



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 25, 2008

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

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

Absent: Council Members - Williams. (Excused)

Upon motion unanimously adopted, Council recessed at 9:30 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (b) with respect to anticipated litigation of significant exposure (Claim Not Filed) in the one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (a) with respect to existing litigation: (1) City of San José Finance Authority, et al. v. Green Valley Corporation, et al; Names of Parties Involved: City of San José Financial Authority, City of San José, Green Valley Corporation, dba Barry Swenson Builder, and Does 1-100, Graves & Pascuzzo, Golf Course Architects and Roes 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-06-CV-064688; Amount of Money or other Relief Sought: In excess of \$25,000 according to proof. (2) U.S. Glass & Aluminum v. SJ Amoroso, et al; Names of Parties Involved: U.S. Glass & Aluminum, SJ Amoroso and City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-02-CV-809542; Amount of Money or other Relief Sought: In excess of \$25,000 according to proof. (3) City of San José v. Operating Engineers Local Union 3 and Does 1-2000; Court: Court of Appeal of the State of California, Sixth Appellate District; Case No: H030272; Amount of Money or other Relief Sought: Injunction to prevent strike/work stoppages. (C) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: Property: 1125 Coleman Avenue, San José, California, APN: 230-46-055, 230-46-060, 230-46-063; Negotiating Parties: Paul Krutko and Nanci Klein for the City of San José and Ed Storm, Deke Hunter and Keith Wolff for Coleman Airport Partners, LLC and Earthquake Soccer, LLC; Under Negotiation: The direction will concern price

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.

Closed Session (Cont'd.)

and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Organization or Name and Title of Unrepresented Employees: International Association of Firefighters, Local 230; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters, Local 230. How to obtain a copy of existing contract or MOA: web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:35 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; Reed.

Absent: Council Members - Williams. (Excused)

INVOCATION

Reverend Nancy Palmer Jones, First Unitarian Church of San José presented the Invocation. (District 3)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (10-0-1. Absent: Williams.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the month of April as National Fair Housing Month. (Housing)

Action: Mayor Reed and Director of Housing Leslye Krutko recognized the month of April 2008 as “National Fair Housing”.

**1.2 Presentation of a commendation to Richard Chavez for his excellent efforts in working within the community and inspiring thousands of farm workers to fight for their human rights. (Cortese/Liccardo/Campos)
(Rules Committee referral 3/19/08)**

Action: Mayor Reed, Vice Mayor Cortese, Council Members Liccardo and Campos recognized and commended Richard Chavez for his outstanding encouragement and inspiration to the community members 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. (10-0-1. Absent: Williams.)

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. (Deferred from 3/18/08 – Item 2.1)**

Documents Filed: (1) The Green Vision Study Session Minutes dated February 1, 2008. (2) The Regular Minutes dated February 5, 2008. (3) The Special San José Financing Authority Meeting Minutes dated February 15, 2008.

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

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28271 – Amending Title 14 of the San José Municipal Code, the Public Works and Improvements Code, to add a new Chapter 14.31 to set forth procedures for Community Benefit and Improvement Districts.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28271 executed on March 18, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28271](#) was adopted. (10-0-1. Absent: Williams.)

2.3 Acceptance of the Office of the City Auditor's Report of Activities for the Period January 16 through February 15, 2008. (City Auditor)

Documents Filed: Report of Activities for the Period January 16 through February 15, 2008 from the Office of the City Auditor.

Action: The report was accepted. (10-0-1. Absent: Williams.)

- 2.4 (a) **Adoption of a resolution:**
- (1) **Extending the San José State University (SJSU) Pilot Homebuyer Program through FY 2008-2009.**
 - (2) **Approving a new \$500,000 commitment to the SJSU Homebuyer Program in the Multi-Source Housing Fund (Fund 448).**
- (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund for FY 2007-2008.**
- (1) **Increase the SJSU Teacher Home Program appropriation by \$650,000.**
 - (2) **Increase the Estimated Earned Revenue by \$650,000.**

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

Documents Filed: Memorandum from Director of Housing Leslye Krutko and Budget Director Larry Lisenbee, dated March 3, 2008, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: [Resolution No. 74297](#), entitled: "A Resolution of the Council of the City of San José (1) Extending the San José State University Pilot Homebuyer Program through FY 2008-2009, (2) Approving a New \$500,000 Commitment to the San José State University Homebuyer Program in the Multi-Source Housing Fund"; [Ordinance No. 28279](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Multi-Source Housing Fund for the San José State University Teacher Home Program; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 74298](#), 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 Multi-Source Housing Fund", were adopted. (10-0-1. Absent: Williams.)

