



## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, APRIL 15, 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, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - Constant. (Excused)

Upon motion unanimously adopted, Council recessed at 9:02 a.m. to a Closed Session in Room W133, (A) Public Employment/Public Employee Evaluation pursuant to Government Code Section 54957: Title: Executive Director, Redevelopment Agency; Name: Harry Mavrogenes. Title: City Clerk; Name: Lee Price. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (c) with respect to anticipated litigation in one (1) matter of initiation of litigation. (C) to confer with Legal Counsel pursuant to: Government Code Section 54956.9, subsection (a) with respect to existing litigation: (1) Great Oaks, Inc. v. City, et al; Names of Parties Involved: Great Oaks Water Company, Inc., John W.S. Roeder, Betty B. Roeder, Betty B. Roeder Trust A and William C. Miller, Jr. and Betty B. Roeder, Trustees of the Walter S. Roeder Trust B, the City of San José, the San José Redevelopment Agency, South Bay Water Recycling, Does 1 through 100; Court: Superior Court of California, County of Santa Clara; Case No: 1-04-CV012008; Amount of Money or other Relief Sought: Damages according to proof; (2) Serio v. City of San José, et al.; Names of Parties Involved: Salvatore Serio, Eduardo Mosqueda, City of Milpitas, City of San José and Does 1 through 20; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV-092251; Amount of Money or other Relief Sought: Damages according to proof; (3) In re Sciortino; Court: Administrative Appeal; (4) In re: Haider; Court: Administrative Appeal. (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

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.

**(Cont'd.)**

Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters, Local 230. (2) Organization or Name and Title of Unrepresented Employees: San José Police Officers' Association; Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (3) Organization or Name and Title of Unrepresented Employees: Municipal Employees Federation, AFSCME Local 101, AFL/CIO; Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and Municipal Employees Federation, AFSCME Local 101, AFL/CIO. (4) Organization or Name and Title of Unrepresented Employees: City Association of Management Personnel Agreement; Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Benefit and Compensation Summary between City of San José and City Association of Management Personnel Agreement. 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 1:31 p.m. in the Council Chambers.

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

Absent: Council Members - Constant. (Excused)

## **INVOCATION**

Emily Lin (Fantasia Performing Arts Center) played the Pipa, a four-stringed Lute. (District 4)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed and the Students from Windmill Springs Elementary School located in District 7 led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 3.2(a)-(d) was deferred to April 22, 2008. (10-0-1. Absent: Constant.)

## CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Rolanda Pierre-Dixon for her commitment and leadership in assisting victims of domestic violence by holding perpetrators accountable. (City Manager's Office/Campos/Williams/Liccardo)**

Action: Mayor Reed, and Council Members Williams, Campos and Liccardo recognized and commended Rolanda Pierre-Dixon for her dedication and guidance in supporting victims of domestic violence.

- 1.2 Presentation of gifts from Okayama, Japan to the City of San José. (Williams)  
(Rules Committee referral 04/09/08)**

Documents Filed: Photo of Council Member Williams and the Mayor of Okayama, dated April 15, 2008.

Action: Council Member Williams presented three gifts from the Mayor of Okayama, Japan to Mayor Reed, who accepted on behalf of the City of San José.

- 1.3 Presentation of a commendation to Holy Spirit Parish for their ambitious environmental efforts through the Social Justice Committee's "Blue Bag Program". (Pyle)  
(Rules Committee referral 04/09/08)**

Action: Mayor Reed and Council Member Pyle recognized and commended Holy Spirit Parish for their ambitious environmental efforts through the Social Justice Committee's "Blue Bag Program".

- 1.4 Presentation of a proclamation declaring April 13<sup>th</sup> through April 19<sup>th</sup> as National Public Safety Dispatchers' Week in the City of San José. (Mayor/Constant/Cortese/Liccardo)  
(Orders of the Day)**

Action: Mayor Reed, Vice Mayor Cortese and Council Member Liccardo recognized the April 13 through April 19, 2008 as "National Public Safety Dispatchers' Week" in the City of San José. Council Member Constant could not be present.

## CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Constant.)

**2.2 Final adoption of ordinances.**

- (a) **ORD. NO. 28280 – Amending Section 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.**  
[Deferred from 4/8/08 – Item 2.2(c)]

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated April 4, 2008, recommending re-adoption of the ordinance. (2) Proof of Publication of the title of Ordinance No. 28280 executed on April 4, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28280](#) was adopted. (10-0-1. Absent: Constant.)

- (b) **ORD. NO. 28281 – 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 City Officials on a quarterly basis.**  
[Deferred from 4/8/08) – Item 2.2(d)]

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated April 4, 2008, recommending re-adoption of the ordinance. (2) Proof of Publication of the title of Ordinance No. 28281 executed on April 4, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28281](#) was adopted. (10-0-1. Absent: Constant.)

- (c) **ORD. NO. 28282 – Amending Section 20.100.500 of Chapter 20.100 of Title 20 of the San José Municipal Code (City’s Zoning Ordinance) and Section 23.02.1300 of Chapter 23.02 of Title 23 of the San José Municipal Code (City’s Sign Ordinance) to provide for a Development Permit adjustment exception for City Landmark Properties that require Historic Preservation Permit adjustments.**  
(Deferred from 2.2(e) – 4/8/08)

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated April 4, 2008, recommending re-adoption of the ordinance. (2) Proof of Publication of the title of Ordinance No. 28282 executed on April 4, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28282](#) was adopted. (10-0-1. Absent: Constant.)

- 2.2 (d) **ORD NO. 28284 – Amending Section 20.30.100 of and adding a new Section 20.30.150 to Chapter 20.30 of Title 20 of the San José Municipal Code and adding a new section to Chapter 20.200 of Title 20 of the San José Municipal Code, all to establish a Secondary Dwellings Program to be effective as of June 15, 2008.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28284 executed on April 11, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28284](#) was adopted. (10-0-1. Absent: Constant.) (First Reading: 9-1-1. Noes: Constant. Absent: Cortese.)

- 2.3 **Acceptance of the Office of the City Auditor’s Report of Activities and Findings for the Period February 16, 2008 through March 15, 2008. (City Auditor)**

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

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

- 2.4 **Establish a new fund in Community Facilities District No. 11 (Adeline – Mary Helen) on Communications Hill and adopt the following 2007-2008 Appropriation Ordinances and Funding Sources Resolution amendments in the Community Facilities District No. 11 Fund (374):**

- (a) **Establish an appropriation to the Department of Transportation for Personal Services in the amount of \$10,000;**
- (b) **Establish an appropriation to the Department of Transportation for Non-Personal/Equipment in the amount of \$5,000;**
- (c) **Establish an Ending Fund Balance in the amount of \$146,277; and**
- (d) **Increase the estimate for Earned Revenue by \$161,277.**

**CEQA: Exempt, File No. PP05-021. Council District 7. (Public Works/Transportation/City Manager’s Office)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, Director of Transportation James Helmer and Acting Budget Director Jennifer Maguire, dated March 24, 2008, recommending adoption of appropriation ordinance and funding sources resolution amendments. (2) Statement and Declaration of Conflict of Interest Form, from Council Member Nguyen, dated April 15, 2008, stating a conflict of interest.

Council Member Nguyen abstained due to a potential conflict of interest (lives within 500 feet of the designated project area).

**2.4 (Cont'd.)**

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously, [Ordinance No. 28287](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Community Facilities District No. 11 (Adeline-Mary Helen on Communications Hill) Fund for Non Personal/Equipment Expenses and Personal Services; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 74322](#), 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 Community Facilities District No. 11 (Adeline-Mary Helen on Communications Hill) Fund”, were adopted. (9-0-1-1. Disqualified: Nguyen. Absent: Constant.)

