



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 12, 2007

The Council of the City of San José convened in regular session at 9:00 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - None.

Vacant: - Council District 4.

Upon motion unanimously adopted, Council recessed at 9:10 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) Sutter's Place, Inc dba Bay 101 v. City of San José, et al.; (2) City of San José v. Pacific Gas & Electric Co.; (3) McGuire & Hester 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 (b) in one (1) matter; (2) subsection (c) in one (1) matter. (C) Public employee performance evaluation pursuant to Government Code Section 54957, Title: City Auditor.

By unanimous consent, Council recessed from the Closed Session at 10:30 a.m. and reconvened at 1:32 p.m. in the Council Chambers

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

Absent: Council Members - None.

Vacant: - Council District 4.

INVOCATION

Reverend Michael Patrick Ellard of Metropolitan Community Church of San José led the Invocation.

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>

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Cortese, seconded by Council Member Williams and carried unanimously, the Orders of the Day and the Amended Agenda were approved, Items 3.1 and 9.5 were deferred to June 19, 2007, Item 4.4 was dropped to be renoticed for June 19, 2007, and Item 3.6 was deferred to June 26, 2007, (10-0.)

CLOSED SESSION REPOERT

City Attorney Doyle disclosed the following Closed Session actions of June 12, 2007:

A. Authority to enter Litigation Case as *Amicus Curiae*:

Case Name: In re Marriage Cases

Adverse Party or parties: Defendants

Substance of Litigation: Challenge to the constitutionality of California’s exclusion of same-sex couples from marriage.

Council Vote: Ayes: Campos, Chirco, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams.

Noes: Constant; Reed.
Disqualified: None.
Absent: None.
Vacant: District 4.

B. Authority to Pursue Appellate Review in a Litigation Case:

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

Case Name: City of San José v. Pacific Gas and Electric Company

Adverse Party or parties: Pacific Gas and Electric Company

Substance of Litigation: An action for collection of unpaid municipal surcharges.

Noes: None.
Disqualified: None.
Absent: None.
Vacant: None.

CEREMONIAL ITEMS

1.1 Presentation of a commendation recognizing the 10th anniversary of the Recycle at Work Program in San José. (Mayor/Liccardo/Chirco)

Action: Mayor Reed and Council Members Chirco and Liccardo recognized and commended the Recycle at Work Program Staff recognizing the 10th anniversary of the Program.

1.2 Presentation of the Government Finance Officers Association's "Certificate of Achievement for Excellence in Financial Reporting" and the "Award of Financial Reporting Achievement" to the San José Redevelopment Agency. (Mayor/Executive Director)

Action: Mayor Reed and Executive Director Harry Mavrogenes recognized and commended the San José Redevelopment Agency as recipient of the Government Finance Officers Association's "Certificate of Achievement for Excellence in Financial Reporting" and the "Award of Financial Reporting Achievement".

1.3 Presentation of a commendation to Victory Outreach San José for its outstanding service to the community for over two decades. (Nguyen)

Action: Mayor Reed and Council Member Nguyen recognized and commended Victory Outreach San José for its exemplary service.

**1.4 Presentation of a proclamation declaring June 12th Law Enforcement Support Personnel Day in recognition of the invaluable contribution of civilian support personnel to the City of San José. (Constant)
(Rules Committee referral 6/6/07)**

Action: Mayor Reed and Council Member Constant recognized June 12, 2007 as "Law Enforcement Support Personnel Day" in the City of San José.

**1.5 Presentation of a proclamation declaring the week of June 11 through June 17, 2007 as United States Army Week in San José. (Mayor)
(Rules Committee referral 6/6/07)**

Action: Mayor Reed recognized June 11 through June 17, 2007 as “United States Army Week” in the City of San José.

**1.6 Presentation of a commendation to the United States Olympic committee for its support of the highest ideals of sports and its long partnership with the City of San José. (Mayor)
(Rules Committee referral 6/6/07)**

Action: Mayor Reed recognized and commended to the United States Olympic Committee for its support and partnership with the City of San José.

CONSENT CALENDAR

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

2.1 Approval of minutes.

- (a) **Regular Minutes of March 6, 2007**
- (b) **Regular Minutes of March 13, 2007**
- (c) **Study Session Minutes on Mayor’s Fiscal Year 2007-2008 March Budget Message of March 15, 2007**
- (d) **Study Session Minutes on Downtown Revitalization/First Act/Convention Center Expansion of March 19, 2007**
- (e) **Regular Minutes of April 20, 2007**
- (f) **Study Session Minutes on BART to San José/Silicon Valley of March 22, 2007**
- (g) **Regular Minutes of March 27, 2007**
- (h) **Study Session Minutes on General Plan: Economic Employment Lands of March 29, 2007**

Documents Filed: (1) The Regular Minutes dated March 6, 2007, March 13, 2007, March 27, 2007 and April 20, 2007. (2) Study Session Minutes on Mayor’s Fiscal Year 2007-2008 March Budget Message dated March 15, 2007. (3) Study Session Minutes on Downtown Revitalization/First Act/Convention Center Expansion dated March 19, 2007. (4) Study Session Minutes on BART to San José/Silicon Valley dated March 22, 2007 (5) Study Session Minutes on General Plan: Economic Employment Lands dated March 29, 2007.

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

- 2.2 (a) **ORD. NO. 28063** – Rezoning certain real property situated within the area generally bounded by Kentwood Avenue, Highway 85 and South De Anza Blvd to A(PD) Planned Development Zoning District. PDC06-122

Action: To be adopted on June 19, 2007.

- (b) **ORD. NO. 28065** – Rezoning certain real property situated on the west side of Dent Avenue, approximately 500 feet north of Kooser Road (5331 Dent Avenue), to A(PD) Planned Development Zoning District. PDC07-001

Action: To be adopted on June 19, 2007.

- 2.3 **Approval of a sixth amendment to the consultant agreement with David J. Powers & Associates, Inc. for airport environmental analysis services, increasing the maximum cost of the agreement by \$250,000 from \$620,000 to \$870,000 and extending the term from July 1, 2007 to June 30, 2008. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-089. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated May 21, 2007, recommending approval of the agreement.

Action: The sixth amendment to the consultant agreement with David J. Powers & Associates, Inc. for airport environmental analysis services, increasing the maximum cost of the agreement by \$250,000 from \$620,000 to \$870,000 and extending the term from July 1, 2007 to June 30, 2008, was approved. (10-0.)

- 2.4 (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 \$750,000.**
- (2) **Establish an appropriation to the Department of Transportation for the Couplet Conversion – Julian & St. James Street Phase 1B project (PSM #411, Amendment 1) in the amount of \$750,000.**

- (b) **Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Couplet Conversion – Julian & St. James Street Phase 1B project as more specifically described in the memorandum from the Redevelopment Agency, dated December 16, 2006.**

CEQA: Mitigated Negative Declaration, File No. PP02-112. Council District 3. SNI: Thirteenth Street. (City Manager’s Office/Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer and Budget Director Larry Lisenbee, dated May 21, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments.

