

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MAY 6, 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, Williams; Reed.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the cases of: (1) La Blanc v. City of San José; and Does 1-100; (2) Asban v. City of San José, et al. (B) to confer with Legal Counsel – Anticipated Litigation (Claim Not Filed): Significant exposure to litigation pursuant to subsection (b) of Section 54956.9 of the Government Code: Number of matter(s) to be discussed: 1; (C) to confer with Legal Counsel – Anticipated Litigation (Claim Filed): Significant exposure to litigation pursuant to subsection (b) of Section 54956.9 of the Government Code: In re Claim of Nguyen; (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association; (2) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO; (3) City Association of Management Personnel Agreement; (4) International Association of Firefighters (IAFF), Local 230; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.

By unanimous consent, Council recessed from the Closed Session at 10:59 a.m. and reconvened at 1:30 p.m. in the Council Chambers.

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

Absent: Council Members - None.

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

INVOCATION

Yesenia Friaz from James Lick High School read her award-winning essay on “what it means to be a healthy community today”. (District 5)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Constant and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a Proclamation declaring the month of May as Older Americans’ Month in the City of San José. (Parks, Recreation and Neighborhood Services/Mayor/Constant)

Action: Mayor Reed and Council Member Constant recognized the month of May as Older Americans’ Month in the City of San José.

1.2 Presentation of a proclamation declaring May 13 – 18 as “Affordable Housing Week” in the City of San José. (Housing/Liccardo)

Action: Mayor Reed, Council Member Liccardo and Director of Housing Leslye Krutko recognized May 13 – 18 as “Affordable Housing Week” in the City of San José.

**1.8 Presentation of a commendation to Intacct for their groundbreaking technology and efforts to grow the local economy. (Mayor/Liccardo)
(Rules Committee referral 4/30/08)**

Action: Mayor Reed, Council Member Liccardo and Chief Development Officer Paul Krutko recognized and commended Intacct for their groundbreaking technology and efforts to grow the local economy.

**1.6 Presentation of a commendation to members of Our City Forest’s 2007-2008 AmeriCorps Team for their efforts as environmental stewards and promoting San José’s Green Vision. (Mayor/Chirco)
(Rules Committee referral 4/30/08)**

Action: Mayor Reed and Council Member Chirco recognized and commended members of Our City Forest’s 2007-2008 AmeriCorps Team for their efforts as environmental stewards and promoting San José’s Green Vision.

**1.7 Presentation of a proclamation recognizing the week of May 4-10, 2008 as “Municipal Clerks Week” in the City of San José. (Mayor/City Clerk)
(Rules Committee referral 4/30/08)**

Action: Mayor Reed recognized the week of May 4-10, 2008 as “Municipal Clerks Week” in the City of San José and presented the commendation to City Clerk Lee Price and Staff.

CONSENT CALENDAR

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

2.1 Approval of minutes.

- (a) **Regular Minutes of March 4, 2008**
- (b) **Regular Minutes of March 11, 2008**
- (c) **Joint City Council/San José Financing Authority Minutes of March 11, 2008**
- (d) **Mayor’s March Budget Message Study Session Minutes of March 13, 2008**
- (e) **Regular Minutes of March 18, 2008**
- (f) **Regular Minutes of March 25, 2008**

Action: Deferred to May 20, 2008 per City Clerk.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28291 – Prezoning certain real property situated at 370 North White Road (east side of White Road, approximately 400 feet northerly of McKee Avenue) from Unincorporated County to R-1-8 Single-Family Residential Zoning District. C08-013**

Documents Filed: Proof of Publication of the title of Ordinance No. 28291 executed on April 29, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28291](#) was adopted. (11-0.)

- (b) **ORD. NO. 28292 – Rezoning certain real property situated on the southeast corner of Race Street and Garland Avenue (78 Race Street) to CP Commercial Pedestrian Zoning District. C08-011**

Documents Filed: Proof of Publication of the title of Ordinance No. 28292 executed on April 29, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28292](#) was adopted. (11-0.)

- 2.2 (c) **ORD. NO. 28293 – Rezoning certain real property situated on the north side of Redmond Avenue, approximately 150 feet east of Moss Oak Way (11819 Redmond Avenue) to A(PD) Planned Development Zoning District. PDC07-075**

Documents Filed: Proof of Publication of the title of Ordinance No. 28293 executed on April 29, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28293](#) was adopted. (11-0.)

- (d) **ORD. NO. 28294 – Rezoning certain real property situated at the northeast corner of Tasman Drive and Baypointe Parkway (166 Baypointe Parkway) to the A(PD) Planned Development Zoning District. PDC07-080**

Documents Filed: Proof of Publication of the title of Ordinance No. 28294 executed on April 29, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28294](#) was adopted. (11-0.)

- (e) **ORD. NO. 28295 – Amending Section 2.08.1630 of Chapter 2.08 of Title 2 of the San José Municipal Code to (1) change the special eligibility requirement that one member of the Elections Commission be an attorney-at-law; and (2) make other technical and clarifying changes.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28295 executed on April 29, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28295](#) was adopted. (11-0.)

