce employee compensation and benefits costs. Helen Chapman proposed that the Council consider changing to the Construction and Conveyance Fund.

Mayor Reed presented policy direction and framework of priorities for balancing the budget for Fiscal Year 2008-2009 and discussed nominations for Plan Stakeholder Group.

Council discussion ensued.

Action: Upon motion by Council Member Constant, seconded by Council Member Nguyen and carried unanimously the FY 2008-2009 Mayor's March Budget Message was approved. (11-0.)

- 9.1 (a) It is recommended that the City Council:**
- (1) Accept the final recommendations of the Former San José Medical Center Site Stakeholder Advisory Committee (SAC).**
  - (2) Direct the City Manager to invite the County to participate in a joint City-County Taskforce as recommended by the Stakeholder Advisory Committee including all the major health care providers; Regional Medical Center of San José, O'Connor Hospital, Kaiser Permanente, Valley Medical and others, to work collaboratively on health care facilities and hospital services issues facing downtown and the City.**
  - (3) Acknowledge that the scope of work for the Envision San José 2040 General Plan Update includes the development of goals and policies related to the provision of health care services and facilities to serve the existing community and projected future growth (These goals and policies would address the needs of current residents as well as the needs of projected population and employment growth through 2035).**
  - (4) Direct the City Administration to use the SAC land use recommendations as guiding principles when evaluating a future development on the Former San José Medical Center site (these recommendations would supplement, but not replace, other applicable City policies and design guidelines related to development on the site).**
  - (5) Direct the City Manager to begin negotiations with Hospital Corporation of America (HCA) regarding the development of the Former Medical Center Site and support for expanding access to primary and urgent care services downtown.**
- (b) It is recommended that the Redevelopment Agency Board direct the Executive Director to explore sites within Redevelopment Project Areas for the potential expansion of primary and urgent care services downtown in line with the SAC recommendations and report back to the Agency Board on feasibility of any sites within 180 days and prior to approval of any land use changes on the Site.**

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

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Liccardo, dated March 14, 2008 providing additions and clarifications to Staff recommendations of the former San José Medical Center Stakeholder Advisory Committee (SJMC-SAC). (2) Memorandum from City Manager Debra Figone and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated March 4, 2008, recommending approval of Staff recommendations of the former SJMC-SAC. (3) Letter from Coalition for a Downtown Hospital offering final recommendations of the former SJMC-SAC. (4) Letter from Pat Dando, President and CEO Silicon Valley Chamber of Commerce expressing support for the Staff recommendation. (5) Letter from David Wall expressing criticism of the Staff recommendation.

## 9.1 (Cont'd.)

Public Comments: Speaking in support of the Staff recommendation were Rosylin Dean, Carel Boekema, Bob Leininger and Jeff Lake (Coalition for a Downtown), Paula Velsey (Roosevelt Park Neighborhood Association), Marc Boyd, Les Levitt, Susanna Beouchan (CHAM), Joe Pambianco, Gary Schoennauer and William Gilbert (HCA/Regional Medical Center), Alicia Carrillo (Naglee Park Downtown), Bob Brownstein, Jim Murphy (Santa Clara Valley Medical Center), Bill Updyke (Palmer College of Chiropractic), Jody Hansen and Pat Dando (San José Silicon Valley Chamber of Commerce). Expressing land use concerns were Julia Ostrowski (13<sup>th</sup> Street NAC), Jim Doyle and Nancy Hickey (University Neighborhoods Coalition).

Redevelopment Agency Project Manager Christopher “Kip” Harkness presented the San José Medical Center Stakeholder Advisory Committee recommendations.

Chief Development Officer Paul Krutko and Redevelopment Agency Project Manager Christopher “Kip” Harkness responded to questions from Council.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried, the joint memorandum from Mayor Reed and Council Member Liccardo dated March 14, 2008 was approved, with the following modification: Direction “F” to be revised to “...to facilitate the application to demolish those buildings...”. (10-1-0. Noes: Constant.)

## 3.6 Acceptance of the following recommended actions regarding the Mexican Heritage Plaza (MHP), and Mexican Heritage Corporation (MHC), that include:

- (a) **Actions related to developing a new management future for MHP:**
  - (1) **A non-governmental agency, in conjunction with other community, philanthropy and corporate leaders, will convene and coordinate with other community organizations regarding the formation of a steering committee(s) for the purpose of the development of a Business Plan to achieve the Community Cultural Center vision proposed by the City's consultants.**
- (b) **Actions related to stabilize and transition the management of MHP so the facility continues to be accessible to serve the community:**
  - (1) **The Maintenance, Utilities and Facility Leasing Event Services function for MHP will be transitioned from MHC to the City beginning on or about April 1, 2008. This transition period will extend through June 30, 2008, with the City assuming full responsibility July 1, 2008; and**
  - (2) **That the Administration include in the FY 2008-09 Proposed Budget for City Council consideration, funding in the amount \$450,000 for maintenance and utilities and \$360,000 for facility leasing and event services for a total of \$810,000 for General Services for the purposes of providing services at MHP, partially offset by estimated event revenues of \$300,000, for a net funding amount of \$510,000. \**

