

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, APRIL 10, 2007

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, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Council District 4.

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 (a) with respect to existing litigation to consider the case of: (1) In Re Brown; (2) In Re Daly; (3) In Re McGibben; (4) Allen, et al. v. City of San José, et al.

By unanimous consent, Council recessed from the Closed Session at 10:45 a.m. and reconvened at 1:32 p.m. in the Council Chambers

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

Absent: Council Members - None.

Vacant: - Council District 4.

INVOCATION

Council Member Campos recognized Steven Chau, winner of East Side Union High School District's "César Chavez Writing Contest". (District 4)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.2 deferred to April 17, 2006. (10-0.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action of March 27, 2007:

A. Potential Litigation – Settlements Authorized:

Case Name: City of San José v. Norcal Waste Systems

Substance of Settlement: Approval of settlement of potential lawsuit. Norcal Waste Systems to pay \$129,126; Payment to be made by City deducting from monthly compensation payable to Norcal; Norcal to make available its yard on Rogers Avenue and certain equipment for July 1 through September 30, 2007, to assist in the Recycle Plus transition.

Council Vote: Ayes: Campos, Chirco, Constant, Cortese, Liccardo, Pyle, Williams; Reed.

Noes: Nguyen.
Disqualified: None.
Absent: None.
Vacant: Districts 4 and 6.

CEREMONIAL ITEMS

- 1.5 Presentation on new City Hall Falcon Cam and update on City Hall peregrine falcons. (Mayor/City Manager's Office)**
Heard First.
(Rules Committee referral 4/4/07)

Action: Mayor Reed and Director of General Services Peter Jensen presented an update on the City Hall Peregrine Falcons and the new Falcon Cam on their nest.

- 1.1 Presentation of a commendation to the Airport Master Plan Team for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/ Mayor)**

Action: Mayor Reed and City Manager Les White recognized and commended the Airport Master Plan Team for their dedication and important contributions to San José.

1.2 Presentation of a proclamation declaring Saturday, April 21, 2007 John Muir Day in the City of San José in appreciation of the importance that nature, wilderness, and the environment have on our quality of life. (Constant/Campos)

Action: Mayor Reed, and Council Members Constant and Campos recognized the 3rd Grade Class of John Muir Elementary School and declared April 21, 2007 as “John Muir Day” in the City of San José.

1.3 Presentation of a commendation recognizing ABL Properties for exemplary service and support to residents affected by the Branham House Apartments fire that occurred on March 8, 2007. (Housing)

Action: Deferred to April 17, 2007, per Administration.

1.4 Presentation of a proclamation declaring the week of April 8 – 14, 2007 National Public Safety Dispatchers Week. (Mayor/Cortese/Constant/Liccardo) (Rules Committee referral 3/28/07)

Action: Mayor Reed, Vice Mayor Cortese and Council Members Constant and Liccardo recognized and commended the Police and Public Safety Officers and declared the week of April 8-14, 2007 as “National Public Safety Dispatchers Week” in the City of San José.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Campos, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated, with Item 3.2 deferred to April 17, 2007. (10-0.)

- 2.1 Approval of City Council Study Session Minutes:**
- (a) Evergreen – East Hills Vision Strategy of October 20, 2006**
 - (b) San José 2020 General Plan of October 27, 2006**
 - (c) Facility Re-use Strategy of December 8, 2006**
 - (d) Solar and Energy Issues of January 25, 2007**
- [Deferred from 4/3/07 – Item 3.1(a)-(d)]**

Documents Filed: (1) Evergreen – East Hills Vision Strategy Study Session Minutes dated October 20, 2006. (2) San José 2020 General Plan Study Session Minutes dated October 27, 2006. (3) Facility Re-use Strategy Study Session Minutes dated December 8, 2006. (4) Solar and Energy Issues Study Session Minutes dated January 25, 2007.

Action: The City Council Study Session minutes were approved. (10-0.)

- 2.2 (a) **ORD. NO. 28006** – Amending Part 3 of Chapter 25.08 of Title 25 of the San José Municipal Code by adding a new section 25.08.360 entitled “Operation Without an Agreement” to establish minimum requirements for the operation at and use of the Normal Y. Mineta San José International Airport by any passenger or cargo airlines that have not signed either a signatory or non-signatory airline-airport lease and operating agreement on or after July 1, 2007.