- 2.3 **Adoption of a resolution authorizing the City Attorney to execute the Settlement Agreement and Release with Tadco Supply, Inc., considered by the City Council during the closed session held on April 8, 2008. (City Attorney's Office) (Deferred from 4/29/08 – Item 2.4)**

Documents Filed: Memorandum from City Attorney Doyle, dated April 23, 2008, recommending adoption of a resolution.

Action: [Resolution No. 74340](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Execute a Settlement Agreement and Release with Tadco Supply, Inc.” was adopted. (11-0.)

- 2.4 (a) **Approval to pay Arntz Builders \$425,000 in additional compensation – for a total construction contract amount of \$7,747,711.28 – as part of a settlement resolving all construction claims on the Camden Multi-Service Community Center Project, as considered by the City Council during the closed session held on April 8, 2008.**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Acting Budget Director Jennifer A. Maguire, dated April 22, 2008, recommending adoption of appropriation ordinance amendments.

Action: Payment of additional compensation to Arntz Builders resolving construction claims on the Camden Multi-Service Community Center Project, as considered by the City Council during the closed session held on April 8, 2008, was approved. (11-0.)

- (b) **Adoption of a resolution authorizing the City Manager to negotiate and execute with Arntz Builders Contract Change Order No. 65 (CCO #65), which will contain all of the settlement terms, including the \$425,000 in additional compensation, necessary to finally resolve all construction claims related to the Camden Multi-Service Community Center Project.**

Documents Filed: Memorandum from City Auditor Sharon Erikson, dated April 15, 2008, submitting a finding report relating to the Bay 101 Conditional approval of Stock Transfer.

Action: [Resolution No. 74341](#), entitled: “A Resolution of the City of San José Authorizing the City Manager to negotiate and Execute Contract Change Order No. 65 with Arntz Builders, to Resolve all Construction Claims Related to the Camden Multi-Service Community Center Project for a Total Construction Contract Amount of \$7,747,711.28”, was adopted. (11-0.)

- (c) **Adoption of a resolution authorizing the City Manager to negotiate and execute a continuation agreement with Steinberg Architects in the amount of \$70,000 for additional services in LEED certification of the new facilities.**

Action: [Resolution No.74342](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Continuation Agreement with Steinberg Architects for Additional Services Related to Obtaining LEED Certification of the Camden Community Center Multi-Service Project in an Amount not to exceed \$70,000”, was adopted. (11-0.)

2.4 (d) Adoption of the following Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund (Fund 471):

- (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Camden Multi-Service Community Center project by \$688,000; and**
- (2) Decrease the Ending Fund Balance by \$688,000.**

Action: [Ordinance No. 28297](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Parks and Recreation Bond Projects Fund for the Camden Community Center Multi-Service Project; and providing that this Ordinance shall become Effective Immediately upon Adoption”, was adopted. (11-0.)

(e) 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 \$121,000 for the Camden Multi-Service Community Center project; and**
- (2) Decrease the Reserve: Future PDI/PIIO Projects by \$121,000.**

CEQA: Mitigated Negative Declaration, File No. PP01-11-208. Council District 9. (Public Works/City Manager’s Office)

Action: [Ordinance No. 28298](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Subdivision Park Trust Fund for the Camden Multi-Service Community Center Project; and providing that this Ordinance shall become Effective Immediately upon Adoption”, was adopted. (11-0.)

2.5 Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending September 30, 2007. (City Auditor)

Documents Filed: Memorandum from City Auditor Sharon Erikson, dated April 15, 2008, submitting a finding report from Kafoury, Armstrong & Company, LLP.

Action: The finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending September 30, 2007, were accepted. (11-0.)

2.6 Approval of changes to the HP Pavilion at San José City and Community Events Policy and delegating authority for approval of eligible events to the City Manager. CEQA: Not a Project. (Economic Development)

Documents Filed: Memorandum from Paul Krutko, Chief Development Officer, dated April 14, 2008, recommending approval of policy changes.

Action: Changes to the HP Pavilion at San José City and Community Events Policy and delegating authority for approval of eligible events to the City Manager were approved. (11-0.)

- 2.7 (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 \$170,754.**
 - (2) **Decrease Ending Fund Balance by \$126,874.**
 - (3) **Establish the appropriation to the Office of Economic Development for the Public Art – One East Julian Housing Project (PSM 526) in the amount of \$110,754. CEQA: Not a Project.**
 - (4) **Establish the appropriation to the Office of Economic Development for the Public Art – Keystone Place Housing Project (PSM 443 Amendment 1) in the amount of \$126,874. CEQA: Not a Project.**
 - (5) **Establish the appropriation to the Department of Transportation for the Downtown Seasonal Banners Project (PSM 529) in the amount of \$60,000. CEQA: Exempt, File No. PP05-285.**
- (b) **Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Downtown Seasonal Banners Project as more specifically described in the memorandum from the Redevelopment Agency, dated March 21, 2008.**
- CEQA: Exempt, File No. PP05-285. Council District 3. SNI: Julian/Stockton. (Economic Development/Transportation/City Manager’s Office)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, Director of Transportation James R. Helmer, and Acting Budget Director Jennifer A. Maguire, dated April 14, 2008, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 28299](#), 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 Public Art – One East Julian Housing Project, for the Public Art – Keystone Place Housing Project, and for the Downtown Seasonal Banners Project; and Providing that this Ordinance shall become Effective Immediately upon Adoption”, [Resolution No. 74353](#), 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. 74343](#), entitled: “Resolution of the Council of the City of San José making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Merged Redevelopment Project Area”, were adopted. (11-0.)