- 3.6 (c) **Actions related to transitioning MHC into a new role while the non-profit stabilizes its financial situation:**
- (1) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with MHC for a term not to exceed fifteen months and compensation not to exceed \$350,000 to provide transitional funding based on benchmarks to help defray a portion of the costs associated with MHC's operating costs;**
  - (2) **Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the loan agreement and promissory note with MHC in order to incorporate a challenge grant to give MHC the opportunity to reduce the outstanding balance owed on its loan with the City, which is currently \$500,000, by two dollars for each dollar raised by MHC between April 1 and December 1, 2008 and subsequently by one dollar for each dollar raised thereafter; and**
  - (3) **That an amount not to exceed \$50,000 for the purposes of Technical Assistance to MHC be provided including requirements for the use.**
- (d) **Actions that support the Mariachi Festival occurring in 2008:**
- (1) **That an amount of \$100,000 for the marketing of the Mariachi Festival be provided to MHC for the September 2008 event, shared equally by the Redevelopment Agency and the City.**
- (e) **Adoption of the following 2007-2008 Appropriation Ordinance Amendments in the General Fund:**
- (1) **Establish the Mexican Heritage Plaza Maintenance and Operations appropriation in City-Wide Expenses to the General Services Department in the amount of \$215,000;**
  - (2) **Establish the Mexican Heritage Corporation Transition appropriation in City-Wide Expenses to the City Manager's Office in the amount of \$350,000;**
  - (3) **Establish the Mexican Heritage Corporation Technical Assistance appropriation in City-Wide Expenses to the City Manager's Office in the amount of \$50,000;**
  - (4) **Decrease the Contingency Reserve by \$665,000;**
  - (5) **Transfer to the Redevelopment Agency for the Mariachi Festival of \$50,000.**

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

**[Rules and Open Government Committee referral 3/5/08 – Item (G)(2)]**

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Campos, dated March 14, 2008, accepting Staffs' recommendation. (2) Memorandum from Chief Development Officer Paul Krutko and Budget Director Larry D. Lisenbee, dated March 10, 2008 recommending actions related to the Mexican Heritage Plaza. (3) Letter from Teresa Alvarado, Executive Director of the Hispanic Foundation of Silicon Valley encouraging community stakeholder involvement in the development of the Mexican Heritage Plaza. (4) Email from Katherine Lopez, Arizona State University Mariachi Program, offering feedback on the San José Mariachi program. (5) Letter from Teatro Vision, dated March 17, 2008, outlining a "Transformation Process for Mexican Heritage Plaza". (6) Petition from Mariachi Colima De Javier Maga, dated March 20, 2008,

### 3.6 (Cont'd.)

“Manifesto of Protest against the Manner in which the 2007 San José International Mariachi Festival was Organized and Implemented”.

Public Comments: Expressing concerns and suggestions regarding the Mexican Heritage Plaza were Rudy Garcia, Fernando Zazueta (Retired Founding Chair of MHC), Darrell Cortez, Arlene Sagun (Managing Director, San José Multicultural Artists Guild), Noe Montoya, Esther Medina, Blanca Alvarado, Fernando Lopez, Jonathan Clark, James Grishaw, Mike Bliss, Jorge Prado, Victor Garza, Elisa Alvarado, Jess Moreles, Rose Mendoza and Raul Lozano (Teatro Vision), Daniel Fenton (Team San José), Jaime Alvarado, Michael Miller, Magdalena Vasquez and Sofia Fojas. Expressing support and recommendations for the MHP were: Marcela Aviles, Maria Luisa Colmenarez, Viera Whye (Artistic Director San José Multicultural Artists Guild), Deacon Sal Alvarez (Dolores Huerta Foundation), Nora Lopez (American Indian Community), Barbara Perez-Diaz (Mariachi Youth), Dennis King (Hispanic Chamber of Commerce Silicon Valley) and Steve Mangold.

Chief Development Officer Paul Krutko, Assistant Director of Economic and Cultural Development Kim Welsh, Director Economic Development Jeff Ruster and Director of General Services Peter Jensen presented the Staff report.

Mayor Reed summarized his memorandum coauthored with Council Member Campos, dated March 14, 2008, offering recommendations for the future of the Mexican Heritage Plaza.

Action: Upon motion by Council Member Campos, seconded by Council Member Constant and carried, [Ordinance No. 28276](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Funds for the Mexican Heritage Plaza Maintenance and Operations, for the Mexican Heritage Corporation Transition, for the Mexican Heritage Corporation Technical Assistance, and for the Transfer to the Redevelopment Agency for the Mariachi Festival; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, [Resolution No. 74295](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Mexican Heritage Corporation to Provide Transitional Funding Based on Benchmarks to Help Defray a Portion of the Costs Associated with its Operating Costs for a Term Not to Exceed Fifteen Months, in an amount Not to Exceed \$350,000”, and [Resolution No. 74296](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Loan Agreement and Promissory Note with Mexican Heritage Corporation to Incorporate a Challenge Grant to Give Mexican Heritage Corporation an Opportunity to Reduce the Outstanding Balance Owed on its \$500,000 Loan with the City” were adopted as amended, with modifications made to Mayor Reed and Council Member Campos’ recommendations as follows: (1) Direction #5 amended to include the following sentence: “Staff should look for an independent convener with philanthropic experience.” (2) Direction #11 amended to specify that the non-profit operator should be engaged in the larger vision of economic and cultural development of the Alum Rock Business District

**3.6 (Cont'd.)**

along with the City and Redevelopment Agency. (3) Accelerate selection of the Steering Committee and the independent convener, with input from the public and the Community and Economic Development Committee, before a final decision is made.  
(10-1-0. Noes: Oliverio)

**• 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>
9978	Northeast corner of East Taylor Street and North 6 <sup>th</sup> Street	3	Orchard Construction	City	6 Lots / 5 Units	Single Family Attached
9979	Southeast corner of Almaden Expressway and Almaden Road	10	John and Jennifer Carson		15 Lots / 13 Units	Single Family Detached

**ADJOURNMENT**

The Council of the City of San José adjourned at 11:02 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

rmk/3-18-08MIN

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.