- 2.5 **Adoption of a resolution approving a funding commitment of up to \$100,000 to provide second mortgages of up to \$50,000 each to low- or moderate-income households for the purchase of one of the remaining two affordable units at The Works Development, located at the corner of Patterson and South Third Streets in the Spartan Keyes Strong Neighborhood Initiative Area. CEQA: Not a Project. Council District 3. SNI: Spartan Keyes. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated March 4, 2008, recommending adoption of a resolution.

Action: [Resolution No. 74299](#), entitled: "A Resolution of the Council of the City of San José Approving a Funding Commitment of Up to \$100,000 to Provide Second Mortgages of Up to \$50,000 Each to Low or Moderate Income Households for the Purchase of the Remaining Two Affordable Units at the Works Development, Located at the Corner of Patterson and South Third Streets in the Spartan Keyes Strong Neighborhood Initiative Area", was adopted. (10-0-1. Absent: Williams.)

- 2.6 Acceptance of the staff report on bids and award of the contract for the 2007-2008 Curb Ramp Improvements in Low-to-Moderate Income Areas Project (Project) to the lowest responsive bidder, JJR Construction in the amount of \$474,533, and approval of a ten percent (10%) contingency in the amount of \$47,453, for a total contract amount of \$521,986. CEQA: Exempt, File No. PP05-212. Council Districts 3 and 5. SNI: East Valley 680/Mayfair/Delmas Park/Spartan-Keyes & Five Wounds-Brookwood Terrace. (Transportation)**

Documents Filed: (1) Memorandum from Director of Transportation James Helmer, dated March 3, 2008, recommending approval of the contract. (2) Supplemental memorandum from Director of Transportation James Helmer, dated March 19, 2008, providing additional information following receipt and evaluation of bids for the curb ramps.

Action: The award of the contract for the 2007-2008 Curb Ramp Improvements in Low-to-Moderate Income Areas Project to the lowest responsive bidder, JJR Construction in the amount of \$474,533 with related contingency, was approved (10-0-1. Absent: Williams.)

- 2.7 Request for an excused absence for Council Member Chirco from the Regular Meeting of the Rules and Open Government Committee on March 5, 2008 due to illness. (Chirco)
(Rules Committee referral 3/12/08)**

Documents Filed: Memorandum from Council Member Chirco, dated March 5, 2008, requesting an excused absence due to illness.

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

- 2.8 Approval of travel by Council Member Nguyen to Little Rock, Arkansas on April 22-24, 2008 to participate in the 2008 Young Elected Officials Network National Conference. Source of Funds: The Young Elected Officials Network. (Nguyen)
(Rules Committee referral 3/12/08)**

Documents Filed: Memorandum from Council Member Nguyen, dated March 11, 2008, requesting approval of travel.

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

- 2.9 Request for an excused absence for Council Member Williams from the Closed Session meeting of the City Council on March 11, 2008 due to Authorized City Business: Attendance at the San Francisco Bay Regional Water Quality Control Board meeting in Oakland, CA to discuss Municipal Regional Stormwater NPDES permits. (Williams)
(Rules Committee referral 3/12/08)**

2.9 (Cont'd.)

Documents Filed: Memorandum from Council Member Williams, dated March 6, 2008, requesting an excused absence due to authorized City business.

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

2.10 Approval of travel by Council Member Campos to Sacramento, CA on April 17-18, 2008 to attend the League of California Cities Board of Director's Meeting. Council Member Campos is a League of California Cities Board Member. Source of Funds: Mayor/Council Travel Fund. (Campos) (Rules Committee referral 3/19/08)

Documents Filed: Memorandum from Council Member Campos, dated March 11, 2008, requesting approval of travel.

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

2.11 Request for an excused absence for Council Member Williams from the Closed Session and Regular meeting of the City Council on March 25, 2008 due to Authorized City Business: Leading San José/Okayama, Japan's Sister City delegation to Okayama, Japan for the 50th anniversary celebration of the City of San José and Okayama, Japan's Sister City Relationship. (Williams) (Rules Committee referral 3/19/08)

Documents Filed: Memorandum from Council Member Williams, dated March 17, 2008, requesting an excused absence due to authorized City business.