- 2.8 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #9 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration’s memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated April 14, 2008, recommending approval of an award of open purchase orders.

Action: The Award of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #9 and authorization for the Director of Finance to execute the purchase orders, was approved. (11-0.)

- 2.9 Adoption of a resolution initiating proceedings and setting a public hearing on May 20, 2008 at 1:30 p.m. for the reorganization/annexation of the territory designated as Monterey Park No. 112, which involves the annexation to the City of San José of approximately 4.50 gross acres more or less of land located at the northeast corner of Monterey Road and Umbarger Road, and generally bounded by the City of San José Annexations Monterey No. 7, Monterey Park No. 101-A, Franklin No. 34 and detachment of the same from the appropriate special districts, including County Lighting County Service, Central Fire Protection, County Sanitation District 2-3 and Area No. 01 (Library Services) County Service. CEQA: EIR Resolution No. 65459. Council District 7. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated April 14, 2008, recommending adoption of a resolution.

Action: [Resolution No. 74344](#), entitled: “A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Monterey Park No. 112 and Described herein, and Setting the Date and Place for Consideration of Such Reorganization”, was adopted. (11-0.)

- 2.10 Adoption of a resolution initiating proceedings and setting a public hearing on June 3, 2008 at 7:00 p.m. for the reorganization/annexation of the territory designated as McKee No. 134, which involves the annexation to the City of San José of approximately 1.33 gross acres of land consisting of 2 parcels located on the east side of North White Road, approximately 100 feet southerly of Kentridge Drive, and detachment of the same from the appropriate special districts, including Central Fire Protection, Area No. 01 (Library Services) County Service, County Lighting County Service and County Sanitation District 2-3 (Timothy Chen and Bruno J. Zulpo, Owners) (Related Prezonings PDC07-041 and C08-013). CEQA: EIR Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)**

2.10 (Cont'd.)

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated April 14, 2008, recommending adoption of a resolution.

Director, Planning, Building and Code Enforcement Joseph Horwedel clarified that Item 2.10 would be heard during the afternoon session.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, [Resolution No. 74345](#), entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as McKee No. 134 and Described herein, and giving Notice of Hearing on the Proposed Reorganization and Written Protests", was adopted. (11-0.)

- 2.11 (a) **Approval of a first amendment to the master agreement with Arch Pac Aquatics for consultant services increasing the compensation by \$20,000, raising the maximum allowed compensation from \$100,000 to \$120,000.**
- (b) **Approval of an increase in the construction contingency funding for the Ryland Pool Rehabilitation Project in the amount of \$95,000, increasing the total contingency from \$134,716 to \$229,716.**
- (c) **Approval of an increase of project delivery funds in the amount of \$10,000 increasing the total project delivery allocation from \$375,000 to \$385,000.**
- (d) **Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):**
- (1) **Increase the appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$124,000 for the Ryland Pool Repairs; and**
- (2) **Decrease the Reserve: Ryland Pool by \$124,000.**
- CEQA: Exempt, File No. PP07-211. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso, and Acting Budget Director Jennifer A. Maguire, dated April 14, 2008, recommending approval of a first amendment and adoption of appropriation amendments.

Action: The approval of a first amendment to the master agreement with Arch Pac Aquatics, approving an increase in construction contingency and approval of an increase of project delivery funds, was approved, and [Ordinance No. 28303](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Subdivision Park Trust Fund for the Ryland Pool Repairs; and providing that this Ordinance shall become Effective Immediately upon Adoption", was adopted. (11-0.)

- 2.12 Request for an excused absence for Councilmember Constant from the Budget Study Session of May 16, 2008, from 1 p.m. to 5 p.m. due to Authorized City Business: Santa Clara County LAFCO Meeting in the Santa Clara County Board of Supervisors' Chambers. (Constant)
(Rules Committee referral 4/23/08)**

Documents Filed: Memorandum from Council Member Constant, dated May 6, 2008, requesting an excused absence from the Budget Study Session scheduled on May 16, 2008 from 1:00 p.m. to 5:00 p.m. due to authorized City business.

Action: The absence was excused. (11-0.)

- 2.13 Approval of travel by Councilmember Williams to Sacramento, CA on February 20, 2008 regarding Intercity Rail Services. Source of Funds: Capital Corridor Joint Powers Authority. (Williams)
(Rules Committee referral 4/23/08)**

Documents Filed: Memorandum from Council Member Williams, dated February 20, 2008, requesting authorization to travel to Sacramento for an Intercity Rail Services meeting.

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

- 2.14 Approval of travel by City Auditor Sharon Erickson to Philadelphia, PA on May 18-22, 2008 to attend the Association of Local Government Auditors Annual Conference (May 18-20, 2008) and the 17th Biennial Forum of Government Auditors (May 20-22, 2008). These conferences provide quality training and networking opportunities for local government auditors. Session include auditing grants, examining contracts, ethics and fraud, cost assessment, performance reporting, and accountability. Source of Funds: City Auditor's Office budget and Professional Development Program funds. (City Auditor)
(Rules Committee referral 4/30/08)**

Documents Filed: Memorandum from City Auditor Sharon Erikson, dated April 23, 2008, requesting approval of travel to Philadelphia, Pennsylvania to attend the Association of Local Government Auditors Annual Conference (May 18-20, 2008) and the 17th Biennial Forum of Government Auditors (May 20-22, 2008).