2.4 (Cont'd.)

Action: [Ordinance No. 28066](#) entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Couplet Conversion – Julian and St. James Street Phase 1B; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 73816](#), 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 Services for Redevelopment Capital Projects Fund” and [Resolution No. 73817](#), 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 Thirteenth Street Strong Neighborhoods Initiative Redevelopment Project Area”, were adopted. (10-0.)

**2.5 Request for an excused absence for Council Member Constant from the Special Closed Session Meeting on May 29, 2007 due to family illness. (Constant)
(Rules Committee referral 5/30/07)**

Documents Filed: Memorandum from Council Member Constant, dated May 25, 2007, requesting an excused absence due to family illness.

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

**2.6 Request for an excused absence for Vice Mayor Cortese from the Regular Meeting of the Transportation and Environment Committee on May 29, 2007 due to Authorized City Business: Meetings. (Cortese)
(Rules Committee referral 5/30/07)**

Documents Filed: Memorandum from Vice Mayor Cortese, dated May 29, 2007, requesting an excused absence due to authorized City business.

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

**2.7 Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on June 6, 2007 due to Authorized City Business: Silicon Valley Leadership Group trip/schedule meetings with Federal elected officials. (Mayor)
(Rules Committee referral 5/30/07)**

Documents Filed: Memorandum from Mayor Reed, dated May 29, 2007, requesting an excused absence due to authorized City business.

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

**2.8 Request for an excused absence for Council Member Oliverio from the Special Closed Session Meeting on May 29, 2007 due to Authorized City Business: Sherman Oaks & Palm Haven Neighborhood Association Leader Meetings at City Hall. (Oliverio)
(Rules Committee referral 5/30/07)**

2.8 (Cont'd.)

Documents Filed: Memorandum from Council Member Oliverio, dated May 29, 2007, requesting an absence due to authorized City business.

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

2.9 Approval of the third amendment to the agreement with RMC Water and Environment (RMC) for consultant services for the Highway 87 Detour II Sanitary Sewer Reconstruction Phase II Project, extending the term of the agreement from June 29, 2007 to June 30, 2010, and increasing the cost of the agreement in the amount of \$275,000 from \$683,016 for a total cost of \$958,016. CEQA: Mitigated Negative Declaration, File No. PP03-12-378. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 21, 2007, recommending approval of the agreement.

Action: The third amendment to the agreement with RMC Water and Environment (RMC) for consultant services for the Highway 87 Detour II Sanitary Sewer Reconstruction Phase II Project, extending the term of the agreement from June 29, 2007 to June 30, 2010, and increasing the cost of the agreement in the amount of \$275,000 from \$683,016 for a total cost of \$958,016, was approved. (10-0.)

2.10 Adoption of a resolution summarily vacating Holger Way between Headquarters Drive and North First Street, recorded August 20, 1987 in Book K267, Pages 146, 156, and 162, Official Records, Office of the Recorder, County of Santa Clara, and reserving a public service easement over the entire area being vacated. CEQA: Resolution No. 67510. Council District 4. (Public Works)

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

Action: [Resolution No. 73818](#), entitled: "A Resolution of the Council of the City of San José Summarily Vacating a Portion of Holger Way between Headquarters Drive and North First Street, and Reserving a Public Service Easement", was adopted. (10-0.)

2.11 Approval of Contract Change Order Number 6 in the amount of \$378,892.50 with Gonsalves & Santucci, Inc. dba Conco for the Norman Y. Mineta San José International Airport North Concourse Foundation and Utility Tunnel Concrete (Package 02A). CEQA: Resolution Nos. 67380 and 71451, File No. PP07-093. (Public Works/Airport)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated May 21, 2007, recommending approval of the contract change order number 6.

2.11 (Cont'd.)

Action: Contract Change Order Number 6 in the amount of \$378,892.50 with Gonsalves & Santucci, Inc. for the Norman Y. Mineta San José International Airport North Concourse Foundation and Utility Tunnel Concrete was approved. (10-0.)

2.12 (a) Approval of Contract Change Order Number 1 to fund and implement structural steel changes, for zero dollar amount with Gayle Manufacturing Company for the Norman Y. Mineta San José International Airport North Concourse Building Structural Steel, Package 02C.

(b) Approval to convert allowances for Bid Items 2, 3 and 4 to Roof Steel in the amount of \$994,326 to fund Change Order Number 1.

CEQA: Resolution Nos. 67380 and 71451, File No. PP07-098. (Public Works/Airport)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated May 21, 2007, recommending approval of contract change order 1.

Action: Contract Change Order Number 1 to fund and implement structural steel changes, for zero dollar amount with Gayle Manufacturing Company for the Norman Y. Mineta San José International Airport North Concourse Building Structural Steel, Package 02C and allowance conversion for Bid Items 2, 3 and 4 to Roof Steel in the amount of \$994,326 to fund Change Order Number 1 were approved. (10-0.)

2.13 Report on bids and award of contract for the ADA Accessibility Ramps 2006-2007 Project to the low bidder, SpenCon Construction in the contract amount of \$751,556 plus a contingency in the amount of \$75,156, for a total contract amount of \$826,712. CEQA: Exempt, File No. PP05-212. Council Districts 1, 2, 3, 4, 6, 7, 9 and 10. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated May 21, 2007, recommending approval of the contract.

Action: The award of the contract to the low bidder, SpenCon Construction, with related contingency, was approved. (10-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – May 23, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to May 29, 2007 Agenda
 - (2) Review June 5, 2007 Draft Agenda
 - (a) Add New Items to final agenda
 - (1) City Manager Compensation. (Mayor)
 - (2) Elections Commission Recommendation to Change Special Eligibility Requirement that One Member of the Elections Commission Be an Attorney at Law. (City Clerk)
 - (3) Vietnamese Business District Designation. (Nguyen/ Mayor)
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) AB 1252 (Caballero) – Housing Related Parks Program. (Housing)
 - (b) AB 1460 (Saldana) – Multifamily Housing Program. (Housing)
 - (c) SB 46 (Perata) – Proposition 1C Regional Planning, Housing, and Incentive Account. (Housing)
 - (d) SB 586 (Dutton) – Proposition 1C Innovation Fund. (Housing)
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Council Expenditures and Reimbursement Policy. (City Clerk/City Attorney/Finance)
Continued from May 16, 2007
 - (2) Approve the revised Commission/Liaison Code of Conduct Policy. (City Attorney)
 - (3) Response to the Macias Consulting Group’s Report on the Finance Department’s Investment Unit and the Finance Department’s Response. (City Auditor)
 - (4) Discussion of Cost Neutral Opportunities for a Public Safety Memorial at New City Hall with Direction to Implement Memorial and Process for Accepting Private Sponsorship. (Constant/Pyle)
- (h) Review of Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
- (j) Open Forum
- (k) Adjournment

Action: Deferred to June 19, 2007 per City Clerk.