Documents Filed: Proof of Publication of the title of Ordinance No. 28006 executed on April 3, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28006](#) was adopted. (10-0.)

- 2.3 **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with CSDC System, Incorporated for technical consulting services for Integrated Development Tracking System (IDTS) system programming in the amount of \$159,000 for the term May 1, 2007 to March 31, 2008. CEQA: Not a Project. (Planning, Building and Code Enforcement)**
(Deferred from 2/27/07 – Item 2.18, 3/20/07 – Item 2.3 and 3/27/07 – Item 2.3)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 21, 2007, recommending adoption of a resolution.

Council Member Oliverio pulled Item 2.3 for comment.

Action: Upon motion by Council Member Constant, seconded by Council Member Williams and carried unanimously, [Resolution No. 73719](#) was adopted. (9-0-1. Absent: Cortese.)

- 2.4 **Approval of a second amendment and continuation agreement to the Concession Agreement between the City of San José and Smarte Carte, Inc. for the installation, operation and maintenance of self service cart vending units at Terminals A, C and the Federal Inspection Services Building to continue and extend the term from February 11, 2007 to December 31, 2007, with annual revenue to the City of approximately \$28,000, subject to earlier termination as provided in the Agreement. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-005. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated March 21, 2007, recommending approval of a second amendment and continuation agreement to the Concession Agreement.

Action: The second amendment and continuation agreement to the Concession Agreement between the City of San José and Smarte Carte, Inc. was approved. (10-0.)

- 2.5 (a) **Approval of a first amendment and continuation agreement to the Small Concession Agreement between the City of San José and Bank of the West for the installation, operation and maintenance of Automated Teller Machines in Terminals A and C at the Norman Y. Mineta San José International Airport to continue and extend the term from February 1, 2007 to December 31, 2007, with annual revenue to the City of approximately \$23,400, subject to earlier termination as provided in the Agreement.**
- (b) **Approval of a first amendment and continuation agreement to the Small Concession Agreement between the City of San José and Bank of the West for the installation, operation and maintenance of Automated Teller Machines in the Federal Inspection Services Building at the Norman Y. Mineta San José International Airport to continue and extend the term from February 1, 2007 to December 31, 2007, with annual revenue to the City of approximately \$15,600, subject to earlier termination as provided in the Agreement.**

CEQA: Resolution Nos. 67380 and 71451, File No. PP07-004. (Airport)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated March 21, 2007, recommending approval of a first amendment and continuation agreement to the small concession agreements.

Action: The first amendments and continuation agreements to the two small concession agreements between the City of San José and Bank of the West, were approved. (10-0.)

- 2.6 **Acceptance of the Office of the City Auditor's Report of Activities for the Period February 16 through March 15, 2007. (City Auditor)
(Rules Committee referral 3/28/07)**

Documents Filed: The Report of Activities for the Period February 16 through March 15, 2007, from the Office of the City Auditor.

Action: The Report of Activities for the Period February 16 through March 15, 2007, from the Office of the City Auditor was accepted. (10-0.)

- 2.7 **Adoption of a resolution declaring the results of the March 6, 2007 Special Election for council District 4, pursuant to Elections Code Section 15400. (City Clerk)
(Rules Committee referral 3/28/07)**

Documents Filed: Memorandum from City Clerk Lee Price, dated March 28, 2007, recommending adoption of a resolution.

2.7 (Cont'd.)

Action: [Resolution No. 73720](#), entitled: "A Resolution of the Council of the City of San José Reciting that a Special Runoff Election was Held in the City of San José on Tuesday, March 6, 2007; Stating the Office to be Filled at the Election; Finding and Declaring that the Registrar of Voters of the County of Santa Clara has Canvassed the Returns of the Election, and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast, the Names of the Persons Voted For, the Number of Votes Given at Each Precinct to Each Person; Finding and Declaring that Kansen Chu and Hon Lien Received the Highest Number of Votes of the Votes Cast in District 4", was adopted. (10-0.)

2.8 Adoption of a resolution adopting the Association of Bay Area Governments multi-jurisdictional report, "Taming Natural Disasters," as the City of San José's local hazard mitigation plan. CEQA: Resolution No. 65459. (Emergency Services)

Documents Filed: Memorandum from Director of Office of Emergency Services Kimberly Shunk, dated March 21, 2007, recommending adoption of a resolution and transmitting the Association of Bay Area Governments Multi-Jurisdictional Report, "Taming Natural Disasters".