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

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – April 23, 2008 Mayor Reed, Chair

Documents Filed: Rules and Open Government Committee Report dated April 23, 2008.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of April 23, 2008 were accepted. (11-0.)

3.4 Report on bids and rejection of all bids for Microsoft products and adoption of a resolution authorizing the Director of Finance under SJMC Section 4.12.225 to execute any necessary documentation to make purchases from PC Mall Gov (Torrance, CA) for Microsoft software licensing, under the pricing, terms, and conditions obtained under the Microsoft Select License Agreement for State and Local Governments not to exceed \$500,000 for the first year, and for two additional years, as may be required, subject to annual appropriations. CEQA: Not a Project. (Finance) (Deferred from 3/4/08 – Item 3.8)

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson, dated February 11, 2008, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Finance Scott P. Johnson and Director of Technology Randall Murphy, dated April 21, 2008, addressing Council's direction of March 4, 2008.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74346](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance under San José Municipal Code Section 4.12.225 to Execute any Necessary Documentation to make Purchases from PC Mall Gov for Microsoft Software Licensing", was adopted. (11-0.).

3.5 Approval of an ordinance amending Chapter 3.36 of Title 3 of the San José Municipal Code to provide increased retirement benefits for members of the Police and Fire Department Retirement Plan who are employed in the Fire Department and retire on or after July 1, 2008. CEQA: Not a Project. (City Manager's Office)

Documents Filed: (1) Memorandum from Director of Employee Relations Alex Gurza, dated April 22, 2008, recommending approval of an ordinance. (2) Supplemental memorandum from Director of Employee Relations Alex Gurza, dated May 6, 2008, augmenting memorandum dated April 22, 2008. (3) Memorandum from San José Fire Fighters Local 230, dated May 5, 2008, expressing opposition to the ordinance as written. (4) Memorandum from Mark Skeen (Board of Administration, Police & Fire Retirement Plan) referencing the proposed ordinance.

City Manager Debra Figone made opening comments on the proposed changes to survivor benefits.

3.5 (Cont'd.)

Director of Employee Relations Alex Gurza offered recommendations, outlined suggested changes in the supplemental memorandum and answered questions from Council.

Public Comments: Randy Sekany (IAFF, Local 230), spoke in support of the proposed ordinance and implementation of benefits.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, [Ordinance No. 28300](#), entitled: “An Ordinance of the City of San José Amending Chapter 3.36 of Title 3 of the San José Municipal Code to Provide Increased Retirement Benefits for Members of the Police and Fire Department Retirement Plan who are Employed in the Fire Department”, passed for publication with Staff directed to: (1) Return with an amended ordinance in June 2008 with a modified retirement formula for service-connected disability retirements for members of the Police and Fire Department Retirement Plan with 20 or more years of service who are employed in the Fire Department and retire on or after July 1, 2008, and (2) Return in June 2008 with an ordinance that would implement a retirement survivorship benefit change for members of the Police and Fire Department who are employed in the Fire Department and retire on or after July 1, 2008. (11-0.)

3.6 Report of the Rules and Open Government Committee – April 16, 2008 Mayor Reed, Chair

Documents Filed: Rules and Open Government Committee Report dated April 16, 2008.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of April 16, 2008 were accepted. (11-0.)

3.7 As recommended by the Rules and Open Government Committee, adopt a position of support for AB 2929 (Hancock) – Department of Corrections and Rehabilitation Reentry Programs, SB 1651 (Steinberg) – Mentally Ill Offenders, and SB 1738 (Steinberg) – Medi-Cal Frequent Users Pilot Program, and adopt a position of support, if amended, for AB 2052 (Lieu) – Residential Tenancies: Domestic Violence.

[Rules Committee referral 4/23/08 – Item C(1)(b)]

Documents Filed: Memorandum from City Clerk Lee Price, dated May 1, 2008, transmitting the recommendations of the Rules & Open Government Committee.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Liccardo and carried unanimously, positions of support for AB 2929, SB 1651, SB 1738 and AB 2052 were adopted. (11-0.)

- 3.8 As recommended by the Rules and Open Government Committee, adopt a position of support, with amendments, for AB 2494 (Caballero) – Housing Related Parks Program Under Prop 1C.**

[Rules Committee referral 4/23/08 – Item C(1)(c)]

Documents Filed: Memorandum from City Clerk Lee Price, dated May 1, 2008, transmitting the recommendations of the Rules and Open Government Committee.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Liccardo and carried unanimously, a position of support, with amendments, for AB 2052 was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 Acceptance of the *San José Japantown Historic Context and Intensive Survey, Phase II* as recommended by the Historic Landmarks Commission (4-0-0). CEQA: Exempt, File No. PP05-004. Council District 3. (Planning, Building and Code Enforcement)**

Action: Deferred to June 3, 2008 per Applicant's request.