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

END OF CONSENT CALENDAR

COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Acceptance of the report regarding progress made towards measurable improvement in the development permit process. CEQA: Not a Project. (Planning, Building and Code Enforcement).

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 13, 2008, recommending acceptance of the report. (2) Letter from Thompson/Dorfman, dated March 24, 2008, regarding the professional process experienced during the River View development. (3) Letter from ICTV, dated March 25, 2008, thanking the City of San José for the efficient process of relocating downtown. (4) Letter from Solopower, dated March 24, 2008, regarding appreciation of the efforts and hard work by City Staff.

4.5 (Cont'd.)

Director of Planning, Building and Code Enforcement Joseph Horwedel provided a Staff report on the measurement improvement in the Development Permit Process.

City Manager Debra Figone read a few letters from residents regarding the experiences of businesses that rated the City of San José Planning, Building and Code Department excellent in the area of customer service.

Public Comments: Speaking to the great customer service of the Planning, Building and Code Enforcement were Pat Ireland (Novellus Systems, Inc.), Erik Schoennauer (for Thompson Dorfman Development), Ed Storm (Hunter/Storm), Myron Crawford (Berg & Berg), Shelley Doran (Webcor), Gerry De Young (San José Silicon Valley Chamber of Commerce), John Hansen, Debbie McDermott and Jim Sullivan (Braddock & Logan). William Garbett spoke unfavorably about the Planning Building and Code Enforcement customer service.

Mayor Reed requested the Community and Economic Development Committee Staff to report back on the status in six months.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to Council questions and comments.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Chirco and carried unanimously, the report was accepted and the Community and Economic Development Committee Staff requested to report back on the status in six months. (10-0-1. Absent: Williams.)

TRANSPORATION AND AVIATION SERVICES

- 6.4 (a) **Hold a Tax Equity and Fiscal Responsibility Act hearing for the expansion of the City's commercial paper note program from a maximum principal amount of \$450 million outstanding at any one time to a maximum principal amount of \$600 million outstanding at any one time and for the issuance as part of a plan of finance of one or more issues of commercial paper notes to finance and refinance costs of facilities and capitalized interest associated with the implementation of the Airport Master Plan at the Norman Y. Mineta San José International Airport, to refund the City's outstanding Airport Revenue Bonds, Series 2004A and Series 2004B previously issued to pay costs of such facilities and to refund or to pay debt service on other obligations of the City issued to pay such costs.**

- 6.4 (b) **Adoption of a Resolution of the Council of the City of San José amending Resolution No. 69200, as amended, to increase from \$450 million to \$600 million the maximum principal amount of commercial paper notes that may be outstanding at any one time under Resolution No 69200, as amended; and to provide for the issuance of such notes to finance and refinance project costs and capitalized interest associated with implementing the Airport Master Plan at the Norman Y. Mineta San José International Airport, to refund the City's outstanding Airport Revenue Bonds, Series 2004A and Series 2004B and to refund or to pay debt service on other obligations of the City issued to pay such costs; and Delegating to the Director of Finance and to other Officers of the City authorization to establish terms and conditions for the issuance and payment of said Notes, and to take other necessary actions and to prepare, execute and deliver the necessary documents in connection therewith.**
- (c) **Adoption of a Resolution authorizing the Director of Finance to negotiate and execute and deliver a Letter of Credit and Reimbursement Agreement with Lloyds TSB Bank plc, acting with its New York Branch, a First Amendment and Supplement to the Issuing and Paying Agent Agreement with Deutsche Bank Trust Company Americas and a Dealer Agreement with each of Citigroup Global Markets Inc., Lehman Brothers Inc. and Morgan Stanley & Co. Incorporated relating to the City's Subordinate Commercial Paper Notes for the Norman Y. Mineta San José International Airport; and other necessary documents in connection therewith; and delegating authority to the Director of Finance and to other officers of the City to establish terms and conditions relating thereto.**

CEQA: Not a Project. (Finance)

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson and Director of Aviation William Sherry, dated March 14, 2008, recommending holding a TEFRA public hearing and adoption of resolutions. (2) Supplemental memorandum from Director of Finance Scott Johnson and Director of Aviation William Sherry, dated March 21, 2008, providing two documents relating to the expansion. (3) Supplemental memorandum from Director of Finance Scott Johnson and Director of Aviation William Sherry, dated March 24, 2008, providing the letter of credit and reimbursement agreement. (4) Staff presentation on the City's variable rate bond program dated March 25, 2008.