Action: [Resolution No. 73721](#), entitled: "A Resolution of the Council of the City of San José Adopting the Association of Bay Area Governments Multi-Jurisdictional Report, "Taming Natural Disasters" as the City's Local Hazard Mitigation Plan", was adopted. (10-0.)

2.9 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #20 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's Memorandum to Council for specific CEQA clearance determinations on each recommended action. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 21, 2007, recommending approval of the open purchase orders for FY 2006-2007 #20.

Action: The open purchase orders for FY 2006-2007 #20, was approved. (10-0.)

2.10 Reject all proposals that were in response to RFP # 05-06-07, Consolidated Storage and File Server Solution for City Hall, and authorize the Director of Finance to re-solicit proposals. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 21, 2007, recommending rejection of all proposals and authorization for the Director of Finance to re-solicit proposals.

2.10 (Cont'd.)

Public Comment: Eric Hoffman (Cufis Technologies) spoke in opposition of the staff recommendation.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the rejection of all proposals and authorization for the Director of Finance to re-solicit proposals, was approved. (10-0.)

2.11 Adoption of a resolution authorizing the Director of Finance to:

- (a) **Execute an agreement with The Active Network Inc. in an amount not to exceed \$253,398 for the purchase and installation of an Integrated Cashiering System, including software, hardware, professional services, five years of maintenance and support, shipping, and applicable sales taxes.**
- (b) **Execute change orders not to exceed a 15% contingency amount of \$38,010 to cover unanticipated changes or requirements related to the design, implementation, maintenance and support of the system over a five-year period.**

CEQA: Not a Project. (Finance)

Action: Deferred to April 17, 2007, per Administration.

2.12 Adoption of a resolution nominating a portion of the Spartan Keys SNI Area for designation as the Martha Gardens Conservation Area and directing the Department of Planning, Building and Code Enforcement to initiate the required process and proceedings to establish the Conservation Area, including necessary outreach to community members and property owners. CEQA: Exempt under the provisions of Section 15307 of the State Guidelines for Implementation of the California Environmental Quality Act. Council District 3. SNI: Spartan Keys. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 26, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73722](#) was adopted. (10-0.)

2.13 Adoption of a resolution authorizing the City Manager to execute an agreement with the Commission on Peace Officer Standards and Training (P.O.S.T.) related to components of the previously approved P.O.S.T.-reimbursed training program for peace officers in Santa Clara County for the term of July 1, 2006 to June 30, 2007 in an amount not to exceed \$158,000. CEQA: Not a Project. (Police)

Documents Filed: Memorandum from Police Chief Robert Davis, dated March 21, 2007, recommending adoption of a resolution.

2.13 (Cont'd.)

Action: [Resolution No. 73723](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with the Commission on Peace Officer Standards and Training (P.O.S.T.) for Reimbursement to the City of P.O.S.T. Training in an Amount Not to Exceed \$158,000", was adopted. (10-0.)

2.14 Adoption of a resolution authorizing the Director of Finance to:

- (a) **Negotiate and execute an amendment to the consulting services agreement with CedarCrestone, Inc., increasing the amount of total compensation by \$299,200 from \$1,245,516 for a total amount not to exceed \$1,544,716, to assist in the implementation of the PeopleSoft Recruiting System.**
- (b) **Negotiate and execute change orders not to exceed a 10% contingency amount of \$30,000 to cover unanticipated changes or requirements related to the design and implementation of the project.**

**CEQA: Not a Project. (Human Resources/Finance)
(Deferred from 3/27/07 – Item 2.9)**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated March 7, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73724](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Amendment to the Agreement with CedarCrestone, Inc. for the Implementation of the Peoplesoft Recruiting System", was adopted. (10-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – March 14, 2007 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated March 14, 2007.

- (a) City Council
 - (1) Review New Add Items to March 20, 2007 Agenda

The Committee approved the March 20, 2007 City Council Agenda with six additions.

- (2) Review March 27, 2007 Draft Agenda

The Committee approved the March 27, 2007 Draft City Council Agenda with two additions.

**3.1 Report of the Rules and Open Government Committee – March 14, 2007 (Cont'd.)
Mayor Reed, Chair**

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

(c) Legislative Update

(1) State

(2) Federal

There were none.

