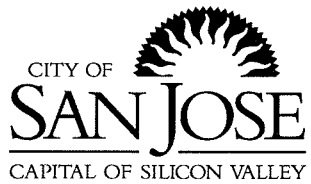

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA **TUESDAY, MARCH 27, 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, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - Constant. (Excused)

Vacant: - Council District 4.

Upon motion unanimously adopted, Council recessed at 9:33 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) Licking Enterprises, Inc. v. City of San José, et al. (B) to confer with Legal Counsel pursuant to: Government Code Section 54956.9 with respect to anticipated litigation, (1) subsection (c), initiation of litigation in one (1) matter; (2), subsection (b) with significant exposure in two (3) matters. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) International Association of Firefighters, Local 230.

By unanimous consent, Council recessed from the Closed Session at 10:18 a.m. and reconvened at 1:31 p.m. in the Council Chambers

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

Absent: Council Members - Constant. (Excused)

Vacant: - Council District 4.

INVOCATION

Council Member Liccardo introduced Father Gerald Wade, who presented the Invocation. (District 3)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.2, March 7, 2007 and February 28, 2007 Rules & Open Government Committee Reports, deferred to April 3, 2007. (9-0-1. Absent: Constant.)

CEREMONIAL ITEMS

1.1 Presentation of a business appreciation commendation to Grainger Corporation in recognition of its corporate presence and operations in San José, the Capital of Silicon Valley. (Mayor)
(Rules Committee referral 01/17/07)
(Deferred from 1/23/07 – Item 1.5)

Action: Deferred, per Mayor.

1.2 Presentation of a commendation to the Watson Park 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 Watson Park Team for their outstanding dedication and important contributions to the City of San José.

1.3 Presentation of a commendation to the Home Builders Association of Northern California for holding a fundraising dinner to benefit the San José Conservation Corps & Charter School, which supports programs such as YouthBuild San José. (Nguyen/Pyle)

Action: Mayor Reed and Council Members Nguyen and Pyle recognized and commended the Home Builders Association of Northern California for supporting such programs as "YouthBuild San José".

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Chirco, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-1. Absent: Constant.)

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 the Integrated Development Tracking System programming in the amount of $159,000 for the term March 1, 2007 to March 31, 2008. CEQA: Not a Project. (Planning, Building and Code Enforcement)
(Deferred from 2/27/07 – Item 2.18 and 3/20/07 – Item 2.3)

Action: Deferred to April 10, 2007, per Administration.

2.4 Recommendation: Adoption of a resolution of intention to increase the annual assessment and revise the scope of services in Maintenance District 18 (The Meadowlands) and directing the Director of Public Works to file an Engineer's Report. CEQA: Exempt, File No. PP07-020. Council District 8. (Public Works/Transportation)
(Deferred from 3/6/07 – Item 2.8)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Director of Transportation James Helmer, dated March 7, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated March 20, 2007, providing information for the intention to increase the Maintenance District 18 assessment.

Vice Mayor Cortese pulled this item to request more information on community outreach and schedule. City Attorney Richard Doyle clarified that this action is to declare the intention and noted that the schedule is not being set at this time Director of Public Works Katy Allen added that Staff will begin evaluation and community outreach once Council takes the recommended action.

Public Comment: Bonnie Mace spoke about the formation of the Meadowlands Neighborhood Oversight Committee.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Liccardo and carried unanimously, Resolution No. 73702, entitled: "A Resolution of the Council of the City of San José Declaring Its Intention to Amend Maintenance District 18 (The Meadowlands)", was adopted. (9-0-1. Absent: Constant.)

2.5 Request for excused absences for Council Member Chirco from the Regular City Council Meeting and Closed Session on Tuesday, March 13, 2007 and the Regular Meeting of the Rules and Open Government Committee on Wednesday, March 14, 2007 due to Illness. (Chirco)
(Rules Committee referral 3/14/07)

Documents Filed: Memorandum from Council Member Chirco, dated March 14, 2007, requesting excused absences.