Mayor Reed opened the TEFRA public hearing.

Director of Finance Scott Johnson presented an update on the City's variable rate bond program impacted by market disruption. Deputy Director of Finance Julia Cooper presented the mitigation alternatives to impacted variable rate debt and airport commercial paper structure.

A short discussion followed.

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

6.4 (Cont'd.)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, [Resolution No. 74300](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 69200, as Amended, To Increase from \$450,000,000 to \$600,000,000 the Maximum Principal Amount of Commercial Paper Notes that May Be Outstanding at Any One Time Under Resolution No. 69200, as Amended; and To Provide for the Issuance of Such Notes to Finance and Refinance Project Costs and Capitalized Interest Associated with Implementing the Airport Master Plan at the Norman Y. Mineta San José International Airport, Including Refunding All of the Outstanding Series 2004A and Series 2004B Bonds and to Refund or to Pay Debt Service on Other Obligations of the City Issued to Pay Such Costs; and Delegating to the Director of Finance and to Other Officers of the City Authorization to Establish Terms and Conditions for the Issuance and Payment of Said Commercial Paper Notes, to Effect the Refunding of the Series 2004A Bonds and the Series 2004B Bonds and to Take Other Necessary Actions and to Prepare, Execute and Deliver Other Necessary Documents in Connection Therewith” and [Resolution No. 74301](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate, Execute and Deliver a Letter of Credit and Reimbursement Agreement with Lloyds TSB Bank PLC, Acting through Its New York Branch, a First Amendment and Supplement to the Issuing and Paying Agent Agreement with Deutsche Bank Trust Company Americas and Dealer Agreements with Each of Citigroup Global Markets Inc., Lehman Brothers Inc. and Morgan Stanley & Co. Incorporated Relating to the City’s Subordinated Commercial Paper Notes for the Norman Y. Mineta San José International Airport and Other Necessary Documents in Connection Therewith; and Delegating Authority to the Director of Finance and to Other Officers of the City to Establish Terms and Conditions Relating Thereto”, were adopted. (10-0-1. Absent: Williams.)

STRATEGIC SUPPORT SERVICES

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

Action: City Manager Debra Figone reported that the City of San José received \$11 Million from the State (voter approved Proposition 1B funding) to be used towards City street resurfacing.

3.2 Report of the Rules and Open Government Committee Mayor Reed, Chair

(a) Report of the Rules and Open Government Committee of March 12, 2008

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

- 3.4 (a) **Accept Report on potential conflict issues arising from overlapping executives and directors of Team San José and the San José Convention and Visitors Bureau.**
- (b) **Direct the administration and the Attorney's Office to negotiate contracts with each corporation that have clearly stated purposes and performance measures and that their separate funding sources not be commingled or used in a way that conflicted with the City goals for each.**
- (City Attorney's Office)

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

- 3.5 **As recommended by the Elections Commission , approval of an ordinance amending Section 12.06.050 of Chapter 12.06 of Title 12 of the San José Municipal Code (Campaign Contribution Ordinance) to provide that compensation in any amount by an employer to an employee who spends any compensated time rendering services for political purposes is a contribution or an expenditure if service is rendered at the request, direction, or with the consent of the employer and amending Section 12.06.250 to provide that except to the extent that Chapter 12.06 limits contributions by business entities, the provisions of the Political Reform Act shall apply. (City Attorney's Office)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated March 13, 2008, recommending approval of an ordinance. (2) Supplemental memorandum from City Attorney Richard Doyle, dated March 19, 2008, providing a revised draft ordinance, replacing the previously distributed draft ordinance.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Cortese and carried unanimously, [Ordinance No. 28280](#), entitled: “An Ordinance of the City of San José Amending Section 12.06.050 of Chapter 12.06.050 of Chapter 12.06 of Title 12 of the San José Municipal Code to Provide that Compensation in any Amount by an Employer to an Employee Who Spends any of His or Her Compensated Time Rendering Services for Political Purposes is a Contribution or an Expenditure if Personal Service is Rendered at the Request, Direction or with the Consent of the Employer; and Amending Section 12.06.250 to Provide that Except to the Extent that Chapter 12.06 Defines and Limits Contributions by Business Entities, the Provisions of the Political Reform Act Shall Apply”, was passed for publication. (10-0-1. Absent: Williams.)