(d) Meeting Schedules

(1) Setting Hearing for spring 2007 for General Plan Amendments and Initiating the Reestablishment of a fall Annual Review of the General Plan.

Deferred to March 21, 2007.

(e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated March 9, 2007, transmitting items for the Public Record for the period of March 3-8, 2007.

The Committee noted and filed the Public Record.

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

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Request to consider waiving the closed session privilege and the release of all documents regarding recent negotiation with the San José Police Officer's Association and International Association of Fire Fighters Local 230. Attachment: Memorandum from Vice Mayor Cortese, dated March 1, 2007, recommending discussion and to agendize for Council discussion/action.

(Deferred from 3/7/07)

The Committee deferred this item until the Sunshine Reform Task Force concludes its work in this area and brings recommendations to the Rules and Open Government Committee in mid April.

(2) Response to the Report of the Government Reforms & Ethics Subcommittee of the Mayor's Transition Committee. Attachment: Memorandum from City Attorney Richard Doyle, dated March 9, 2007, transmitting the report.

(Continued from 3/7/07)

**3.1 Report of the Rules and Open Government Committee – March 14, 2007 (Cont'd.)
Mayor Reed, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
(2) Response to the Report of the Government Reforms & Ethics Subcommittee of the Mayor's Transition Committee.

The Committee agreed to forward to the City Council on 4/3/07, a proposal to consider amendments to the Ethics Ordinances that would: (1) Extend to two years the "revolving door" policy. (2) Ban and require disclosure of success and/or contingency fees. (3) Decrease the lobbyist threshold for registering from 20 hours per quarter to 10 hours per year. (4) Create an exemption for 501(c)(3) nonprofits. (5) Modify the reporting form to include more income ranges. (6) Create a category for small business owners. The proposal relating to cost benefit analyses was referred to 4/3/07 City Council Meeting, also.
See Council action taken on 4/3/07, Item 9.1.

- (3) (a) Request to Add to City Auditor's 2006-07 Work Plan: Review Fee payments by City's Franchised Haulers.
(b) Response to Environmental Services request to add to City Auditor's 2006-07 Work Plan.

Deferred to March 21, 2007.

- (4) Address Council Member Cortese's Concerns regarding Consolidated Water Utility Fund Audit.

Dropped.

- (h) Review of Council Committee Agendas - There were none.
(i) Open Government Initiatives - There were none.
(j) Open Forum - None were presented.
(k) Adjournment - The meeting was adjourned at 3:54 p.m.
(Deferred from 4/3/07 – Item 3.2)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, the Rules and Open Government Committee Report and the actions of March 14, 2007, were accepted. (10-0.)

3.2 Report of the Rules and Open Government Committee – March 21, 2007 Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to March 27, 2007 Agenda
 - (2) Review April 3, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Acceptance of the March 2007 State Legislative Bill Matrix.
 - (2) Federal
 - (a) National League of Cities Congressional Conference Summary Report (verbal).
- (d) Meeting Schedules
 - (1) Setting Hearing for spring 2007 for General Plan Amendments and Initiating the Reestablishment of a fall Annual Review of the General Plan.
Deferred from March 14, 2007
 - (2) Request to set study session for the Evergreen*East Hills Vision Strategy for Monday, April 30, 2007, 1-4 p.m.
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Appointment to the Airport Noise Advisory Committee. (Airport)
 - (2) Council Committee Appointments.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) (a) Request to Add to City Auditor's 2006-07 Workplan: Review Fee Payments by City's Franchised Haulers.
 - (b) Response to Environmental Services request to add to City Auditor's 2006-07 Workplan.
(Deferred from 3/14/07)
- (h) Review of Council Committee Agendas
- (i) Open Government Initiatives
- (j) Open Forum
- (k) Adjournment

Action: Deferred to April 17, 2007, per Mayor, under Orders of the Day.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – March 26, 2007 Council Member Pyle, Chair

Documents Filed: The Community and Economic Development Committee dated March 26, 2007.

- (a) Modifications to Committee Work Plan.

The Committee accepted the modifications.

**4.1 Report of the Community & Economic Development Committee – March 26, 2007
Council Member Pyle, Chair (Cont'd.)**

- (b) Update on Council Directives and Performance Measures Review. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated March 13, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (c) Economic Impact of Downtown Events. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated February 9, 2007, recommending acceptance of the report.
(Deferred from 2/26/07)

The Committee accepted the Staff Report. See Item 4.2 for Council action taken.