Action: The excused absences were approved. (9-0-1. 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):**

(1) **Increase the estimate for Earned Revenue by $315,000.**

(2) **Increase the appropriation to the Department of Transportation for the Traffic Calming Improvements project (PSM #458, Amendment 1) in the amount of $45,000.**

(3) **Establish an appropriation to the Department of Transportation for the West San Carlos Median Uplight project (PSM #485) in the amount of $270,000.**

(b) **Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:**

(1) **The West San Carlos Median Uplight Project as more specifically described in the memorandum from the Redevelopment Agency, dated November 22, 2006.**

CEQA: Exempt, File No. PP05-212 and Non-Exempt, File No. PP94-10-189. Council Districts 5 and 6. SNI: Mayfair. (City Manager's Office/Transportation)

Documents Filed: Memorandum from Budget Director Larry Lisenbee and Director of Transportation James Helmer, dated March 7, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

Action: Ordinance No. 28004, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Traffic Calming Improvements Project and the West San Carlos Median Uplight Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 73703, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Redevelopment Capital Projects Fund" and Resolution No. 73704, 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 West San Carlos Street Redevelopment Project Area", were adopted. (9-0-1. Absent: Constant.)

2.7 **Approval of a second amendment to the continuation agreement with Management Partners, Inc. for professional services related to an evaluation of the City's performance measures and organizational efficiencies, extending the term of agreement through June 30, 2008, and increasing compensation by $100,000 for a total contract amount up to $250,000. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Les White, dated March 9, 2007, recommending approval of a second amendment to the continuation agreement.

2.7 (Cont'd.)

Council Member Williams pulled Item 2.7 from the Consent Calendar for clarification.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the second amendment to the continuation agreement with Management Partners, Inc. was approved. (8-0-2. Absent: Constant, Cortese.)

2.8 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #19 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 7, 2007, recommending approval of award of open purchase orders.

Action: The award of open purchase orders for FY 2006-2007 #19 was approved. (9-0-1. Absent: Constant.)

2.9 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)

Action: Deferred to April 10, 2007, per Administration.

2.10 Approval of a first amendment to the consultant agreement for consultant services with LSA Associates, Inc. through June 30, 2008, to amend the fee schedule to expand the list of job classifications for environmental professionals, with no increase to the total compensation of $500,000. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 7, 2007, recommending approval of a first amendment to the consultant agreement.

Action: The first amendment to the consultant agreement with LSA Associates, Inc. was approved. (9-0-1. Absent: Constant.)

2.11 Approval to proceed with the following actions to continue funding for the completion of the Evergreen*East Hills Vision Strategy, Evergreen Area Development Policy update, and related documents:

(a) Approval of an amendment to the funding agreement with Yerba Buena Opco, Inc. to extend the funding agreement from January 1, 2007 through June 30, 2007 for the work associated with completing the Evergreen*East Hills Vision Strategy which encompasses an update to the Evergreen Area Development Policy and related documents; and

(b) Adoption of a resolution authorizing the Director of Planning, Building and Code Enforcement to negotiate and execute minor amendments to the funding agreement to account for increases in funding received from Yerba Buena Opco, Inc. and minor schedule or task changes that remain consistent with the information contained in and the goals identified in this memorandum.

CEQA: Exempt, File No. PP03-10-349. Council Districts: 5, 7, 8. SNI: West Evergreen, K.O.N.A., and East Valley/880. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 6, 2007, recommending approval of amendments to the funding agreements.

Action: Dropped, per Administration.

2.12 Adoption of a new resolution authorizing the City Manager or a designee to execute, upon receipt, a grant agreement with the California Integrated Waste Management Board (CIWMB) for a waste tire enforcement program, of approximately $230,670 for FY 2006-2007 and authorizing the City Manager or a designee to apply for, and execute upon receipt, a grant agreement with the CIWMB for the subsequent four fiscal years, FY 2007-2008 through FY 2010-2011 and superseding Resolution No. 73684. CEQA: Exempt File No. PP07-023. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 23, 2007, recommending adoption of a new resolution clarifying the grant agreement with CIWMB.