- 4.3 (a) Preliminary approval of the report as filed by the Japantown Business Improvement District Advisory Board or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2008-2009, and setting May 20, 2008 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 3. SNI: 13th Street. (Economic Development)**
- (b) Preliminary approval of the report as filed by the Willow Glen Business Improvement District Advisory Board, or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2008-2009, and setting May 20, 2008 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 6. (Economic Development)**
- (c) Preliminary approval of the report as filed by the Hotel Business Improvement District Advisory Board or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2008-2009, and setting May 20, 2008 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 3. SNI: 3th Street.(Economic Development)**
- (d) Preliminary approval of the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2008-2009, and setting May 20, 2008 at 1:30 p.m. meeting as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 3. SNI: St. James Square, University, Josefa/Auzerais, Burbank/DelMonte. (Economic Development)**

4.3 (Cont'd.)

Documents Filed: Memoranda from Chief Development Officer Paul Krutko, all four dated April 14, 2008, recommending preliminary approval of the reports and adoption of resolutions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 74347](#), entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2008-2009 in the Japantown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting the Date and Time for the Public Hearing"; [Resolution No. 74348](#), entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2008-2009 in the Japantown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting the Date and Time for the Public Hearing"; [Resolution No. 74349](#), entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2008-2009 in the Hotel Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting the Date and Time for the Public Hearing", and [Resolution No. 74350](#), entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2008-2009 in the Downtown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting the Date and Time for the Public Hearing", were adopted. (11-0.)

- 4.4 (a) **Adoption of the 2008-2009 Annual Action Plan, including the FY 2008-2009 revised funding recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program.**
- (b) **Adoption of a resolution authorizing Director of Housing, as more specifically set forth in the Director of Housing's memo to Council dated April 16, 2008:**
- (1) **To negotiate and execute all non-capital agreements and contracts not requiring CEQA/NEPA review, and**
 - (2) **To negotiate all capital project agreements and contracts, including any amendments or modifications, and after CEQA/NEPA review and City Council project approval, to execute all contracts.**
- (c) **The Housing Department to submit the FY 2008-2009 Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD) by the May 15, 2008 deadline, making the city eligible to receive and distribute \$15,369,363 in entitlement funds.**

CEQA: Not a Project. (Housing)

4.4 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Housing Leslye Krutko, dated April 16, 2008, recommending a Final Public Hearing and approval of the Annual Action Plan 2008-2009. (2) Supplemental memorandum from Director of Housing Leslye Krutko, dated April 28, 2008, recommending approval of the Annual Action Plan with additional changes as shown. (3) Letter from Mary Jo Rodriguez, Executive Director (Portuguese Community Center), appealing for continued funding for senior services provided by the Senior Service Providers Consortium with attached petition signed by 975 San José residents. (4) Email submissions from Vicky Machado and Davide Vieira of POSSO, lead agency for the Consortium CDGB contract, asking for continued support of the Senior Service Providers Consortium. (5) Email from Patricia Gardner, Executive Director (Silicon Valley Council of Nonprofits) regarding the allocation process for CDBG.

Director of Housing Leslye Krutko offered an overview of the revised funding recommendations for the Community Development Block Grant (CDBG) Program and responded to questions from Council.

Public Comments: (1) Mary Jo Rodrigues (Minority Senior Service Providers) voiced objections to not being funded and urged continued funding for senior services. (2) Kevin Nguyen (DeFrank LGBT Community Center) expressed concern over lack of funding for the Community Center. (3) Ross Signorino spoke in support of continued funding for the HOPWA program.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the FY 2008-2009 Annual Action Plan was adopted and approved for submission, and [Resolution No. 74351](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute all Non-Capital Project Agreements and Contracts Not Requiring CEQA/NEPA Review, and Negotiate all Capital Project Agreements and Contracts, including any Amendments or Modifications, and after CEQA/NEPA Review and City Council Project Approval, to Execute all Documents", was adopted. (11-0.)

- 4.5 (a) **Approval of an agreement with Hitachi Global Storage Technologies, Inc., to fund a feasibility study for the formation of a Community Facilities District for the maintenance of landscaping within the public right-of-way, storm basins, and parks, at no cost to the City for a term from the date of execution to June 30, 2009.**
- (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax Fund:**
- (1) **Increase the estimate for Earned Revenue by \$30,000.**
 - (2) **Establish an appropriation to the Department of Public Works for the Community Facilities District No. 14 Feasibility Study Project in the amount of \$30,000.**

CEQA: EIR Resolution No. 72772, Hitachi Mixed Use Project Fund EIR. Council District 2. (Public Works/City Manager's Office)

4.5 (Cont'd.)

Documents Filed: (1) Joint memorandum from Mayor Reed, Council Member Nguyen, Council Member Pyle and Council Member Williams, dated October 19, 2007, recommending proposed framework for preservation of employment lands. (2) Memorandum from Director of Public Works Katy Allen and Acting Budget Director Jennifer A. Maguire, dated April 14, 2008, recommending approval of an agreement and adoption of an appropriation ordinance and funding sources resolution amendments.