3.3 Approval of Guiding Principles for Labor Negotiations. CEQA: Not a Project. (City Manager's Office)

Documents Filed: (1) Memorandum from City Manager Les White, dated May 31, 2007, recommending approval of the Guiding Principles for Labor Negotiations. (2) Salary survey submitted by Nancy Ostrowski, Professional and Technical Engineers, Local 21, dated June 12, 2007.

City Manager Les White provided the background of the Guiding Principles for Labor Negotiations.

Motion: Council Member Chirco moved approval of the Guiding Principles for Labor Negotiations with conditions as noted below in "action". Vice Mayor Cortese seconded the motion.

Public Comments: Speaking in opposition to the recommendation were Dennis Ngo, Matt Loesch, Nancy Ostrowski, Mary Follenweider, Olivier Bonviere, Guixiang Chen, Greg Jobe, Association of Engineers and Architects, Daniel Finn, Henry Servin, Yolanda Cruz, Erik Larsen, AFSCME, Local 101 and Tom Brim.

Council discussion followed.

Action: On a call for the question, the motion carried unanimously, the Guiding Principles for Labor Negotiations was approved with the following additions: (1) Use the same guidelines for management and represented employees. (2) Add a cost of living index for the Bay Area. (3) Consider a housing program to assist employees with the high cost of housing. (10-0.)

3.4 Report on Request for Proposals (RFP) for the purchase of citywide cellular phone equipment and services and adoption of a resolution authorizing the Director of Finance to execute:

- (a) **A Custom Service Agreement with Sprint Nextel ("Sprint") for a period of five years to purchase wireless services and equipment under the same pricing, terms and conditions obtained from a cooperative agreement with the State of California, in a cumulative amount not to exceed \$1,000,000 for the first year, and subsequent year purchases as may be required for the duration of the term, subject to appropriation of funds.**
- (b) **Any necessary documentation to make purchases under the pricing, terms and conditions obtained under a cooperative agreement between the State of California and Verizon or Cingular, for the next five years, in the event that Sprint as the primary provider is unable to meet the requirements of the City.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 22, 2007, recommending adoption of a resolution.

3.4 (Cont'd.)

Public Comments: William Garrett complained about bad service and asked the Council to go back out to bid.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73819](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a Custom Service Agreement with Sprint Nextel", was adopted. (10-0.)

3.5 **Acceptance of the report on public-private partnerships and direction to staff to proceed with implementation of the proposed framework, including monthly status reports to the Rules and Open Government Committee through December 2007 and presentation of policy recommendations to the City Council by January 2008. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: (1) Memorandum from Deputy City Manager Ed Shikada and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 25, 2007, recommending acceptance of the report. (2) Supplemental memorandum from Deputy City Manager Ed Shikada and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 7, 2007, providing expanded descriptions of two of the proposed case studies.

City Manager Les White and City Attorney Richard Doyle presented background on public private partnerships and responded to Council questions.

Public Comments: Erik Larsen, AFSCME, Local 101, voiced objections and urged Council to set standards about minimum wage.

Neil Struthers, CEO, Building Trades Council, argued that prevailing and living wages are not barriers and criticized the City for not consulting with Labor.

Daniel Finn, City Labor Alliance, voiced concerns about contracting out and added that it is alright to get the public's help but they should be supervised by City workers.

Bob Brownstein, Working Partnerships and Phaedra Ellis- Lamkins, South Bay Labor Council, implored the Council to maintain prevailing and living wage as the standard.

Ross Signorino encouraged the Council to maintain a living wage.

Action: Upon motion by Council Member Nguyen, seconded by Vice Mayor Cortese and carried unanimously, the report on public-private partnerships was accepted, with Staff directed to return to Council with creative ideas and monthly reports to Rules and Open Government Committee beginning in August 2007. (10-0.)

- 3.6 Adoption of an appropriation ordinance and funding sources resolution amendments in the amount of \$305,000 for the purpose of implementing Phase I of an Active Portfolio Management Program for the City's Investment Program in the Finance Department. CEQA: Not a Project. (Finance)**

Action: Deferred to June 26, 2007 per the Rules Committee.

- 3.7 As recommended by the Rules and Open Government Committee on June 6, 2007, approve a support position for AB1030 (Caballero) – Libraries: Literacy and English Acquisition Services. (Library)
[Rules Committee referral 6/6/07 – Item C(1)(a)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated June 8, 2007, transmitting the Rules and Open Government Committee recommendation of support.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the support position for AB1030 was approved. (10-0.)

- 3.8 As recommended by the Rules and Open Government Committee on June 6, 2007:**
- (a) Accept the status report on Propositions 1E and 84.**
 - (b) Authorize staff to pursue legislation and regulations that supports the city's ability to acquire funding from Propositions 1E and 84.**
 - (c) Authorize support for the Santa Clara Valley Water District's (SCVWD) positions on legislation and regulations related to Propositions 1E and 84 where consistent with the City's guiding principles and legislative priorities.
(Environmental Services/City Manager)
[Rules Committee referral 6/6/07 – Item c(1)(b)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated June 8, 2007, transmitting the Rules and Open Government Committee recommendations of approval and support.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the status report was approved with Staff was authorized to pursue legislation and regulations that supports the City's ability to acquire funding from Propositions 1E and 84 and to support the Santa Clara Valley Water District's positions on legislation and regulations related to Propositions 1E and 84 where consistent with the City's guiding principles and legislative priorities. (10-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – May 24, 2007 Council Member Pyle, Chair

Documents Filed: The Community and Economic Development Committee Report dated May 24, 2007.

- (a) Review of Performance Measure Reporting. Attachment: Memorandum from Chief Deputy City Manager Kay Winer, dated May 15, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (b) Modifications to Committee Work Plan - No report.
- (c) Update on Efforts to Stabilize Arts Organizations.

The Committee deferred the report to June 25, 2007.

- (d) Small and Local Business Contracting.

The Committee deferred the report to June 25, 2007.

- (e) Catalyst Program.

The Committee deferred the report to June 25, 2007.

- (f) Five-Year Housing Plan. Attachment: Memorandum from Director of Housing Leslye Krutko, dated May 1, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (g) Affordable Housing Investment Plan. Attachment: Memorandum from Director of Housing Leslye Krutko, dated May 1, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (h) Changes to the Inclusionary Housing Policy in Redevelopment Areas. Attachment: (1) Memorandum from Director of Housing Leslye Krutko and Deputy Executive Director Redevelopment Agency John Weis, dated May 11, 2007, recommending acceptance of the report. (2) Supplemental memorandum from Director of Housing Leslye Krutko and Deputy Executive Director Redevelopment Agency John Weis, dated May 23, 2007, transmitting additional information.

The Committee accepted the report.

**4.1 Report of the Community & Economic Development Committee – May 24, 2007
Council Member Pyle, Chair (Cont'd.)**

(i) Oral Petitions

Chris Walken, Beverly Bryant, Mark Lazzarini, Bena Chang, Mike Walsh spoke on the Five Year Housing Plan, Affordable Housing Investment Plan and changes to the Inclusionary Housing Policy in Redevelopment Areas.