Action: Resolution No. 73705, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager, or a Designee, to Submit Grant Applications and to Execute All Related Documents, Including Grant Agreements and Payment Requests with the California Integrated Waste Management Board for the Waste Tire Enforcement Grant Program from FY 2006-2007 through FY 2010-2011", was adopted. (9-0-1. Absent: Constant.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Approval of City Council Study Session Minutes:

(a) Recycle Plus Program and Procurement Process of August 11, 2006

(b) The Coyote Valley Specific Plan, Introduction to Form-Based Zoning of August 25, 2006

(Deferred from 3/6/07 – Item 3.1, 3/13/07 – Item 3.1 and 3/20/07 – Item 3.1)

Documents Filed: (1) The Recycle Plus Program and Procurement Process Minutes, dated August 11, 2006. (2) The Coyote Valley Specific Plan, Introduction to Form Based Zoning Minutes, dated August 25, 2007.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the City Council Study Session Minutes were approved. (8-0-2. Absent: Constant, Cortese.)

3.2 Report of the Rules and Open Government Committee – March 7, 2007
Mayor Reed, Chair

(a) City Council
  (1) Review March 13, 2007 Final Agenda
  (2) Review March 20, 2007 Draft Agenda
    (a) Review of items that meet exception rule
(b) Redevelopment Agency items reported out at Redevelopment Agency meeting
(c) Legislative Update
  (1) State
  (2) Federal
(d) Meeting Schedules
(e) The Public Record
(f) Appointments to Boards, Commissions and Committees
(g) Rules Committee Reviews, Recommendations and Approvals
  (1) Staff Analysis Conducted Regarding Proposed San José Human Rights Commission Resolution regarding "No-Match" Letters.
  (Continued from 2/14/07)
  (2) Response to the Report of the Government Reforms & Ethics Subcommittee of the Mayor's Transition Committee.
  (Deferred from 2/28/07)
  (3) Request to consider waiving the closed session privilege and the release of all documents regarding recent negotiation with San José Police Officer's Association and International Association of Fire Fighters Local 230.
  (4) Human Rights Commission Resolution on Social Security Administration "No-Match" Letters Proposed Department of Homeland Security Regulation.
(h) Review of Council Committee Agendas
(i) Open Government Initiatives
  (1) Reed Reforms
  (2) Sunshine Reform Task Force
  (3) Significant Public Records Act Requests
  (4) Council Policy Manual Update

3.2 Report of the Rules and Open Government Committee – March 7, 2007 (Cont'd.)
Mayor Reed, Chair

(j) Open Forum
(k) Adjournment

Action: Deferred to April 3, 2007, per Orders of the Day.

3.2 Report of the Rules and Open Government Committee – February 28, 2007
Mayor Reed, Chair

(a) City Council
  (1) Review March 6, 2007 Final Agenda
  (2) Review March 13, 2007 Draft Agenda
    (a) Review of items that meet exception rule
      (1) Resolution Supporting Public Safety and Immigrant Rights.
(b) Redevelopment Agency items reported out at Redevelopment Agency meeting
(c) Legislative Update
  (1) State
    (a) City's Legislative Process and Suggested Methods for Taking Timely Action on Pending Issues.
    (Continued from 2/7/07)
  (2) Federal
(d) Meeting Schedules
  (1) Setting a hearing for Spring 2007 for General Plan Amendments and Initiating the Reestablishment of a Fall Annual Review of the General Plan.
  (Continued from 2/7/07)
  Deferred to 3/14/07.
(e) The Public Record
(f) Appointments to Boards, Commissions and Committees
  (1) Project Diversity Screening Committee Nomination.
  (Deferred from 2/7/07)
(g) Rules Committee Reviews, Recommendations and Approvals
  (1) Council Committee Procedures.
  (2) United States Conference of Mayors January 24-26, 2007 Trip Report.
  (3) Response to the Report of the Government Reforms & Ethics Subcommittee of the Mayor's Transition Committee.
  (Continued from 1/24/07)
  (4) Public Safety, Finance and Strategic Support Committee.
  (5) Disclosure of Ownership of Property Located within a Redevelopment Area.
  (6) Council Expenditures and Reimbursements.
  (Continued from 1/31/07)
  Deferred to 3/7/07.
(h) Review of Council Committee Agendas
(i) Open Government Initiatives
(j) Open Forum
(k) Adjournment
(Deferred from 3/20/07 – Item 3.2)

Action: Deferred to April 3, 2007, per Orders of the Day.