Director of Public Works Katy Allen, City Attorney Doyle and Deputy Director Public Works Timm Borden responded to brief Council questions.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the agreement with Hitachi Global Storage Technologies, Inc, was approved, and [Ordinance No. 28304](#), entitled: "An Ordinance of the City of San José amending Ordinance No. 28071 to Appropriate Monies in the Construction Excise Tax Fund for the Community Facilities District No. 14 Feasibility Study Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and [Resolution No. 74352](#), 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 Construction Excise Tax Fund", were adopted. (11-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Council/Redevelopment Agency Board convened to consider Item 9.1 in a Joint Session.

9.1 Acceptance of the Status Report on the Citywide Capital Improvement Program, including Parks, Library, and Public Safety Bond projects, and Strong Neighborhoods Initiative projects funded by the City and Redevelopment Agency. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

Documents Filed: Memorandum from City Manager Debra Figone and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated April 17, 2008, submitting the Status Report on the Citywide Capital Improvements Programs (CIP) and Strong Neighborhoods Initiative (SNI) Projects.

Deputy City Manager Ed Shikada provided an overview of the status report and responded to questions from Council.

Library Director Jane Light responded to Council questions regarding parking issues.

9.1 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, the Status Report on the Citywide Capital Improvement Program, including Parks, Library, and Public Safety Bond projects, and Strong Neighborhoods Initiative projects funded by the City and Redevelopment Agency, was accepted. (11-0.)

The Joint Council/Redevelopment Agency Board was adjourned.

OPEN FORUM

- (1) Ross Signorino observed that copper caps are missing from fire apparatus at City Hall along Sixth Street. The matter was referred to the City Manager.
- (2) William Garbett expressed concerns regarding police conduct.
- (3) Kwok Yin Lam shared concerns about water quality.

RECESS/RECONVENE

The City Council recessed at 2:58 p.m. from the afternoon Council Session and reconvened at 7:03 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

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

CEREMONIAL ITEMS

1.3 Presentation of a commendation to Doris Korn-Walker, Rei Estrada, and Kelly Du in honor of receiving the John Tuggle Humanitarian Award. (Chu)

Action: Mayor Reed and Council Member Chu recognized and commended Doris Korn-Walker, Rei Estrada, and Kelly Du in honor of receiving the John Tuggle Humanitarian Award.

1.4 Presentation of a proclamation declaring the month of May as “Motorcycle Awareness Month” in the City of San José. (Constant) (Rules Committee referral 4/23/08)

Action: Mayor Reed and Council Member Constant recognized the month of May as “Motorcycle Awareness Month” in the City of San José.

1.5 Presentation of a commendation to Lisette Abad, a junior at Notre Dame High School, for earning a Top 8 Qualification spot at the US Olympic Trials in June. (Liccardo)

Action: Mayor Reed, Council Member Campos and Council Member Liccardo recognized and commended Lisette Abad, a junior at Notre Dame High School, for earning a Top 8 Qualification spot at the US Olympic Trials in June.

PUBLIC HEARINGS

- 11.2 Consideration of an ordinance rezoning the real property located at/on the southeast corner of Berryessa and Jackson Avenue from R-1-5(PD) Planned Development Zoning District and A-Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 379 single-family attached residences and 30,000 square feet for commercial uses, the demolition of one single-family residence and nine accessory structures, and the preservation/relocation of one single-family residence and one fruit stand on a 20.18 gross acres site (Pepper Lane Berryessa LLC, Myra Reinhard, Owners; Pulte Home Corporation, Developer). CEQA: Mitigated Negative Declaration.
PDC07-033 – District 4
(Deferred from 4/8/08 – Item 11.6)**

Action: Continued to May 20, 2008 per Administration.

- 11.3 Consideration of an ordinance rezoning the real property located on the west side of Lincoln Avenue extending from West San Carlos Street to the south and Pacific Avenue to the north, excluding the northwest corner of West San Carlos and Lincoln Avenue to allow the demolition of existing structures and the construction of 39 single-family attached residential and 2 live/work lofts on a 0.91 gross acre site (James & Tina Jean, Owners). SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration.
PDC07-017 – District 6
(Deferred from 4/8/08 – Item 11.7 and 4/22/08 – Item 11.3)**

Action: Continued to May 20, 2008 per Administration.

- 11.4 Consideration of an ordinance of the City of San José amending Chapter 20.95 and Chapter 20.100 of Title 20 of the San José Municipal Code, the Zoning Ordinance, to amend Sections 20.95.020, 20.95.110 and 20.100.480(f) to change and reflect the applicability and conformance threshold requirements for this chapter from the previous one gross acre threshold to the current 10,000 square foot threshold as required by City Council Policy 6-29, Post-Construction Urban Runoff Management. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).Citywide.**

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 14, 2008, transmitting the Planning Commission recommendation of approval. (2) Proof of Publication of Notice of Public Hearing, executed on March 28, 2008, submitted by the City Clerk.

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

11.4 (Cont'd.)

Action: Upon motion by Councilmember Williams, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 28301](#), entitled: “An Ordinance of the City of San José Amending Sections 20.95.020 and 20.95.110 of Chapter 20.95 and Section 20.100.480 of Chapter 20.100, all of Title 20 of the San José Municipal Code, to Reflect the Threshold for Hydraulically Sized Stormwater Treatment Control Measures Pursuant to City Council Policy 6-29 (Post Construction Urban Runoff Management) and the National Pollution Discharge Elimination System Permit”, passed for publication. (11-0.)