(j) Adjournment – The meeting was adjourned at 12:05 p.m.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the Community and Economic Development Committee Report and the actions of May 24, 2007, were accepted. (10-0.)

4.2 (a) Adoption of a resolution authorizing the City Manager to Negotiate and Execute a Non-Binding Memorandum of Understanding with FWSH Partners, LLC Regarding Shared Aspirations to Bring a Professional, Major League Soccer Program Back to the City, to Explore the Construction of a Stadium for that Purpose and to Explore the Possible Conversion of the iStar Property, located at Highway 85 and Cottle Road from an Industrial Park General Plan Land Use Designation to a Residential Land Use Designation for the Express Purpose of Financing the Development of a Professional Soccer Stadium at an Alternate Site.

(b) Adoption of a resolution authorizing the City Manager to Enter into an Exclusive Right to Negotiate (ERN) agreement with FWSH Partners, LLC for the Development of the 75-acre City owned Land Located at 1125 Coleman Avenue, for the possible Development of a Professional Soccer Stadium and Transit Oriented Office, Research and Development, Hotel and Retail Development for a period up to September 15, 2007, and if a Satisfactory agreement cannot be achieved by September 15, 2007, City staff will proceed with a Request for Proposal to the General Development Community for the 75 acres.

CEQA: Not a Project. (Economic Development)

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Pyle, dated June 5, 2007, recommending approval of the Staff recommendations. (2) Memorandum from Vice Mayor Cortese and Council Members Campos and Williams, dated June 12, 2007, recommending approval of the Staff recommendations with further conditions and amendments. (3) Memorandum from Chief Development Officer Paul Krutko, dated May 25, 2007, recommending adoption of resolutions. (4) Three letters from the public, dated June, 7, 2007, June 12, 2007 and June 12, 2007, regarding the soccer stadium development.

Chief Development Officer Paul Krutko outlined the proposed Major League Soccer Stadium Development.

4.2 (Cont'd.)

Motion: Council Member Pyle moved approval of the joint memorandum with Mayor Reed, dated June 5, 2007, recommending approval of the Staff recommendations. Vice Mayor Cortese seconded the motion.

Public Comments: Speaking generally in favor to the Staff recommendations and encouraging an open public process were Colin McCarthy, Ned Zupato, David Chamberlin, Easy Perez, Marlowe Bjoursford, Mike Turco, Joey Hipps, Dan Gagliadi, Lori Higgett, John Jussen, Soccer Silicon Valley, Christi Walter, Harmut Essinger, San José Frogs Soccer Club, Bob O'Connor, Soccer International, Marc Morris, Michelle Selincourt, Club Quake, Gary Fazzino, San José Sports Authority, Andy Creach, Tom Poulter, John Tom, Gus Mavroudis, Pat Dando, San José Silicon Valley Chamber of Commerce, Dorothy Morton, David Chamberlin, Tonya Antonucci, Women's Soccer Initiative, Leonardo Calderon, Robin Reynolds, Steve Larsen, Ceilia Menczel, John Vicente, Casa de Benfica, Robert Stevenson, Dr. James Lull, William Garrett, Phaedra Ellis-Lampkins, South Bay Labor Council and Ross Signorino.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 73820](#) and [Resolution No. 73821](#) were adopted as amended, with Staff directed to: (1) explore the full potential impacts of converting the iStar property, located at Hwy 85 and Cottle Road, from an industrial park General Plan land use designation to a residential land use designation. Analysis of this potential land conversion should include information about the following impacts: (a) The impact that the development of as many as 1500 residential units on the iStar property will have on local school capacity. (b) The Traffic impacts in the surrounding area, especially impacts to hwy 85, US 101 and freeway intersections serving the identified site. (c) The impacts the residential development will have on local police and fire services. (2) Study the specific potential impacts associated with the addition of industrial development capacity to nearby parcels in the Edenvale area. (3) Negotiate an agreement with FWSH Partners, LLC such that all revenue generated through the conversion of the iStar property from industrial park to residential is used to either finance the construction of the proposed soccer stadium or to fund local infrastructure improvements designed to offset the impacts of both the proposed residential development and the additional industrial development and the additional industrial development capacity in the Edenvale area. (4) Explore and negotiate mechanisms to bind the potential conversion of the iStar property from industrial park to residential to the development of the proposed soccer stadium. (5) Determine if there is any nexus for a legal challenge under any section of the City Charter for actions related to this unique stadium financing proposal. (6) Prepare an outreach plan to ensure that the community has an opportunity to provide its input on the proposal. (7) Assure that the iStar industrial square footage can be accommodated in Edenvale. (8) adhere to priorities and position outlined in the joint memorandum dated June 5, 2007 from Mayor Reed and Council Member Pyle. (9) Return to Council on or about October 1, 2007. (10-0.)

- 4.3 (a) Approval of an ordinance amending Chapter 5.06 of the San José Municipal Code to make changes to the contract authority of the City Manager and Director of Housing for development of affordable housing relating to predevelopment loans, Council-approved loans and grants, repayment of project loans, outside funding, rehabilitation and improvements to City-owned properties, accrued interest and loan workouts, and consultant agreements.**
- (b) Adoption of a resolution revising the maximum amounts of loans and grants that the Director of Housing may approve under the Housing Rehabilitation, Homebuyer, Housing Trust Fund and Predevelopment Loan programs.**
- CEQA: Not a Project. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated May 25, 2007, recommending approval of an ordinance and adoption of a resolution.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, [Ordinance No. 28067](#), entitled: “A Ordinance of the City of San José Amending Sections 5.06.335, 5.06.340, 5.06.350, 5.06.356, 5.06.390 and 5.06.440 of Chapter 5.06 of Title 5 of the San José Municipal Code to Make Changes to the Contract Authority of the City Manager and Director of Housing for Development of Affordable Housing Relating to Predevelopment Loans, Council-approved Loans and Grants, Repayment of Project Loans, Outside Funding, Rehabilitation and Improvements to City-Owned Properties, Accrued Interest and Loan Workouts, and Consultant Agreements”, was passed for publication, and [Resolution No. 73822](#), entitled: “A Resolution of the Council of the City of San José to Conform the Current Maximum Housing Loan and Grant Amounts to the Categories of Housing Loans and Grants as Modified in the Ordinance Amending Chapter 5.06 of Title 5 of the San José Municipal Code”, was adopted. (6-0-4. Absent: Campos, Cortese, Liccardo, Williams.)

- 4.4 Approval of a limited pilot program allowing legally operating drinking establishments, entertainment establishments and public eating establishments within a specific area in the Downtown to remain open until 3:00 a.m. CEQA: Exempt, File No. PP07-117. (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on May 29, 2007, submitted by the City Clerk.

Action: Dropped, to be re-noticed for June 19, 2007.

- 4.5 Report of the Community & Economic Development Committee – May 21, 2007
Council Member Pyle, Chair**

Documents Filed: The Community and Economic Development Committee Report dated May 21, 2007.