3.3 Report of the Public Safety, Finance and Strategic Support Committee - March 15, 2007
Council Member Nguyen, Chair

Documents Filed: The Public Safety, Finance and Strategic Support Committee Report dated March 15, 2007.

(a) Consent Calendar

(1) Legislative Update. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated March 5, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, with Staff requested to provide written status on Propositions 1A and 1B related to transportation funding and 1C related to funding for affordable housing.

(2) Update of Council Directives

Deferred.

(b) Review of Performance Measures Specified in the Annual Budget

Deferred.

(c) Downtown Working Group Quarterly Update. Attachment: Memorandum from Council Member Williams and Police Chief Robert Davis, dated February 28, 2007, recommending acceptance of the report.

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

(d) Redevelopment Agency Monthly Financial Reports. Attachment: Memoranda from Redevelopment Agency Executive Director Harry S. Mavrogenes, all three dated March 1, 2007, recommending acceptance of the reports.

(1) Financial Statements – January 2007
(2) Capital Cost Report – January 2007
(3) Cash Flow Projections – January 2007

The Committee accepted the Staff Report.

(e) External Auditor's Report on Single Audit and Management Letter on Internal Controls for Fiscal Year Ended June 30, 2006. Attachment: Memorandum from Director of Finance Scott Johnson, dated March 1, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

3.3 Report of the Public Safety, Finance and Strategic Support Committee - March 15, 2007 (Cont'd.)
Council Member Nguyen, Chair

(f) Review of City Financial Investment Program and Investment Policy by External Auditor.
(g) Audit of the Traffic Calming Program.
(h) Audit of the Bridge Repair Program.

Items (f), (g) and (h) were deferred.

(i) Oral Petitions - There were none presented.

(j) Adjournment - The meeting was adjourned at 3:30 p.m.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Public Safety, Finance and Strategic Support Committee Report and the actions of March 15, 2007, were accepted. (8-0-2. Absent: Constant, Cortese.)

3.4 Conduct a public hearing and adoption of a resolution to vacate the public service easement located at the northwest corner of Magliocco Drive and Huff Avenue. CEQA: Mitigated Negative Declaration, File No. PDC01-008. Council District 6. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated March 7, 2007, recommending conducting a public hearing and adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on March 14, 2007 and March 21, 2007, submitted by the City Clerk.

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

Action: Upon motion by Council Member Oliverio, seconded by Council Member Campos and carried unanimously, Resolution No. 73706, entitled: "A Resolution of the Council of the City of San José Vacating the Public Service Easement on the Northwest Corner of Magliocco Drive and Huff Avenue", was adopted. (8-0-2. Absent: Constant, Cortese.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Direction to staff to return in 60 days with specific recommendations related to the Downtown Working Group's proposals to improve the nightlife experience in the Downtown.
CEQA: Not a Project. (City Manager's Office)
[Public Safety, Finance and Strategic Support Committee 3/15/07 – Item (c)]

4.2 (Cont'd.)

Documents Filed: (1) Supplemental memorandum from City Attorney Richard Doyle, dated March 22, 2007, advising Council regarding of legal issues raised by these proposals. (2) Memorandum from Deputy City Manager Dan McFadden, dated March 21, 2007, recommending approval of the Report of the Downtown Working Group.

Deputy City Manager Dan McFadden presented background related to the Downtown Working Group's proposals to improve the nightlife experience in the downtown. Chief of Police Robert Davis summarized safety measures.

Public Comment: John Conway, San José Downtown Association, Jacek Rosicki, Agenda Restaurant and Lounge and Harry Avanessiace, Club Miami, spoke in favor of the Staff recommendation.