- (d) Development Process Review and Fee Adjustments. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 12, 2007 recommending acceptance of the report.

The Committee accepted the Staff Report.

- (e) Airport Update and Height Restrictions - This item was dropped.
- (f) Oral Petitions - None were presented.
- (g) Adjournment - The meeting was adjourned at 3:15 p.m.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the Community and Economic Development Committee Report and the actions of March 26, 2007, were accepted. (10-0.)

4.2 Acceptance of the staff report regarding:

- (a) **Measuring economic and fiscal impact of 6 cultural and sporting events: San José Grand Prix, San José Jazz Festival, ZeroOne San José, San José International Mariachi Festival, Tapestry and Talent Festival and the Rock and Roll ½ Marathon; and**
- (b) **An economic impact methodology to be used to project the economic benefit of future events and to measure the actual economic impact post event.**

(Economic Development)

[Community & Economic Development Committee referral 3/26/07 - Item (c)]

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated March 29, 2007, recommending acceptance of the report.

Director Office of Economic Development Paul Krutko summarized the report measuring the economic and fiscal impact of cultural and sporting events and responded to Council questions.

4.2 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the staff report measuring economic and fiscal impact of 6 cultural and sporting events: San José Grand Prix, San José Jazz Festival, ZeroOne San José, San José International Mariachi Festival, Tapestry and Talent Festival and the Rock and Roll ½ Marathon and an economic impact methodology to be used to project the economic benefit of future events and to measure the actual economic impact post event, were accepted, with Staff requested to provide information on who benefits from these types of events. (10-0.)

STRATEGIC SUPPORT SERVICES

3.4 **Presentation of statewide ethics issues in response to Reed Reform #26, “Hold regular public hearings on ethical issues around the state so we can learn from our mistakes and the mistakes of others.” (City Manager’s Office/City Attorney) (Rules Committee referral 3/28/07 – Item II)**

Documents Filed: Memorandum from City Clerk Lee Price, dated March 28, 2007, recommending acceptance of the staff presentation and transmitting the report.

City Attorney Richard Doyle outlined the Ethics Training, Traps for the Unwary (Reed Reform #26) and responded to Council questions.

Public Comment: Cathy Brandhorst spoke off topic.

Action: The Staff presentation was heard by Council. No Council action required.

NEIGHBORHOOD SERVICES

- 5.2 (a) **Approval of an ordinance amending Title 7, the “Animal Ordinance” of the San José Municipal Code, in its entirety, to update existing animal related regulations to reflect current municipal animal care and control practices regarding the proper and adequate care of animals, livestock and small animal regulations, sale of animals, rabies vaccinations, and animal trapping; to define new terms; and make other conforming changes.**
- (b) **Approval of an ordinance amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code to update the list of animal infractions to include the new code sections.**

CEQA: Not a Project. (Parks, Recreation and Neighborhood Service)

Action: Deferred to May 1, 2007 in the Evening, per Administration.

5.3 Adoption of a resolution:

- (a) **Determining that the public interest and necessity require the acquisition of an easement over parcels located at Singletree Way, San Jose, CA 95124 (APN No. 567-27-007 and 009), which are currently undeveloped apart from an overhead power transmission pole, and a small brick building for purposes of constructing an on-street access to the Guadalupe Creek Park Trail Route from the owner, Pacific Gas and Electric Company, a California Corporation; and**
- (b) **Authorizing the City Attorney to file suit in eminent domain to acquire such property interest, to apply for an order for possession before judgment, and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available.**

CEQA: Mitigated Negative Declaration, File No. PP04-03-061. Council District 10. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 21, 2007, recommending adoption of a resolution.

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

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 73725](#), entitled: “A Resolution of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: The Acquisition of Two Surface Easements over Parcels (APN Nos. 567-27-007 and 009) Owned by the Pacific Gas and Electric Company, a California Corporation, Located at Singletree Way, San José, California 95124, for the Purpose of Access to the Guadalupe Creek Park Trail; and Authorizing and Empowering the City Attorney to File Suit in Eminent Domain to Acquire Such Property Interest, to Apply for an Order of Possession before Judgment and to Prosecute Said Action to Final Judgment; and Authorizing the Deposit of Money in the State Treasury Condemnation Fund for Possession of Said Property from the Funds Lawfully Available Therefore”, was adopted. (10-0.)