- (a) Review of Performance Measure Reporting

The Committee accepted the Staff report. See Item 4.6 for Council action taken.

**4.5 Report of the Community & Economic Development Committee – May 21, 2007
Council Member Pyle, Chair (Cont'd.)**

- (b) Modifications to Committee Work Plan -None reported.
- (c) Pilot Program: Small Shopping Strips and Districts. Attachment: Memorandum from Chief Development Officer Paul Krutko, dated May 4, 2007, recommending acceptance of the report.

The Committee accepted the Staff report. See Item 9.5 for Council action taken.

- (d) ABAG Regional Needs Process. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel and Director of Housing Leslye Krutko, dated May 4, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (e) Small Business Commission Update. Attachment: Memorandum from Chief Development Officer Paul Krutko, dated May 4, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (f) Approval of a Work Plan for the Proposed Sales/Use Tax Strategy known as the Business Cooperation Program. Attachment: Memorandum from Chief Development Officer Paul Krutko, dated May 2, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (g) Oral Petitions

William Garbett, spoke on the pilot program for small shopping strips, ADA requirements and Staff's suggested guidelines for eligibility requirements.

- (h) Adjournment – The meeting was adjourned at 12:00 p.m.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, the Community and Economic Development Committee Report and the actions of May 21, 2007, were accepted. (6-0-4. Absent: Campos, Cortese, Liccardo, Williams.)

**4.6 Acceptance of the report of the San José Coalition for Jobs Now that includes suggested process improvements and the comments from staff for implementation priorities. CEQA: Not a Project. (Planning Building and Code Enforcement)
[Community and Economic Development Committee Referral 5/21/07 – Item 4.5
(a)]**

4.6 (Cont'd.)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 5, 2007, recommending acceptance of the report.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, the report of the San José Coalition for Jobs Now was accepted. (6-0-4. Absent: Campos, Cortese, Liccardo, Williams.)

TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – May 29, 2007 Council Member Williams, Chair

Documents Filed: The Transportation and Environment Committee Report dated May 29, 2007.

- (a) Consideration of Downtown Parking Management Issues. Attachment: Memorandum from Director of Transportation James Helmer and Director of Parking and Administration of the Redevelopment Agency Abi Maghamfar, dated May 22, 2007, recommending acceptance of the report and recommendations.
 - (1) Downtown Parking Management Plan 2006-07 Update
 - (2) Enhanced Parking Security Plan

The Committee approved Staff's recommendations. Staff to provide Council a proposed method of measurement for the \$5 pilot program in order for Council to evaluate and make adjustments if needed. See Item 9.1 for Council action taken

- (b) Oral Petitions

There were no oral petitions.

- (c) Adjournment

The meeting was adjourned at 3:15 p.m.

Action: Upon motion by Council Member Williams, seconded by Council Member Nguyen and carried unanimously, the Transportation and Environment Committee Report and the actions of May 29, 2007 were accepted. (8-0-2. Absent: Cortese, Liccardo.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 (a) **Approval of the Downtown Parking Management Plan 2006/07 Update, the Implementation Plan, and the Enhanced Parking Garage Security Plan.**
- (b) **Approval of the reprioritization of parking development sites.**
- (c) **Adoption of a resolution authorizing the Executive Director of the Redevelopment Agency to pursue acquisition of the Greyhound site for future parking development, and to pursue the development of approximately 70 Parking Plus spaces as part of the proposed Living Tomorrow project.**
- (d) **Adoption of a resolution to repeal Resolution No. 73173 and to update the Master Parking Rate Schedule to authorize the Director of Transportation to:**
- (1) **Extend and implement parking incentive programs that discount monthly parking rates for start up companies, participating business cluster companies, and new businesses to Downtown; and, provide long term parking leases to commercial tenants located in buildings with insufficient parking;**
 - (2) **Modify the Free Parking Program, effective January 1, 2008 to include a \$2 entry fee at various City-owned garages after 6 pm; and, thereafter, to increase the entry fee, on a biennial basis, up to a maximum of \$5;**
 - (3) **Modify the Free Parking Program, on a pilot basis, from July 1, 2007 through December 31, 2007, to charge a \$5 entry fee at various City-owned garages after 10 pm on Thursday, Friday, and Saturday evenings; and, to reduce or eliminate the \$5 entry fee during the pilot period if the Director determines that the impacts outweigh the benefits; and,**
 - (4) **Modify the parking validation program, effective July 1, 2007, to include Downtown social service providers as eligible organizations.**
- (e) **Approval of the creation of a secured parking capital development reserve account within the General Purpose Parking Fund, and adoption of a City policy that provides that funds deposited in the reserve account will be used solely for the purpose of parking supply enhancement.**

CEQA: Resolution No. 72767. (Transportation)

[Transportation and Environment Committee referral 5/29/07 – Item 6.1(a)(1)]

Documents Filed: (1) Memorandum from Council Member Liccardo, dated June 11, 2007, recommending approval of the Staff recommendations, but refrain from imposing the \$5 fee (the fee imposed at entry after 10:00 p.m. on Thursdays, Fridays and Saturdays) until the following conditions are met (as described in “Action”). (2) Memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated May 31, 2007, recommending approval of the Downtown Parking Management Plan 2006/2007 Update and Parking Garage Enhanced Security Plan.

9.1 (Cont'd.)

Assistant Director Department of Transportation Jim Ortbal, Director of Parking and Administration of the Redevelopment Agency Abi Maghamfar, and Deputy Chief of the Police Department presented the Downtown Parking Management Plan Update and Parking Garage Enhanced Security Plan.

Public Comments: The following members of the Downtown Parking Board spoke in favor of the Parking Management Plan but voiced concerns about the enhanced security plan. Andrew Bates, Elizabeth Monley, Sal Saglimbeni, Downtown Parking Board, William Garrett and Scott Knies also expressed support for the Parking Management Plan and also objected to the enhanced security plan. He asked the Council to consider deferring the latter.

William Garbett objected to the Staff recommendation.

Motion: Council Member Liccardo moved approval of the Staff recommendations, but refrain from imposing the pilot \$5 fee until certain conditions are met, as outlined in his memorandum dated June 11, 2007, including conditions as outlined in "Action". Council Member Pyle seconded the motion.

Council discussion followed. City Manager Les White noted it would be difficult for Staff to return to Council in the time frame proposed by Council Member Liccardo and proposed that Staff issue an information memorandum in lieu of returning formally to Council. Council Member Liccardo amended his motion accordingly.