Police Chief Robert Davis and Deputy City Manager Dan McFadden responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Williams and carried unanimously, the direction for Staff to return in 60 days with specific recommendations related to the Downtown Working Group's proposals to improve the nightlife experience in the Downtown was approved. (9-0-1. Absent: Constant.)

NEIGHBORHOOD SERVICES

5.2 Adoption of the following amendments to the 2006-07 Appropriation Ordinance and Funding Sources Resolution in the Municipal Health Services Program (MHSP), Fund 132:

(a) Increase the Medicare Waiver Reimbursement Appropriation (Appn 0091) for health claim reimbursements by an amount of $1,100,000; and

(b) Increase the estimate for Revenue (Appn 8150) from the Centers for Medicare and Medicaid Services (CMS) by a total of $1,100,000.

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

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated March 7, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments.

5.2 **(Cont'd.)**

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Cortese and carried unanimously, Ordinance No. 28005, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Municipal Health Services Program Fund for the Medicare Waiver Reimbursement Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 73707, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Municipal Health Services Program Fund" were adopted. (9-0-1. Absent: Constant.)

TRANSPORTATION & AVIATION SERVICES

6.2 (a) **Adoption of a resolution authorizing the City Manager to:**

(1) **Negotiate and execute Signatory Airline-Airport Lease and Operating Agreements with all passenger and cargo airlines currently operating at the Norman Y. Mineta San José International Airport that meet the minimum requirements to be a signatory airline, for the term July 1, 2007 to June 30, 2012.**

(2) **Negotiate and execute Non-Signatory Airline-Airport Lease and Operating Agreements with any passenger or cargo airlines currently operating at the Norman Y. Mineta San José International Airport that do not meet the minimum requirements to be a signatory airline or chose not to enter into a signatory lease, for the term July 1, 2007 to June 30, 2012.**

(3) **Negotiate and execute Signatory and Non-Signatory Airline-Airport Lease and Operating Agreements with any passenger or cargo airlines that commence at the Norman Y. Mineta San José International Airport after July 1, 2007, for the term from commencement of operations to June 30, 2012.**

(b) **Approval of an ordinance amending Chapter 25.08 of Title 25 of the San José Municipal Code to add a new section establishing minimum requirements for the operation and use of the Norman 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.**

CEQA: Resolutions Nos. 67380 and 71451, File No. PP07-034. (Airport)
(Deferred from 3/13/07 – Item 6.3)

6.2 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated March 27, 2007, recommending approval of the Staff recommendation and direction to Staff to return all leases to the generic language. (2) Supplemental memorandum from City Attorney Richard Doyle, dated March 9, 2007, providing background with regard to the Curfew Compliance Provisions in proposed airline lease and operating agreements. (3) Supplemental memorandum from Director of Aviation William Sherry, dated March 8, 2007, clarifying the meaning and benefits of the provisions of the airline lease agreement related to the curfew. (4) Memorandum from Director of Aviation William Sherry, dated February 21, 2007, recommending adoption of a resolution and approval of an ordinance. (5) Letter from Daniel Fenton, Team San José and San José Convention and Visitors Bureau, dated March 26, 2007, expressing support for the staff recommendations.

Director of Aviation William Sherry presented an overview of the Airport-Airline Lease Agreement and responded to Council questions.

Motion: Council Member Liccardo moved approval of the Staff recommendation and his memorandum, dated March 27, 2007, recommending direction to Staff to return the leases to the generic language. Council Member Pyle seconded the motion.

Public Comment: Dan Fenton, San José Convention and Visitors Bureau, spoke in support of the Staff recommendation.

Action: On a call for the question, the motion carried unanimously, Resolution No. 73708, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Signatory and Nonsignatory Airline Airport Lease and Operating Agreements Between the City and All Airlines Operating at the Norman Y. Mineta San José International Airport", was adopted and Ordinance No. 28006, entitled: "An Ordinance of the City of San José 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 Norman Y. Mineta San José International Airport by an Passenger or Cargo Airlines that have Not Signed Either a Signatory or Nonsignatory Airline Airport Lease and Operating Agreement On or After July 1, 2007", was passed for publication, with Staff was directed to return the leases to the generic language, which simply requires the airlines to abide by all governing City ordinance and regulations. (9-0-1. Absent: Constant.)