11.5 Consideration of an ordinance rezoning the real property located at/on the southeast corner of Highway 280 and S. 11th Street (868 S. 11th Street) from R-2 Two-Family Residence Zoning District to R-M Multiple Residence District on a 0.2 gross acre site (Alabastro Tamara, Owner; Bruce Williams, Developer). SNI: Spartan/Keyes. CEQA: EIR Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-2-1). **C07-005 – District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File, No. C07-005, dated May 29, 2007, recommending approval. (2) Supplemental memorandum from Planning Commission Secretary Joseph Horwedel, dated April 7, 2008, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on April 15, 2008, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. Aurelia Sanchez (Spartan/Keys Committee) urged the Council to ensure that the condominiums are owner-occupied. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, [Ordinance No. 28302](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of South 11th Street and Interstate Highway 280 (868 South 11th Street) to R-M Multiple Residence Zoning District”, was passed for publication. (11-0.)

11.6 Consideration of an ordinance rezoning the real property located at the southwest corner of Cinnabar Street and Stockton Avenue (345 Stockton Avenue) from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 250 single-family attached residences in three-story buildings constructed at-grade and on a podium on a 4.4 gross acre site (381 Stockton LLC, Owner; Morrison Park Homes LLC Bruce Fairty, Developer). CEQA: Draft Mitigated Negative Declaration. **PDC06-094 – District 6**

Action: Continued to May 20, 2008 per Administration.

- 11.7 Consideration of an ordinance rezoning the real property located on the southeast corner of Stevens Creek and South Winchester Boulevard (Santana Row) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to (1) modify perimeter setbacks and (2) change allowed uses, including the elimination of previously entitled 22,500 square feet of retail uses, a 190 room hotel and 229 residential dwelling units. This proposal would allow the addition of 160,000 square feet of office/commercial uses on a 40.78 gross acre site (FRIT San José Town & Country Village LLC, c/o Randy Paul, Developer). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: EIR Resolution No. 68210 and Addendum thereto.**

PDC07-095 – District 6

[Continued from 4/22/08 - Item 11.1(d) and 4/29/08 – Item 4.3]

Action: Continued to May 13, 2008 per Applicant’s request.

GENERAL PLAN HEARINGS ON CONSENT CALENDAR

- 10.2 Director of Planning, Building and Code Enforcement recommends the following actions:**

- (a) Accept the Overview of the Spring 2008 General Plan Review.**
- (b) Accept the Status Report on the *Framework for Preservation of Employment Lands* (Framework).**
- (d) Schedule a Study Session in September 2008 to discuss the Framework and implications for implementation.**

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, submitting an overview of a general plan review and status report.

Director, Planning, Building and Code Enforcement, Joseph Horwedel, provided an overview of the Spring 2008 General Plan Review and Status Report. He recommended that the Council hold a study session for September to clarify the Council’s intent of “extraordinary benefit” and issues relating to the framework of economic development and employment lands.

Extensive Council discussion ensued.

Public Comment: Mayor Reed opened the public hearing. Erik Schoennauer argued that the City does not currently define “extraordinary benefit” and urged the Council to provide more guidance on the definition. Mayor Reed closed the public hearing.

10.2 Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Overview of the Spring 2008 General Plan Review, Status Report on the *Framework for Preservation of Employment Lands*, and scheduling of a Study Session in September 2008 to discuss the Framework and implications for implementation, was tentatively approved. (11-0.)

- (c) **Adopt a resolution to consolidate into one document: (1) the text of the Framework originally adopted by City Council on October 23, 2007, and (2) the further implementation direction for the Framework set forth by City Council on that same date, as memorialized in that certain memorandum dated October 19, 2007 from Mayor Reed and Council Members Nguyen, Pyle, and Williams, and also to change the term “Extraordinary Economic Benefit” to “Extraordinary Benefit” in order to make the Framework consistent with that certain memorandum dated October 19, 2007, which recognizes that extraordinary benefits should not only be limited to those that are economic in nature, none of which actions are intended to create any substantive changes to the Framework as approved by City Council on October 23, 2007.**

Action: Deferred to Fall 2008 per Administration.

10.3 (a) Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Heavy Industrial on 13.68-acres (San José V Investors, Applicant/Univar Corporation, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of Heavy Industrial on approximately 13.68 acres (7-0-0). CEQA: EIR Resolution to be adopted. GP07-04-04 – District 4

- (b) **Tentative approval of Staff Alternative of Combined Industrial/Commercial for General Plan amendment request to change the General Plan Land Use/Transportation Diagram designation from Light Industrial to Transit Corridor Residential (20+ DU/AC) on a 13.64-acre site and request for Affordability Restrictions Agreement by and between San José V Investors and the City of San José requiring that 5% of the units be affordable to those making 30% or less of the Area Median Income (ELI), 8% of the units be affordable to those making 50% of the Area Median Income (VLI), and 12% of the units be affordable to those making 60% of the Area Median Income (LI) within the residential development located at the southeasterly side of Berryessa Road, approximately 770 feet southwesterly of the intersection of Berryessa Road and North King Road, San José be offered and maintained thereafter as ELI, VLI, and LI housing units as described above and directing the City Clerk to cause these Restrictions to be recorded with the Recorder's Office of Santa Clara County after their full and complete notarization and execution (San José V Investors, Applicant/UBS Realty Investors, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of Combined Industrial/Commercial on 13.64 acres (7-0-0). CEQA: EIR Resolution to be adopted. GP06-04-05 – District 4**

- 10.3** Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 14, 2008, transmitting the Planning Commission recommendation of approval. (2) CD provided by applicant's representative Tim Cahill (UBS Realty Investors) containing May 6, 2008 Berryessa City Council presentation.