Action: On a call for the question, the motion carried unanimously, the Downtown Parking Management Plan 2006/2007 Update and Parking Garage Enhanced Security Plan and the reprioritization of parking development sites were approved, Redevelopment Agency Resolution No. 5754, entitled "Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing the Executive Director to Pursue Acquisition of the Greyhound Site for Future Parking Development and to Pursue the Development of Approximately Seventy Parking Plus Spaces as Part of the Proposed Living Tomorrow Project" and Resolution No. 73823, entitled: "A Resolution of the Council of the City of San José Adopting a Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities to Amend the Master Parking Rate Schedule to Authorize the Director of Transportation to Extend and Implement Parking Incentive Programs that Discount Monthly Parking Rates for Start Up Companies, Participating Business Cluster Companies, and New Businesses to Downtown; Provide Long Term Parking Leases to Commercial Tenants Located in Building with Insufficient Parking; Modify the Free Parking Program, Effective January 1, 2008 to Include a \$2 Entry Fee at Various City-Owned Garages After 6 PM, and Thereafter, to Increase the Entry Fee on Biennial Basis, Up to a Maximum of \$5; Modify the Free Parking Program, on a Pilot Basis, from July 1, 2007 Through December 31, 2007 to Charge a \$5 Entry Fee at Various City-Owned Garages After 10 PM on Thursday, Friday, and Saturday Evenings; and to Reduce or Eliminate the \$5 Entry Fee During the Pilot Period if the Director

9.1 (Cont'd.)

Determines that the Impacts Outweigh the Benefits; and Modify the Parking Validation Program, Effective July 1, 2007 to Include Downtown Social Service Providers as Eligible Organizations; and to Repeal Resolution No. 73173 Effective Upon Council Approval,” were adopted, with Staff directed to: (1) Staff to return with an information memorandum: (a) Identifying which statistical measures will be utilized for assessing impacts on downtown businesses, crime/complaints, and lot entries, and identifying the specific data which will be made available for Council’s review: (1) Ideally, data should be presented for the same period the year before the pilot study period (i.e., July-December of 2006 and 2007) to detect trends in club patronage, crime, and parking lot entries, (2) Data concerning impacts on attendance at downtown nightclubs could consist of person counts, sales figures, tax revenues, or other suitable indicators of patronage. Longitudinal data should be club-specific, e.g., sales tax revenues at Clubs A and B for August of 2006 should be compared to Clubs A and B in August of 2007; (b) Identifying a clear strategy for patrolling neighborhoods adjacent to the downtown core that may be impacted from “spillover” parking and related activity as a result of the imposition of the \$5 fee after 10 p.m.; (c) Indicating whether the Police Department and the Department of Transportation have entered into a Memorandum of Understanding that funds used for Police Department services will be focused primarily on the safety of parking garages; (2) Return to Council no more than six weeks after the imposition of the fee, and again no more than twelve weeks after implementation, with a report describing the preliminary impacts of the parking plan on night club attendance, lot entries, and criminal activity. At each of those meetings, Council may modify the fee or other aspects of the pilot program as it deems appropriate; and (3) Between now and June 26th, preparations for implementing the fee may continue on a parallel path, so that the \$5 fee may be imposed on July 1st if the items identified in (1) (a) through (c) are properly addressed.; and the creation of a secured parking capital development reserve account within the General Purpose Parking Fund, and adoption of a City policy were approved. (10-0.)

- 9.2 (a) **Adoption of resolutions by the City Council and the Redevelopment Agency Board approving support for a petition of property owners to form a Property and Business Improvement District (PBID) in Downtown San José (Downtown).**
- (b) **Adoption of a resolution by the City Council:**
- (1) **Stating its intention to form a PBID in Downtown;**
 - (2) **Preliminarily approving the Downtown PBID Management Plan/ Engineer’s Report;**
 - (3) **Setting a public meeting to be held on June 19, 2007 at 7:00 p.m. and a public hearing on August 7, 2007 at 1:30 p.m.; and**
 - (4) **Calling an election for tabulation of the ballots for August 7, 2007 at 1:30 p.m.**

- 9.2 (c) **Adoption of a resolution by the City Council finding the San José Downtown Association (SJDA) uniquely situated to manage and provide the baseline and enhanced maintenance, safety, information and image enhancing services specified in the PBID Management Plan and authorizing the City Manager to initiate negotiations with SJDA to provide such services.**

CEQA: Not a Project. Council District 3. (City Manager's Office/Redevelopment Agency)

Documents Filed: (1) Memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated May 29, 2007, recommending adoption of resolutions. (2) Supplemental memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 8, 2007, providing the latest information on the percentage of petitions received in support of the Downtown PBID.

Deputy Director of Transportation Jim Ortbal provided the Staff report.

Motion 1: Council Member Liccardo moved approval of the resolutions for a petition of the property owners to form a Property and Business Improvement District) in Downtown San José. Council Member Oliverio seconded the motion.

Council Member Constant expressed concern about how many property owners are in support versus City owned.

Public Comments: Reverend Jim Crawford, First United Methodist Church, spoke in favor of the Staff recommendations. William Garbett and Cyril Isnard, representing the Fairmont Hotel spoke in opposition.

City Clerk Lee Price verified that the petition has received support from 52.7 percent of the property owners that was as of 11:19 a.m. and added that this number may have slightly changed but the Council may go ahead and consider additional resolutions on this item.

Motion 2: Council Member Oliverio moved approval of those resolutions as described in (b) and (c) of the Staff recommendations. Council Member Nguyen seconded the motion.

Action: On a call for the question, the motion carried, [Resolution No. 73824](#), entitled: "A Resolution of the Council of the City of San José Approving Support for a Petition of Property Owners to Form a Property and Business Improvement District in the Downtown San José"; [Resolution No. 73825](#), entitled: "A Resolution of the Council of the City of San José Stating Its Intention to Form a Property and Business Improvement District in Downtown; Preliminarily Approving the Downtown PBID Management Plan/Engineer's Report; Setting a Public Meeting to be Held on June 19, 2007 at 7:00 p.m. and a Public Hearing on August 7, 2007 at 1:30 p.m.; and Calling an Election for Tabulation of the Ballots for August 7, 2007 at 1:30 p.m."; [Resolution No. 73826](#), entitled: "A Resolution of the Council of the City of San José Finding that an Unusual or

9.2 (Cont'd.)

Unique Situation Exists that Makes the Application of the Requirements for Competitive Procurement of a Services Agreement Contrary to Public Interest and that the San José Downtown Association is Uniquely Situate to Manager and Provide the Baseline and Enhanced Maintenance, Safety, Information and Image Enhancing Services Specified in the Property and Business Improvement District Management Plan and Authorizing the City Manager to Initiate Negotiations with the San José Downtown Association to Provide Such Services” and Redevelopment Agency Resolution No. 5755, entitled: “A Resolution of the Board of Directors of the City of San José Approving Support for a Petition of Property Owners to Form a Property and Business Improvement District in the Downtown San José”, were adopted. (9-1. Noes: Constant.)