- 3.6 **Acceptance of the 2007 Community Survey Report. CEQA: Not a Project. (City Manager's Office)**

Action: Deferred to April 8, 2008 per Administration.

- 3.7 **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 elected City officials in accordance with the deadlines for campaign statements. (City Attorney's Office/City Clerk)**
(Deferred from 3/18/08 – Item 3.4)

3.7 (Cont'd.)

Documents Filed: (1) Memorandum from City Attorney Richard Doyle and City Clerk Lee Price, dated March 4, 2008, recommending approval of an ordinance. (2) Supplemental memorandum from City Attorney Richard Doyle, dated March 19, 2008, providing a revised draft ordinance.

Chief Deputy City Attorney Norman Sato and City Clerk Lee Price responded to Council questions about the merits of filing quarterly disclosure reports.

Action: Upon motion by Council Member Chirco, seconded by Council Member Liccardo and carried unanimously [Ordinance No. 28281](#), entitled: "An Ordinance of the City of San José Amending 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 Elected Officials on a Quarterly Basis", was passed for publication. (10-0-1. Absent: Williams.)

3.8 (a) **Report on Request for Proposal (RFP) for Security Guard services for the Departments of General Services, Transportation, Parks Recreation and Neighborhood Services, Aviation, and Office of Economic Development (Work2Future) and 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 \$1,932,500.**
- (2) **Execute amendments to the agreement to add and delete guard services as required subject to appropriation of funds.**
- (3) **Exercise four one-year options to renew the agreement subject to annual appropriation of funds.**

CEQA: Not a Project. (Finance)
(Deferred from 3/18/08 – Item 3.7)

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated February 25, 2008, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Finance Scott Johnson, dated March 19, 2008, removing references in the original memorandum regarding the security services for the Water Pollution Control Plant.

Director of Parks, Recreation and Neighborhood Services Albert Balagso responded to Council questions.

Public Comments: William Garbett objected to the Staff recommendations.

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously, [Resolution No. 74302](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with First Alarm & Patrol, Inc., for Security Guard Services for Five City Departments", was adopted. (9-0-2. Absent: Cortese, Williams.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 Conduct a Public Hearing on the draft Consolidated Plan Annual Action Plan for FY 2008-2009, which is required by the Department of Housing and Urban Development in order to receive federal Housing and Community Development Funding, and announce that as of March 25, 2008, the draft Action Plan is available to the public for thirty-days for review and comment. CEQA: Not a Project. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Leslye Krutko, dated March 3, 2008, recommending conducting a public hearing on the draft Consolidated Plan Annual Action Plan for Fiscal Year 2008-2009. (2) Letter from the Minority Senior Service Providers Consortium, dated March 25, 2008, regarding an addendum to an Appeal Request letter submitted on March 12, 2008. (3) Letter from Vietnamese Voluntary Foundation, Inc, dated March 21, 2008, submitting an appeal letter to request review and reconsideration of the decision not to fund their agency's three proposals for Fiscal Year 2008-2009.

Mayor Reed opened the public hearing.

Director of Housing Leslye Krutko provided a brief overview of the draft Consolidated Plan Annual Action Plan for Fiscal Year 2008-2009 and responded to Council questions.

Public Comments: Speaking to the Consolidated Plan Annual Action Plan for Fiscal Year 2008-2009 were Vicky Machado (Minority Senior Service Providers Consortium), Maira Segovia, Jo Anderson, Jeff Bornefeld (California Community Partners for Youth), Mylinh Pham and Diem Ngo (Vietnamese Voluntary Foundation, Inc).

Council discussion followed.

Council Member Chu disclosed that he served on the Vietnamese Voluntary Foundation, Inc.

Mayor Reed closed the public hearing. No further Council action required.

Council Member Constant left the meeting at 3:45 p.m.

- 4.3 Consideration of an ordinance amending Chapter 20.100 of Title 20 (Zoning Ordinance) and Chapter 23.02 of Title 23 (Sign Ordinance) of the San José Municipal Code to provide for a development permit adjustment for minor work requiring Historic Preservation Permit Adjustments at City Landmark and Historic District sites and structures. CEQA: Not a Project. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). (Planning, Building and Code Enforcement)**

4.3 (Cont'd.)