- 5.4 (a) Approval of the second amendment to the agreement with Group 4 Architects, Research and Planning, Inc. for architectural consultant services for the Roosevelt Community Center Multi-Service Project, amending the scope of services and decreasing the amount of compensation by \$560,679, for a total agreement amount not to exceed \$2,080,993.**

(Item continued on the next page)

- 5.4 (b) **Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 3 (Fund 380):**
- (1) **Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Roosevelt Hockey Rink Cover Project by \$117,000; and**
 - (2) **Decrease the Ending Fund Balance by \$117,000.**
- CEQA: Mitigated Negative Declaration, File No. PP03-12-397. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works/City Manager's Office)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Budget Director Larry Lisenbee, dated March 21, 2007, recommending approval of the second amendment to the agreement and adoption of appropriation ordinance amendments.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, the second amendment to the agreement with Group 4 Architects, Research and Planning, Inc. was approved and [Ordinance No. 28012](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Tax Fund: Parks Purposes Council District No. 3 for the Roosevelt Hockey Rink Cover Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (9-0-1. Absent: Pyle.)

- 5.5 (a) **Report on bids and award of contract for the Roosevelt Community Center - Package II Re-bid Project in the amount of \$13,809,000, for the base bid and Add Alternate Nos. 2 and 3 to the low bidder, West Coast Contractors, Inc., and approval of a contingency in the amount of \$690,450.**
- (b) **Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):**
- (1) **Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$1,355,000 for the Roosevelt Community Center – Multi-Service Project;**
 - (2) **Reduce the Roosevelt Center Gymnasium Design appropriation by \$757,000; and**
 - (3) **Reduce the Reserve: Future PDO/PIFO Projects by \$598,000.**
- CEQA: Mitigated Negative Declaration, File No. PP03-12-397. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated March 21, 2007, recommending approval of the contract and adoption of the appropriation ordinance amendments. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated April 9, 2007, correcting the bid analysis table and replacing page 3 of the memorandum dated March 21, 2007.

5.5 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, the agreement with the low bidder, West Coast Contractors, Inc., with related contingency, was approved and [Ordinance No. 28013](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Subdivision Park Trust Fund for the Roosevelt Community Center – Multi-Service Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (9-0-1. Absent: Pyle.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Accept verbal status report on California Waste Solutions' corporation yard planning and compliance with contract transition milestones.**
- (b) **Status of City's option, that expires on April 15, 2007, to authorize the City Manager to negotiate and execute an agreement with Norcal Waste Systems to provide continued recycling collection services for Districts A and C through September 30, 2007, with an option to extend for an additional 90 days.**

(Environmental Services)

Documents Filed: Information Update on Emergency Incident at California Waste Solutions, dated April 10, 2007.

Director of Environmental Services John Stuffeban presented a brief update on the Status of California Waste Solutions' Corporation Yard Planning and Permitting Progress.

Public Comment: Joe Corona (California Waste Solutions, Inc.) thanked the Council, City Staff and Norcal for the successful lease.

William Garbett spoke in opposition to the Staff recommendation. Cathy Brandhorst spoke off topic.

Action: The status report was heard by Council. No Council action required.

PUBLIC SAFETY SERVICES

- 8.1 (a) **Report on bids and award of contract for the New Fire Station No. 12 and New Fire Station No. 17 projects to the low bidder, D. L. Falk Construction Company, Inc., to include the base bid and Add Alternates Nos. 1, 2, and 3 in the amount of \$6,795,729, and approval of a contingency in the amount of \$340,000.**

(Item continued on the next page)