- 9.3 (a) **Review, Discussion and Approval of the Mayor’s June 2007 Budget Message.**
(b) **Adoption of a resolution by the City Council authorizing the City Manager to negotiate and execute grant agreements addressed in the Mayor’s Budget Message which are for amounts that exceed the City Manager’s contract authority. (Mayor)**

Documents Filed: (1) Memorandum from Mayor Reed, dated June 1, 2007, recommending approval of the Mayor’s June 2007 budget message with the direction contained in the memorandum, adoption of a resolution and authorization for the changes in the Manager’s Budget Addenda. (2) Memorandum from Council Member Campos, dated June 8, 2007, recommending amendments to the Mayor’s June 2007 Budget Message. (3) Memorandum from Council Members Liccardo, Nguyen and Oliverio, dated June 11, 2007, recommending approval of a one time appropriation to EHC Lifebuilders and to fund the appropriation from the Strategic Support/Technology Reserve. (4) Memorandum from Vice Mayor Cortese and Council Member Campos, dated June 11, 2007, recommending approval of directives for the Fire Station #2. (5) Memorandum from Council Member Williams, dated June 11, 2007, recommending approval of the restoration of a Deputy Director position in the Office of Cultural Affairs with direction. (6) Supplemental memorandum from City Manager Les White, dated June 6, 2007, transmitting Staff’s response to the Mayor’s June Budget Message regarding Global Fluency.

Mayor Reed introduced the recommended changes to the Mayor’s June 2007 Budget Message.

Motion: Council Member Constant moved approval of the Mayor’s June 2007 Budget Message as amended by the memorandum from Mayor Reed, dated June 1, 2007. Council Member Liccardo seconded the motion.

Amendment to the Motion: Council Member Liccardo moved to amend the motion to include a one time appropriation of \$257,000 from the technology hardware budget to EHC Lifebuilders for continued full operation of the homeless shelter located at the Boccardo Reception Center. Council Member Campos seconded the motion.

9.3 (Cont'd.)

Discussion followed.

Council Member Williams requested to amend the motion by replenishing the technology hardware budget with the year-ending fund balance. The amendment was accepted by Council Members Liccardo and Campos.

Council Member Oliverio requested to amend the motion by requesting that EHC Lifebuilders post on the website audited financial reports. The amendment was accepted by Council Members Liccardo and Campos. (Mayor Reed and Council Member Constant opposed.)

Council Member Constant made a substitute motion leaving the technology budget alone and using the Council Offices/Council General rollovers of each Council Office rebudget instead. Mayor Reed seconded the motion. The motion failed. (2-8. Noes: Campos, Chirco, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams.

Public Comments: Steve McCrey, Arts Commission, endorsed filling the position of Deputy Director of the Office of Cultural Affairs. Andrew Bales was opposed to pulling the position off the table. Jennifer Loving, EHC Lifebuilders expressed support to the one time allocation.

After significant debate, the joint memorandum from Vice Mayor Cortese and Council Member Campos, dated June 11, 2007 recommending approval of directives for the Fire Station #2 was accepted and added to the motion. The memorandum from Council Member Williams, dated June 11, 2007, recommending restoration of a Deputy Director position in the Office of Cultural Affairs with direction, was also accepted and added to the motion. Finally, the motion was amended to include increased funding for the Albertson Parkway Trail Project, as recommended by Council Member Williams.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 73827](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Grant Agreements Addressed in the Mayor's Budget Message in Amounts that Exceed the City Manager's Contract Authority", was adopted, the Mayor's June 2007 Budget Message was approved, with the following amendments: (1) Direct Staff to increase the maintenance levels at History Park back to the levels required by the City's agreement with History San José. (2) Approve a \$257,000 one-time appropriation from the technology hardware budget to EHC Lifebuilders for continued full operation of the homeless shelter located in the Boccardo Reception Center. Replenish the technology hardware budget with year ending fund balance. EHC Lifebuilders directed to post on the website audited financial reports. (Reed and Constant opposed.) (3) Restore from \$4,425,000 to \$6,747,000 funding for Fire Station #2 by closing the gap of \$2,322,000 with a loan from District #5 Construction and Conveyance tax and direct staff to return to Council in 60 days with an evaluation of funding source options for repayment and discussion about the scope of the project (effects of remodel v. rebuild). (Amended by Council on 6/19/07–Item 3.6) (4) Restore

9.3 (Cont'd.)

the Deputy Director position in the Office of Cultural Affairs and fund the Deputy Director position through Transient Occupancy Tax (TOT) revenues, reviewed each year during the annual budget process with the objective of returning the position to the General Fund as soon as possible. (5) Increase from \$500,000 to one million the allocation from the Calpine Fund for the Albertson Parkway Trail Project (BD#20) subject to verification that the fund is an eligible source. (10-0.)

- 9.4 (a) **Adoption of a resolution by the City Council approving the Operating Budget for Fiscal Year 2007-2008 for the City of San José, the Capital Budget for Fiscal Year 2007-2008 for the City of San José, and the Five Year Capital Improvement Program for Fiscal Year 2008-2012 for the City of San José as revised by the Mayor's Budget Message and directing the City Manager to prepare final documents for adoption.**
- (b) **Adoption of a resolution by the City Council establishing the Schedule of Fees and Charges for Fiscal Year 2007-2008.**
- (c) **Adoption of a resolution by the City Council establishing fees and charges for recreational and park activities.**
(City Manager's Office)
- (d) **Adoption of resolutions by the Agency Board approving:**
- (1) **Operating Budget for Fiscal Year 2007-2008 for the Redevelopment Agency of the City of San José.**
 - (2) **Capital Budget for Fiscal Year 2007-2008 for the Redevelopment Agency of the City of San José.**
- (Redevelopment Agency)

Documents Filed: (1) Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated May 24, 2007, recommending adoption of resolutions. (2) Memoranda from Helen Chapman, Chair, Parks and Recreation Commission, dated June 6 and June 8, 2007, regarding the Proposed 2007-08 Operating and Capital Budgets.

Motion: Council Member Williams moved approval of the Operating Budget for FY 2007-08, the Capital Budget for FY 2007-08, the Five Year Capital Improvement Program for Fiscal Years 2008-2012, the Schedule of Fees and Charges for FY 2007-08, the Schedule of Fees for the Use of Parks and Recreational Facilities and including two amendments: (1) to set a \$75/hour charge for both Police Department public records searches and for complete subpoena searches. (2) to reduce by 1/3 (approximately \$300,000) the ending fund balance which shall be set aside for creative park maintenance initiatives; and the Operating Budget and Capital Budget for FY2007-08 for the Redevelopment Agency. Member Constant seconded the motion.

Public Comments: Diane Nguyen, Viet Heritage Society requested funding assistance from the City of San José for the Viet Heritage Society Gardens.