6.3 Adoption of a resolution authorizing the City Manager to apply for, and execute upon receipt, grants from the Federal Aviation Administration in an amount not to exceed $9.13 million to be used to partially defray the total estimated costs of $11.33 million for the Runway Guard Light Replacement, Airport Rescue and Fire Fighting Facility Upgrade and the Runway 12R/30L Centerline Lights projects. CEQA: Resolution Nos. 67380 and 71451, File No. PP05-023. (Airport)

6.3 **(Cont'd.)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated March 7, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, Resolution No. 73709, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the Federal Aviation Administration for a Grant for the Runway Guard Light Replacement, Airport Rescue and Fire Lighting Facility Upgrade and the Runway 12R/30L Centerline Lights Projects in An Amount Not To Exceed $9.3 Million to be Used to Partially Defray the Total Estimated Costs of $11.3 Million, to Accept the Grant if Awarded, and to Execute All Related Documents", was adopted. (9-0-1. Absent: Constant.)

6.4 **Adoption of a resolution authorizing the Director of Finance to:**

(a) Execute an agreement with TCS International for the purchase and installation of a Parking Guidance System for a total cost of $1,251,770.53 including delivery, installation, training, sales tax, and one year of maintenance and warranty.

(b) Execute change orders in an amount not to exceed a 10% or $125,177.00 as contingency for unanticipated changes in the system design and/or installation and extended warranty period.

(c) Execute options for maintenance and support for five one-year periods, subject to appropriation of funds.

CEQA: Exempt, File No. PP06-011. Council District 3. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 7, 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 Chirco and carried unanimously, Resolution No. 73710, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with TCS International for the Purchase and Installation of a Downtown Parking Guidance System", was adopted. (8-0-2. Absent: Constant, Cortese.)

6.5 **Report on bids and award of contract for the Surface Transportation Program Street Resurfacing/Rehab Project to the low bidder, Top Grade Construction, Inc. in the amount of $6,363,363, and approval of a contingency in the amount of $320,000. CEQA: Exempt, File No. PP06-066. Council Districts 2, 4, 6, 7, 8 and 9. (Public Works/Transportation)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Transportation James Helmer, dated March 7, 2007, recommending approval of the award of the contract to the low bidder, Top Grade Construction, Inc.

6.5 **(Cont'd.)**

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the award of the contract to Top Grade Construction, Inc., with related contingency, was approved. (8-0-2. Absent: Constant, Cortese.)

ENVIRONMENTAL & UTILITY SERVICES

7.1 (a) **Acceptance of staff's report analyzing the infrastructure, planning and financing needs of the City's sewer collection and treatment system; and,**

(b) **Provide direction to staff to proceed with the development of a Master Plan for the Water Pollution Control Plant (Plant) and development of a funding strategy to implement critical capital needs, including consideration of financing options for both short term critical projects and longer term Master Plan projects.**

CEQA: Not a Project. (Environmental Services)
[Transportation and Environment Committee 3/5/07 - Item 6.1(a)]
(Deferred from 3/20/07 – Item 7.1)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated March 7, 2007, recommending acceptance of the report and to provide direction to Staff. (2) Supplemental memorandum from Director of Environmental Services John Stufflebean, dated March 13, 2007, clarifying the role of the local agencies other than San José and requesting a deferral to March 27, 2007. (3) Letter from the Treatment Plant Advisory Committee, dated March 8, 2007, stating concurrence with the Staff recommendation.

Director of Environmental Services John Stuffebean presented an outline of the report on and responded to Council questions.

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

Motion: Council Member Williams moved approval of the Staff recommendations, and requested that when Staff looks at the Master Plan, they monitor the sewage system in real time in order to eliminate potential problems.

Brief Council discussion followed.