- 2.5 (a) Increase the contingency budget for the Highway 87 Detour II Sanitary Sewer Reconstruction Phase II project by \$215,700 from \$740,900 to \$956,600.**
- (b) Approval of Contract Change Order No. 5 with McGuire & Hester, Inc. for the Highway 87 Detour II Sanitary Sewer Reconstruction Phase II Project in an amount not-to-exceed \$800,000, for a total contract amount of \$5,895,746.**
- CEQA: Mitigated Negative Declaration, File No. PP03-12-378. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 24, 2008, recommending increasing the contingency budget and approval of a contract change order.

Action: The contingency budget for the Highway 87 Detour II Sanitary Sewer Reconstruction Phase II project by \$215,700 from \$740,900 to \$956,600 and the Contract Change Order No. 5 with McGuire & Hester, Inc. for the Highway 87 Detour II Sanitary Sewer Reconstruction Phase II Project in an amount not-to-exceed \$800,000, for a total contract amount of \$5,895,746 were approved. (10-0-1. Absent: Constant.)

- 2.6 (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2007-2008:**
- (1) Increase the estimate for Earned Revenue by \$78,050.**
- (2) Establish an appropriation to the Department of Transportation for the Japantown Street and Decorative Lighting Project (PSM 519, Amendment 1) in the amount of \$78,050.**
- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Japantown Street and Decorative Lighting Project as more specifically described in the memorandum from the Redevelopment Agency, dated October 16, 2007.**
- CEQA: Exempt, File Nos. PP06-105 and PP01-02-023. Council District 3. (Transportation/City Manager’s Office)**

## 2.6 (Cont'd.)

Documents Filed: Memorandum from Director of Transportation James Helmer and Acting Budget Director Jennifer Maguire, dated March 24, 2008, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

Action: [Ordinance No. 28288](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Japantown Street and Decorative Lighting Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 74323](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund" and [Resolution No. 74324](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Japantown Redevelopment Project Area", were adopted. (10-0-1. Absent: Constant.)

## 2.7 Request for excused absences for Council Member Nguyen.

- (a) Request for an excused absence from the Closed Session and City Council Meeting of April 22, 2008 due to Authorized City Business: Attendance at the Young Elected Officials National Conference in Little Rock, Arkansas.
- (b) Request for an excused absence from the Study Session of April 24, 2008 due to Authorized City Business: Attendance at the YEO National Conference in Little Rock, Arkansas.

(Nguyen)

(Rules Committee referral 4/2/08)

Documents Filed: Memoranda from Council Member Nguyen, both dated March 26, 2008, requesting excused absences due to authorized City business.

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

## END OF CONSENT CALENDAR

## STRATEGIC SUPPORT SERVICES

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

Action: City Manager Debra Figone reported that the General Fund Structural Deficit Elimination Plan Stakeholder Group will begin meeting next week and added that the Capital Improvement Budget will be also released next week.

### **3.2 Report of the Rules and Open Government Committee**

**Mayor Reed, Chair**

- (a) Report of the Rules and Open Government Committee of March 19, 2008**
- (b) Report of the Rules and Open Government Committee of March 26, 2008**
- (c) Report of the Special Meeting of the Rules and Open Government Committee of April 1, 2008**
- (d) Report of the Rules and Open Government Committee of April 2, 2008**

Action: Deferred to April 22, 2008 per Orders of the Day.

## **COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.2 (a) Approval of an amendment and continuation agreement with GlobalFluency for Year 2 Program for national and international public relations services, extending the term from November 1, 2007 through December 31, 2008, and increasing the compensation by \$150,000 for a total contract amount of \$350,000, of which \$50,000 will be provided by the San José Convention and Visitors Bureau through a separate contribution agreement.**
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
  - (1) Increase the appropriation to the Office of Economic Development for Non-Personal/Equipment by \$50,000; and**
  - (2) Increase the estimate for Other Revenue by \$50,000.**

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

Documents Filed: Memorandum from Chief Development Officer Paul Krutko and Acting Budget Director Jennifer Maguire, dated March 24, 2008, recommending approval of an amendment and continuation agreement and adoption of appropriation ordinance and funding sources resolution amendments.