9.4 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, [Resolution No. 73828](#), entitled: “A Resolution of the Council of the City of San José Adopting the Operating Budget for Fiscal Year 2007-2008”; [Resolution No. 73829](#), entitled: “A Resolution of the Council of the City of San José Adopting the Capital Budget for Fiscal Year 2007-2008”; [Resolution No. 73830](#), entitled: “A Resolution of the Council of the City of San José Adopting the Five Year Capital Improvement Program for Fiscal Years 2008-2012”; [Resolution No. 73831](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72737 to Amend and Establish Various Fees and Charges Effective July 1, 2007”, as amended to set a \$75/hour charge for both Police Department public records searches and for complete subpoena searches; [Resolution No. 73832](#), entitled: “A Resolution of the Council of the City of San José Setting the Schedule of Fees for the Use of Parks and Recreational Facilities and Repealing Resolution No. 73243, to be Effective on the Date as Indicated Below”, as amended, to reduce by 1/3 (approximately \$300,000) the ending fund balance which shall be set aside for creative park maintenance initiatives (*Amended by Council on 6/19/08 – Item 3.6*); and [Redevelopment Agency Resolution No. 5756](#), entitled: “A Resolution of the Board of Directors of the City of San José Approving the Operating Budget for Fiscal Year 2007-2008 for the Redevelopment Agency of the City of San José” and [Redevelopment Agency Resolution No. 5757](#), entitled: “A Resolution of the Board of Directors of the City of San José Approving the Capital Budget for Fiscal Year 2007-2008 for the Redevelopment Agency of the City of San José”, were adopted. (10-0.)

9.5 (a) Adoption of a resolution:

- (1) **Approving the creation of a pilot program to improve the appearance of shopping centers outside of Redevelopment Areas to increase economic vitality, encourage job growth and generate additional sales tax revenue.**
 - (2) **Authorizing the City Manager to execute a Cooperation Agreement to allow City of San José General Funds to be used to compensate the San José Redevelopment Agency for staff time, design work, supplies and contractor services undertaken outside of Redevelopment Areas.**
- (b) **Adoption of Agency resolutions authorizing the Executive Director to execute a Cooperation Agreement to allow City of San José General Funds to be used to compensate the San José Redevelopment Agency for staff time, design work, supplies and contractor services undertaken outside of Redevelopment Areas.**

**CEQA: Not a Project. (City Manager’s Office/Redevelopment Agency)
[Community and Economic Development Committee referral 5/21/07 – Item 4.5 (c)]**

Action: Deferred to June 19, 2007.

NOTICE OF CITY ENGINEER’S AWARD OF CONSTRUCTION PROJECTS

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

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Park Avenue Streetscape Improvements Project	3	Lone Star Landscape, Inc.	\$109,505	5/10/07
Alum Rock Park Water Line Relocation Project	Citywide	HSR, Inc.	\$558,050	5/15/07
Traffic Signal Modification at Bucknall Road and San Tomas Aquino Road	1	San José Signal Electric Construction, Inc.	\$209,000	5/18/07
Cheney Drive Sanitary Sewer Rehabilitation	6	Ranger Pipelines, Inc.	\$321,020.40	5/25/07
Alma Avenue Storm Pump Stations Rehabilitation Project	6	Pleasanton Engineering Contractors, Inc.	\$299,000	5/25/07
Bird Avenue Storm Pump Station Rehabilitation Project	6	Anderson Pacific Engineering Construction, Inc.	\$799,645	5/25/07

ADJOURNMENT

The Council of the City of San José was adjourned at 11:39 p.m. in honor of Cha Chi Ming, Chizu Helen Iwanaga, and Richard Onishi, all notable leaders in Japantown; in memory of Evergreen Valley High School students Amrit Kahlon and Jasdeep Duhra, who will be deeply missed by all who their lives touched and Kim Thronson, a Firefighter with the City of San José since March 1997, promoted to Fire Engineer in June 2000, and serving as a Provisional Fire Inspector in the Fire Prevention Bureau; she was admired and respected by everyone who knew her.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
 City Clerk
 smd/6-12-07MIN

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JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 11:40 p.m. to consider Items 8.1, 8.2 and 8.3 in a Joint Session.

- 8.1 (a) Adoption by the City Council of the following Amendments to the Appropriation Ordinance in the “Construction Tax and Property Conveyance Tax Fund: Service Yards Purpose” (Fund 395):**
- (1) Decrease Ending Fund Balance by \$410,500.**
 - (2) Establish a transfer to the City of San Jose Redevelopment Agency in the amount of \$410,500 for archaeological research at the Main Corporation Yard and Parking Lot project.**
- (b) Redevelopment Agency Board approval of an agreement with Sonoma State University, on behalf of the Anthropological Studies Center, in the amount of \$380,280 in services with a contingency of \$30,220 for a maximum total compensation of \$410,500, for archaeological service related to the Japantown Main Corporation Yard project, generally located at Sixth and Taylor Streets.**
- (c) Adoption of a resolution by the Redevelopment Agency Board amending the FY 2006-2007 Revenue Resolution to add \$410,500, representing a transfer from the City to fund Archaeological Research services at the Japantown Main Corporation Yard and Parking Lot site; amending the FY 2006-07 Adopted Capital Budget adding \$410,500 to the Japantown – Corporation Yard project line in the Japantown Redevelopment Area; and amending the FY 2006-2007 Agency appropriations resolution.**

CEQA: Exempt. File No. PP-07-104. [JAPANTOWN]

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Les White, dated May 31, 2007, recommending adoption of appropriation ordinance amendments, approval of an agreement and adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, [Ordinance No. 28070](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Service Yards Purpose for the City of San José Redevelopment Agency; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” was adopted; the agreement with Sonoma State University, on behalf of the Anthropological Studies Center, in the amount of \$380,280 in services with a contingency of \$30,220 for a maximum total compensation of \$410,500, for archaeological service related to the Japantown Main Corporation Yard project, generally located at Sixth and Taylor Streets was approved and [Redevelopment Agency Resolution No. 5759](#) was adopted. (10-0.)

- 8.2 (a) City Council and Agency Board approval of an amendment to the loan agreement from the City of San Jose's General Purpose Parking Fund to the Redevelopment Agency, (1) deferring the repayment of the principal in the amount of \$6.8 million, to become due and payable on July 31, 2012, and (2) removing the provision for any future interest to accrue beyond June 30, 2007.**
- (b) Adoption of a resolution by the Agency Board approving an adjustment to the FY 2006-07 Adopted Capital Budget, adding \$440,000 to the Downtown Parking Acquisition project line item in the Almaden Gateway Redevelopment Area, and amending the FY 2006-07 Agency appropriations resolution, in lieu of interest payment to the City, representing interest accrued through June 30, 2007, as estimated by Department of Transportation.**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Les White, dated May 31, 2007, recommending approval of an amendment to the loan agreement and adoption of a resolution.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the amendment to the loan agreement from the City of San Jose's General Purpose Parking Fund to the Redevelopment Agency, (1) deferring the repayment of the principal in the amount of \$6.8 million, to become due and payable on July 31, 2012, and (2) removing the provision for any future interest to accrue beyond June 30, 2007 was approved and Redevelopment Agency Resolution No. 5759 was adopted. (10-0.)

- 8.3 City Council and Agency Board acceptance of the disclosure of property interest by Board Member Sam Liccardo and direction that the disclosure be entered into the public minutes of the Redevelopment Agency Board meeting.**

Action: Dropped.

ADJOURNMENT

The Council of the City of San José, and Redevelopment Agency Board adjourned at 11:44 p.m.