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated March 3, 2008, transmitting the Planning Commission recommendation. (2) Proof of Publication of Notice of Public Hearing, executed on February 15, 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.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, [Ordinance No. 28282](#), entitled: "An Ordinance of the City of San José Amending Section 20.100.500 of Chapter 20.100 of Title 20 of the San José Municipal Code (Zoning Ordinance) and Section 23.02.1300 of Chapter 23.02 of Title 23 of the San José Municipal Code (Sign Ordinance) To Provide for a Development Permit Adjustment Exception for City Landmark Properties that Require Historic Preservation Permit Adjustments", was passed for publication. (9-0-2. Absent: Constant, Williams.)

4.4 (a) **Adoption of a resolution superseding Resolution No. 71324 setting the new Fee Schedule for Tow Services agreements to be effective April 1, 2008, providing as follows:**

- (1) **The City of San José Tow Service charges will not exceed the maximum rates allowed under the 2007-2008 State of California Department of Highway Patrol Tow Services Agreement for the Golden Gate Region - San José Office of \$140 for Basic Tow Services and \$40 for Vehicle Storage.**
- (2) **The contractual rates of compensation to the City will be:**
 - (a) **\$60.00 per tow**
 - (b) **\$6.00 per dispatch.**
- (b) **Adoption of a resolution amending City Council Policy No. 9-08 setting forth revised criteria for the setting of future tow rates to provide that the City of San José Tow Service charges will not exceed the maximum annual rates set by the State of California Department of Highway Patrol Tow Services Agreement for the Golden Gate Region - San José Office.**

CEQA: Not a Project. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 12, 2008, recommending adoption of resolutions. (2) Email from Motor Body Company, dated March 19, 2008, regarding the new fee schedule for tow service agreements.

Motion: Council Member Oliverio moved approval of the Staff recommendations. Council Member Pyle seconded the motion.

Public Comments: Speaking in favor of the Staff recommendations were Stan Alongi (Motor Body Company) and Leo Sia (Delta Tow).

4.4 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, [Resolution No. 74303](#), entitled: “A Resolution of the Council of the City of San José Adopting a Fee Schedule for Tow Service Agreements” and [Resolution No. 74304](#), entitled: “A Resolution of the Council of the City of San José Approving Amendments to Council Policy No. 9-08, Rate Review Process for Tow Car Services”, were adopted. (9-0-2. Absent: Constant, Williams.)

NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – March 10, 2008 Council Member Chirco, Chair

Documents Filed: The Neighborhood Services and Education Committee Report dated March 10, 2008.

Action: Upon motion by Council Member Chirco, seconded by Council Member Oliverio and carried unanimously, the Neighborhood Services and Education Committee Report and the actions of March 10, 2008 were accepted. (9-0-2. Absent: Constant, Williams.)

TRANSPORTATION & AVIATION SERVICES

6.2 Adoption of a resolution authorizing the City Manager to apply for, accept, and execute any necessary documents upon receipt, grants from the Federal Aviation Administration in an amount not to exceed \$14.0 million to be used to partially defray the total estimated costs of \$17.3 million for the South Apron Replacement – Design and South Apron Replacement - Phase 1 Construction Projects at the Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, File No. PP08-029. (Airport)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated March 3, 2008, recommending adoption of a resolution.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74305](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the Federal Aviation Administration for a Grant to Partially Defray the Total Estimated Costs of \$17.3 Million for the South Apron Replacement - Design and South Apron Replacement - Phase 1 Construction Projects at the Norman Y. Mineta San José International Airport in an Amount Not To Exceed \$14 Million, To Accept the Grant if Awarded and to Execute All Related Documents”, was adopted. (9-0-2. Absent: Constant, Williams.)