Action: On a call for the question, the motion carried unanimously, the report on Water Pollution Control, Sewer Collection and Treatment Systems was accepted, with Staff directed to look at monitoring the sewage system in real time in order to eliminate potential issues before they become problems. (9-0-1. Absent: Constant.)

7.2 **Approval of a contingency plan for the Recycle Plus Program:**

(a) **Accept verbal status report on California Waste Solutions' corporation yard planning and permitting progress.**

(b) **Direct the City Manager to:**

(1) **Take all necessary actions to prepare the FMC site to serve as a temporary corporation yard for California Waste Solutions in time for the July 2, 2007 startup of Recycle Plus Services and direction to staff to provide a status report of this effort to the Transportation and Environment Committee on April 2, 2007.**

(2) **Suspend collection of large items for Single Family Dwellings for Districts A and C from June 18 – 30, 2007 and authorize the City Manager to extend this suspension to August 17, if required.**

(c) **Council direction to California Waste Solutions**

(1) **To submit by Tuesday, March 27, 2007, by 5 p.m., a complete application to amend the Conditional Use Permit for the used oil storage at California Waste Solutions' site located at 1005 Timothy Drive, San Jose, as discussed with California Waste Solutions on March 23, 2007, and as repeatedly requested since September 2006.**

(2) **To submit by Tuesday, March 27, 2007, by 5 p.m., a complete application for the 521 Charcot Avenue site, with all operations, except truck parking, conducted indoors in the existing building, as a means to expedite the permitting process for a corporation yard for California Waste Solutions, as discussed on March 8, 15, 21, 22 and 23.**

(3) **To submit by Tuesday, March 27, 2007, by 5 p.m., an industrial truck washing contract or the complete plans for a self-contained mobile truck washing system.**

(4) **To submit by Tuesday, March 27, 2007, by 5 p.m., the Materials Recovery Facility upgrade plans for 1005 Timothy Drive, as repeatedly requested, and proposed in Request for Proposals submittal, since February 2007**

(d) **By March 29, 2007, at 5 p.m., if City Manager deems the items listed in section (c) are incomplete, authorize 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.**

CEQA: Not a Project. (Environmental Services)
[Transportation and Environment Committee 3/5/07 - Item 6.1(g)]
(Referred from 3/20/07 – Item 7.4)

Documents Filed: (1) Staff presentation on the California Waste Solutions Transition Update, dated March 27, 2007. (2) Letter from Norcal Waste Systems, from Michael Sangiacomo, President, dated March 26, 2007, to David Duong, President, California Waste Solutions, Inc., regarding the lease/sublease and the letter of intent.

City Manager Les White stated Staff has made significant progress in resolving the site issues.

7.2 (Cont'd.)

Deputy City Manager Deanna Santana presented an overview of the California Waste Solution Transition Update. Director of Environmental Services John Stuffebean summarized the proposed FMC site configuration.

Director of Environmental Services John Stufflebean added that Norcal extended the deadline for their contingency to April 15, 2007, in order to allow the City Manager more time in which to accept Norcal's offer to provide transition assistance.

Christopher Shung, California Waste Solutions, summarized the use of the Temporary Recycling Truck Corporation Yard at the FMC property, Oakland Road and Charcot. Mr. Shung submitted a letter of intent, including information on the lease/sublease to the City Clerk.

Dan Day, Norcal, stated that Norcal has agreed upon a letter of intent with CWS and feel that they can accommodate the City of San José's needs.

Council discussion followed.

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

Public Comment: Ross Signorino spoke off topic. William Garbett complained about garbage service.

City Attorney Richard Doyle stated that April 15, 2007 is a Sunday. Mayor Reed suggested the Council change the deadline to April 13, 2007.

Deputy City Manager Deanna J. Santana offered that Staff can return with a full status report to the Council before the April 13, 2007 deadline.

Council Members Pyle and Nguyen agreed to amend the motion to direct Staff to return to Council on April 10, 2007 with an update.

Action: On a call for the question, the motion carried unanimously, the verbal status report was accepted, the direction to Staff as stated above was approved, with Staff further directed to return on April 10, 2007 with a full status report. (9-0-1. Absent: Constant.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Council/Redevelopment Agency Board convened at 4:08 p.m. to Consider Items 9.1 and 9.2 in a Joint Session.