Assistant Director of Planning and Code Enforcement Laurel Prevetti presented the Staff report.

Mayor Reed opened the public hearing.

Public Comment: Tim Cahill, representing the applicant (UBS Realty Investors), offered a presentation on the proposed general plan amendment to the Berryessa site. Kerri Hamilton spoke in support of the Staff alternative. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Chu, seconded by Council Member Liccardo and carried unanimously, the Staff/Planning recommendation was tentatively approved. (11-0.)

- 10.5** **Tentative denial of a General Plan land use and text amendment request to change the General Plan Land Use/Transportation Diagram designation from Office to Medium High Density Residential (12-25 DU/AC) on 5.15 acres of a 7.4-acre site, and to increase the maximum allowable building height from 50 feet to 90 feet between Dudley Avenue and South Baywood Road. The site is located north of I-280 and Tisch Way, west of South Monroe Street and South Baywood Avenue, and east of Dudley Avenue (485 South Monroe Street) (Silverstone Communities, Applicant/Pacific Bell, Owner) Director of Planning, Building and Code Enforcement and Planning Commission recommended denial of Medium High Density Residential (12-25 DU/AC) on 5.15 acres and denial of the request to increase the maximum allowable building height from 50 to 90 feet (4-3-0; Jensen, Kalra, and Zito Opposed). CEQA: Mitigated Negative Declaration. GP07-06-01/GPT07-06-01 – District 6**

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 14, 2008, transmitting the Planning Commission recommendation of denial. (2) Letter from Shiloh Ballard (Silicon Valley Leadership Group), dated April 24, 2008, expressing support of the development proposal by SilverStone Communities. (3) Petition signed by (34) residents of Dudley Avenue, dated May 5, 2008, submitted by Keith Vandertwig, in opposition to the Staff's recommendation. (4) Email from Al Woodward, resident of the Monroe Neighborhood, supporting Silverstone's proposed project. (5) Email from Steven Hall, resident of the Monroe Neighborhood, supporting Silverstone's proposed project.

Assistant Director of Planning and Code Enforcement Laurel Prevetti provided an overview of the site proposal and the Staff recommendation.

10.5 (Cont'd.)

Public Comment: Mayor Reed opened the public hearing. Speaking in opposition to the Staff's recommendation and in support of changing the designation from Office to Medium High Density Residential, were the following: Erik Schoennauer, representing the applicant (SilverStone Communities), Keith Vandertwig, Aleksandr Bayayev, Jonathon Schmidt, Steve Hall, Greg Szoke, Tim Toal, Shiloh Ballard (SVLG), Pat Dando (San José/Silicon Valley Chamber of Commerce), Bill Zahrt (Villas at Town & Country Homeowners' Association), Regina Badayeva, Greg Poncetta and Bassel Anber. Mayor Reed closed the public hearing.

Lengthy Council debate followed.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Chirco and carried, the Staff's recommendation to deny the General Plan amendment request was tentatively accepted. (6-5-0: Noes: Campos, Chu, Constant, Cortese, Williams)

- 10.4 Tentative approval of a General Plan amendment request to change the General Plan Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to General Commercial on a 4.5-acre site located on the northwesterly corner of Coniston Way and Blossom Hill Road (1345-1349 Blossom Hill Road)(Silverstone Communities, Applicant/Continental Centers, LLC. and Pamela S. and Randy A. Kelley, Owners) Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of General Commercial on 4.5 acres (7-0-0). CEQA: Mitigated Negative Declaration. GP08-09-01 – District 9**

Action: Item withdrawn by Applicant.

- 10.6 Continuance of all General Plan amendment actions from April 22, 2008 and May 6, 2008 to May 20, 2008. (Planning, Building and Code Enforcement)**

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, all General Plan amendment actions from April 22, 2008 and May 6, 2008 were continued to May 20, 2008. (11-0.)

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>
9985	East side of Boynton Avenue, 350 feet north of Williams Road	1	TEMB Development Corporation	5 Lots / 4 Units	Single Family Attached and Detached
9992	Montecito Vista Way between Esfahan Drive and Montecito Vista Drive	7	ROEM Development Corporation	4 Lots / 56 Units	Single Family Attached
9993	North side of Montecito Vista Drive, 400 feet west of Goble Lane	7	ROEM Development Corporation	1 Lot / 180 Units	Multi-Family Attached
9995	Terminus of Duckett Way, 420 feet west of South De Anza Boulevard	1	Green Valley Corporation	3 Lots / 19 Units	Single Family Attached and Detached

OPEN FORUM

- (1) Mark Trout expressed religious viewpoints.

ADJOURNMENT

The Council of the City of San José adjourned at 9:57 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

rmk/05/06/08/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.