- 8.1 (b) **Adoption of the following 2006-2007 Appropriation Ordinance Amendments in the Neighborhood Security Bond Fund (Fund 475):**
- (1) **Increase the Fire Station 12 - Relocation (Calero) appropriation by \$750,000;**
 - (2) **Increase the Fire Station 17 - Relocation (Cambrian) appropriation by \$750,000; and**
 - (3) **Decrease the Fire Training Center appropriation by \$1,500,000.**
- 1 (c) **Adoption of the following 2006-2007 Appropriation Ordinance Amendments in the Construction & Property Conveyance Tax Fund: Fire Protection Purposes (Fund 392):**
- (1) **Establish a Fire Station 17 - Relocation (Cambrian) appropriation to the Fire Department in the amount of \$379,000;**
 - (2) **Increase the Fire Station 12 - Relocation (Calero) appropriation by \$380,000; and**
 - (3) **Decrease the Fire Bond Project Reserve by \$759,000.**
- (d) **Consent to the request of the second low bidder, Swenson and Associates, Construction Company to be relieved of their bid for Fire Stations Nos. 12 and 17, due to a mathematical error in calculating its bid amount.**
- (e) **Approval of the first amendment to the agreement with Don Dommer Associates, Inc. for design services for Fire Station No. 12 to increase the agreement compensation by the amount of \$51,670 from \$296,259 to \$347,929 and to extend the term of the agreement from January 31, 2008 to October 1, 2008.**
- (f) **Approval of the first amendment to the agreement with Banducci Associates Architects for design services for Fire Station No. 17 to increase the agreement compensation by the amount of \$38,080 from \$308,475 to \$346,555 and to extend the term of the agreement from May 1, 2007 to October 1, 2008.**
- (g) **Adoption of a resolution approving the Relocated Fire Station No. 12 Project and incorporating environmental mitigation measures set forth in the Mitigation Monitoring and Reporting Program for the project.**

CEQA: Fire Station No. 12 - Mitigated Negative Declaration, File No. PP05-071 and Fire Station No.17 - Exempt, File No, PP05-275. Council Districts 9 and 10. (Public Works/ Fire/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Fire Chief Darryl Von Raesfeld and Budget Director Larry Lisenbee, dated March 21, 2007, recommending award of the contract to D.L. Falk Construction Company, Inc., adoption of appropriation ordinance amendments, consent to the request of the second low bidder to be relieved of their bid, approval of the first amendments to the agreements with Don Dommer Associates and Banducci Associates Architects and adoption of a resolution.

8.1 (Cont'd.)

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the award of the contract to the low bidder, to D.L. Falk Construction Company, Inc., with related contingency was approved; [Ordinance No. 28014](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Neighborhood Security Bond Fund for Fire Station 12 Relocation (Calero) and Fire Station 17 Relocation (Cambrian); and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Ordinance No. 28015](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Fire Protection Purposes for Fire Station 12 Relocation (Calero) and Fire Station 17 Relocation (Cambrian); and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” were adopted; the request of the second low bidder to be relieved of their bid was approved; The first amendment to the agreement with Don Dommer Associates Inc., was approved; The first amendment to the agreement with Banducci Associates Architects was approved and [Resolution No. 73726](#), entitled: “A Resolution of the Council of the City of San José Approving the Fire Station No. 12 Project, for which an Initial Study/Mitigated Negative Declaration was Prepared in Accordance with California Environmental Quality Act and Adopting a Mitigation Monitoring and Reporting Program”, was adopted. (10-0.)

8.2 Administrative Hearing on consideration of the request of Gonsalves & Stronck Construction Company (G&S), the general contractor on the new Fire Station No. 34 project, to substitute Westmark Products, Inc. for California Woodworking, the subcontractor listed by G&S to perform the custom cabinet work. CEQA: Mitigated Negative Declaration, File No. PP05-104. Council Districts 3 and 4. (Public Works)

Action: Deferred to April 24, 2007, per Administration.

NOTICE OF CITY ENGINEER’S AWARD OF CONSTRUCTION PROJECTS

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

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Hobson-Walnut Area Sanitary Sewer – Rehabilitation Phase 1	3	Ranger Pipelines, Inc.	\$728,876	3/9/07
Tamarack Avenue Sanitary Sewer Replacement	6	Sanco Pipelines, Inc.	\$585, 574.60	3/9/07
Winchester & Mayfair SNI Accessibility Ramps 2007	Citywide	Spen Con Construction	\$164,009	3/12/07

(Cont'd.)

REJECTION

<u>Project Name</u>	<u>Council District</u>	<u>Engineer's Estimate</u>
Norman Y. Mineta San José International Airport General Mechanical/Plumbing Contract 06-07	Citywide	n/a

OPEN FORUM

- (1) Ross Signornio congratulated the City Council and former Council Members for the excellent "clean up" job on Saratoga Avenue near Garden City.
- (2) Mark Trout expressed personal religious views.
- (3) Robert Apgar voiced personal points of view.
- (4) Cathy Brandhorst voiced personal viewpoints.

ADJOURNMENT

The Council of the City of San José was adjourned at 4:03 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/4/10-07MIN

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