9.1 Approval of staff's recommended methodology to implement a Pilot Program for a cost benefit analysis for projects, activities and events seeking public funding. CEQA: Not a Project. (City Manager's Office)
(Rules Committee referral 3/7/07 – Item G2)

Public Comment: Ed Rast (Sunshine Reform Task Force Chair) and Phaedra Ellis Lamkins spoke regarding the deferral.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried, Item 9.1 was deferred to April 3, 2007. (7-2-1. Noes: Campos, Nguyen. Absent: Constant.)

9.2 Approval of City Council and Redevelopment Agency Committee appointments. (Mayor)
(Rules Committee referral 3/21/07 – Item F2)

Documents Filed: (1) Memorandum from Mayor Reed, dated March 16, 2007, recommending approval of the City Council and Redevelopment Agency Appointments as detailed in his memorandum. (2)Supplemental memorandum from Mayor Reed, dated March 21, 2007, transmitting for approval an updated Committee assignment, including Council Member Oliverio.

Action: Upon motion by Council Member Campos, seconded by Council Member Pyle and carried unanimously, the City Council and Redevelopment Agency Committee Appointments were approved, as amended; the appointment to the San José Arena Authority was deleted. (9-0-1. Absent: Constant.)

The Joint Council/Redevelopment Agency Board was adjourned at 4:35 p.m.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

Tract	Location	Council District	Developer	Lots/ Units	Type	Proposed Decision
9884	North side of West San Carlos Street, 650 feet west of Meridian Avenue	6	SummerHill	21 Lots / Homes	MFA 95 Units	Approve

OPEN FORUM

(1) Robert Apgar voiced personal observations.
(2) Mark Trout presented religious points of view.
(3) Ross Signorino asked Council about the financial arrangements regarding the "49ers" coming to Santa Clara.
(4) Ed Rast provided an update on the work of the Sunshine Reform Task Force.

ADJOURNMENT

The Council of the City of San José adjourned at 4:43 p.m. in memory of Linda Riley, Central Services Supervisor, Purchasing Division of the Finance Department, who passed away after a long battle with cancer.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/3/27-07MIN

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

JOINT COUNCIL/REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 4:45 p.m. to consider Item 8.1 in a Joint Session.

8.1 (a) Adoption of a resolution by the City Council providing a three-year notice to the Rotary Club of San Jose of any action by the City to change the name of Rotary Heritage Plaza or remove the Rotary Plaza pavers during their useful life, except for purposes of public safety.

(b) Redevelopment Agency Board approval of an agreement with the San Jose Rotary Club Endowment granting $100,000 to the Redevelopment Agency for purposes of constructing the Guadalupe River Park Rotary Heritage Plaza; and,

(c) Redevelopment Agency Board approval of an agreement with the Friends of the Guadalupe River Park and Gardens granting $50,000 to the Redevelopment Agency for purposes of constructing the Guadalupe River Park Rotary Heritage Plaza.

CEQA: Resolution No. 71373, File No. PP07-019 [JULIAN-STOCKTON]

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Les White, dated March 15, 2007, recommending adoption of a resolution and approval of the agreements with the Rotary Club of San José and the Friends of the Guadalupe River Park and Gardens.

Public Comment: Jay Ross (Downtown Development Committee) and Kathleen Mueller spoke in support to the Staff recommendations.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Cortese and carried unanimously, Resolution No. 73711, entitled: "A Resolution of the Council of the City of San José Providing a Three Year Notice to the Rotary Club of San José of any Action by the City to Change the Name of Rotary Heritage Plaza or Remove the Rotary Plaza Pavers During their Useful Life, Except for Purposes of Public Safety", was adopted and the agreements with the Rotary Club of San José and the Friends of the Guadalupe River Park and Gardens were approved. (9-0-1. Absent: Constant.)

The Council of the City of San José, and Redevelopment Agency Board adjourned at 4:49 p.m.