- 6.3 Adoption of a resolution authorizing the Director of Finance to execute the fourth amendment to the Agreement for the Lease and Maintenance of Airport Shuttle Buses with Penske Truck Leasing Co., L.P. to extend the term of the lease for an additional three month period, from April 1, 2008 to June 30, 2008, increasing total compensation by \$350,000 from \$16,497,145 to a not to exceed amount of \$16,847,145. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 3, 2008, recommending adoption of a resolution.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74306](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute a Fourth Amendment to the Agreement with Penske Truck Leasing Company, L.P. for Lease and Maintenance of Airport Shuttle Buses", was adopted. (9-0-2. Absent: Constant, Williams.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Approval of consultant master agreements with the following firms for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant for a term commencing upon approval of the agreement and continuing through June 30, 2013 and for the amounts stated below, and providing the City with options to amend the agreements to increase the amounts payable in such amounts as may be approved by Council:**
- (1) Black & Veatch in an amount not to exceed \$1 million.**
 - (2) Brown and Caldwell in an amount not to exceed \$5 million.**
 - (3) Carollo Engineers in an amount not to exceed \$1 million.**
 - (4) CH2M HILL in an amount not to exceed \$1 million.**
 - (5) Metcalf & Eddy in an amount not to exceed \$1 million.**

CEQA: Not a Project. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated March 3, 2008, recommending approval of consultant master agreements. (2) Letter from the Treatment Plant Advisory Committee, dated March 25, 2008, stating concurrence with the Staff recommendation.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, the consultant master agreements with the firms as listed above for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant for a term commencing upon approval of the agreement and continuing through June 30, 2013, were approved. (9-0-2. Absent: Constant, Williams.)

PUBLIC SAFETY SERVICES

- 8.1 Report on bids and award of a design-build contract for the Police Administration Building and Police Communications Building Telecom Cabling Upgrades to the low bidder, SASCO Data Corporation, for the base bid and an Add Alternate in the total amount of \$1,383,797, and approval of a contingency in the amount of \$210,000. CEQA: Exempt, File No. PP07-275. (Public Works/Police/Fire)**

Documents Filed: Memorandum from Police Chief Robert Davis, Fire Chief Darryl Von Raesfeld and Director of Public Works Katy Allen, dated March 3, 2008, recommending approval of a design build contract.

Public Comments: William Garbett objected to the Staff recommendations.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the design build contract for the Police Administration Building and Police Communications Building Telecom Cabling Upgrades to the low bidder, SASCO Data Corporation, for the base bid and an Add Alternate in the total amount of \$1,383,797 with related contingency, was approved. (9-0-2. Absent: Constant, Williams.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.6 As recommended by the Rules and Open Government Committee of March 19, 2008, and as outlined in the memo previously submitted to and approved by the Rules and Open Government Committee:**

- (a) **Adoption of a resolution amending Council Policy 9-3, which allows for private parties to fund the construction and installation of Community Signs, to create a streamlined process to permit the prompt installation of temporary Community Signs where the Council has previously made an explicit finding that a particular identifying name has “widespread support” in a relevant community. Any temporary signs will be required to comply with safety and other regulatory requirements imposed by the Department of Planning, Building and Code Enforcement, within their authority under the Sign Ordinance. Such temporary Community Signs will not be permitted to stand longer than 3 years, unless the sign complies with provisions for permanent Community Signs in Council Policy 9-3.**
- (b) **In light of the City Council’s March 4, 2008 findings that the name “Little Saigon” has widespread support in the Vietnamese-American community, the City Manager will allow for private individuals to fund, construct, and install – relying wholly on private funds – a temporary Community Sign(s) bearing the name “Little Saigon” at or near the intersection of Story and McLaughlin Roads in accordance with Council Policy 9-3.**
- (1) **That sign or banner will not remain within or over the public right-of-way for a duration of greater than 3 years, and must comply with all reasonable safety and other regulatory requirements imposed by the Department of Planning, Building and Code Enforcement, within their authority under the Sign Ordinance.**

- 4.6 (b) (2) **Planning Staff will process whatever application is presented by private individuals seeking to construct a permanent Community Sign, in accordance with existing procedures in Council Policy 9-3.**
- (c) **In the meantime, City Staff will:**
- (1) **Conduct required outreach under Council Policy 9-3 and the Sign Ordinance for the permanent installation of such a Community Sign at or near that location; and,**
 - (2) **Continue its work in creating and implementing a process to enable communities to identify and designate a particular district, consistent with the Council's March 4, 2008 direction.**

(Mayor/Cortese/Liccardo/Nguyen)

[Rules Committee referral 3/19/08 – Item (G)(1)]

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated March 20, 2008, transmitting the recommendations of the Rules and Open Government Committee. (2) Twelve comment cards submitted from members of the public on March 25, 2008. (3) Two letters, dated March 11, 2008 and March 14, 2008, from members of the public, regarding naming the business retail area on Story Road “Little Saigon”.