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

Council Member Campos objected to the motion on the floor because she felt the \$50,000 should be invested in gang prevention and helping to keep the kids off the streets.

Council Member Chu suggested increased flights be established to Taiwan. Vice Mayor Cortese agreed.

Mayor Reed requested to amend the motion to add direction to Staff to return in six months with a status report to the Community and Economic Development Committee. The amendment was accepted by Council Members Pyle and Williams.

## 4.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the amendment and continuation agreement with GlobalFluency for Year 2 Program for national and international public relations services, extending the term from November 1, 2007 through December 31, 2008, and increasing the compensation by \$150,000 for a total contract amount of \$350,000, of which \$50,000 will be provided by the San José Convention and Visitors Bureau through a separate contribution agreement were approved; [Ordinance No. 28289](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund for Non Personal/Equipment; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 74325](#), 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 General Fund”, were adopted and Staff was directed to return in six months to the Community and Economic Development Committee with a status report. (9-1-1. Noes: Campos. Absent: Constant.)

## 4.3 **Adoption of a resolution to repeal Resolution No. 71939 to address the filing of residential applications in the Evergreen-East Hills Development Policy area. CEQA: Not a Project. (Planning, Building and Code Enforcement)** **[Rules Committee referral 03/19/08 – Item (g)(3)]**

Documents Filed: (1) Memorandum from Vice Mayor Cortese, dated April 11, 2008, recommending acceptance of the Staff recommendations with a modification. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 27, 2008, recommending adoption of a resolution.

Motion: Vice Mayor Cortese moved approval of the Staff recommendations with the stipulation that only applications that are for projects of no more than 35 residential units should no longer be discouraged from submission. Council Member Campos seconded the motion.

A short discussion followed.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 74326](#), entitled: “A Resolution of the Council of the City of San José Repealing Resolution No. 71939 Regarding the Filing of Residential Development Applications in the Evergreen East Hills Development Project Area”, was adopted, as amended, with the following modification: only applications that are for projects of no more than 35 residential units should no longer be discouraged from submission. (10-0-1. Absent: Constant.)

## TRANSPORTATION & AVIATION SERVICES

### 6.2 Report on Request for Proposal for Parking Access Revenue Control and Automatic Vehicle Identification System for the San José International Airport and adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with ACS Transport Solutions, Inc. for a three-year term and maximum compensation of \$6,016,942.
- (b) Execute change orders in an amount not to exceed \$600,000 as contingency to cover unanticipated changes in the system design and/or installation.
- (c) Exercise five one-year options for ongoing maintenance subject to the appropriation of funds.
- (d) Execute amendments to the agreement to add or delete parking areas subject to annual appropriation of funds.

**CEQA: Resolutions No. 67380 and 71451, File No. PP06-004. (Finance)  
(Deferred from 4/8/08 – Item 6.2)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 17, 2008, recommending adoption of a resolution.

Public Comments: William Garbett objected to the Staff recommendations.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74327](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with ACS Transport Solutions, Inc. for Parking Access Revenue Control and Automatic Vehicle Identification System for the San José International Airport”, was adopted. (10-0-1. Absent: Constant.)

## JOINT COUNCIL/REDEVELOPMENT AGENCY

### 9.1 It is recommended that the City Council and Redevelopment Agency Board:

- (a) Accept the final guiding principles and recommendations of the North San José Neighborhoods Planning Taskforce.
- (b) Accept the Schools Report, Parks and Recreation Report, Retail Report and maps presented to the North San José Neighborhoods Planning Taskforce.
- (c) Direct the City Manager and Executive Director to develop an Implementation Strategy for North San José, including design guidelines and an ongoing approach to involve the public using the guiding principles and recommendations of the North San José Neighborhoods Planning Taskforce.

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

Action: Deferred to April 22, 2008 in the Evening.

**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>
9947	N/S of Phelan Ave, 200’ E of Roberts Ave	7	Kevin A. Pham	5 Lots / 5 Units	SFD

**ADJOURNMENT**

The Council of the City of San José was adjourned at 2:40 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

smd/4-15-08 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.