Mayor Reed outlined the memorandum as recommended by the Rules and Open Government Committee on March 19, 2008.

Motion: Council Member Nguyen moved approval of the memorandum she cosigned with Mayor Reed, Vice Mayor Cortese and Council Member Liccardo, dated March 13, 2008, and submitted to the Rules and Open Government Committee on March 19, 2008. Council Member Pyle seconded the motion.

Public Comments: Approximately forty seven speakers testified in support/opposition/or neutral position to naming the business retail area “Little Saigon Business District”, including (but not limited to) the following:

Note: Some speakers either did not identify themselves or their names were not clearly stated for the record and are not in any particular order.

Phu Le, Daley Nguyen, Tam Duong, Cuc Nguyen, Van Le, Thuan Vu D. Ho, Hanh Tran, Christine Ho, Dem Nguyen, Bernard Huong, Susie Hoang, Cuong Vu, Doan Tran, Kim Trang Nguyen, Le My Phuong, Tinh Cao, Ly Tony, Que Phan, Van Phan, Anthony Phan, Minh Nguyen, Le Tam, Tim Nguyen, Christine Nguyen, Paul Nguyen, Do Du, Minh Pham, Bryan Cong (Little Saigon Business Association), Thu Mai, Tu Nguyen, Carolyn Nguyen, Kristine Le, Juliana Dam, Duhg Le, Henry Pham, Tiep Ngo, Luu Phoung Nguyen, Chan Do, Raymond Nguyen, Ruong Nguyen, Huy Ngo, Que Do, Steven Do, Coung Dang, Luong Do, Quy Truong and Le Liem.

City Attorney Richard Doyle and Director of Planning, Building and Code Enforcement Joseph Horwedel responded to Council questions and comments.

Substitute Motion: Council Member Chu moved approval to make the sign permanent for “Little Saigon”. The motion failed for lack of a second.

4.6 (Cont'd.)

Vice Mayor Cortese noted that the intent is to allow temporary signs to be installed immediately and permanent signs will be installed as soon as the Planning Department has processed the permits and the community has raised the money needed to pay for the signage.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 74308](#), entitled: “A Resolution of the Council of the City of San José Approving Amendments to Council Policy No. 9-03, Community Identification Signs and Architectural Gateway Monuments”, was adopted and the direction as indicated previously on Pages 16-17, Items 4.6(b)-(c), were approved. (9-0-2. Absent: Constant, Williams.)

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>
9968	South side of Rose Avenue, 120 feet east of Nancy Lane	5	Capital Towne House Cooperative, Inc.	8 Lots / 82 Units	Apartment Conversion to Condos	Approve

OPEN FORUM

- (1) Mark Trout expressed religious viewpoints and concerns regarding the medical health of veterans.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:48 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk
smd/3-25-08 MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/clerk/agenda.asp> or <http://www.sanjoseca.gov/clerk/MeetingArchive.asp>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 3:59 p.m. to consider Item 8.1 in a Joint Session.

- 8.1 (a) **Approval by the Redevelopment Agency Board of an amendment to the Owner Participation Agreement with Pacific Properties III, to provide additional Agency assistance in the amount of \$100,000 for total Agency assistance under the Owner Participation Agreement not to exceed \$3,100,000, for work to be performed by PG&E to improve electrical service for the St. Claire building and for City-owned streetlights in the SoFA District.**
- (b) **Adoption of a resolution by the City Council making certain findings required under Health and Safety Code Section 33445.**
CEQA: Exempt, File No. PP07-115. [MERGED]

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated March 13, 2008, recommending approval of the agreement and adoption of a Council resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, an amendment to the Owner Participation Agreement with Pacific Properties III, to provide additional Agency assistance in the amount of \$100,000 for total Agency assistance under the Owner Participation Agreement not to exceed \$3,100,000, for work to be performed by PG&E to improve electrical service for the St. Claire building and for City-owned streetlights in the SoFA District was approved and [Resolution No. 74307](#) was adopted. (9-0-2. Absent: Constant, Williams.)

The Council of the City of San José and Redevelopment Agency Board was adjourned at 4:00 p.m.