



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 28, 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, Chu, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:01 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (b) with significant exposure anticipated litigation one (1) matter. (B) Public Official/Employee Discipline/Dismissal/Release/Removal Pursuant to Government Code Section 54957: Title: City Auditor.

By unanimous consent, Council recessed from the Closed Session at 11:59 a.m. and reconvened at 1:35 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

Members of the Iola Williams Senior Center presented two dances “Electric Slide” and “Gumbo Soup”. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

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>

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Constant and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Items 3.1, 3.2, 3.4, 3.6 and 6.2 were deferred to September 11, 2007. (11-0)

CEREMONIAL ITEMS

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

Action: Mayor Reed and City Manager Debra Figone recognized and commended the Wet Weather Reliability Team for their outstanding dedication and important contributions to the City of San José.

- 1.3 Presentation of a proclamation declaring September 2 through September 8, 2007 as "National Payroll Week" in the City of San José. (Mayor/Nguyen)
(Rules Committee referral 08/22/07)**

Action: Mayor Reed and Council Member Nguyen recognized September 2 through September 8, 2007 as "National Payroll Week" in the City of San José.

- 1.4 Presentation of a commendation to Lauren Bryeans, April Grolle and Lauren Chief Elk for their heroic actions and bravery in the rescue of a young woman in distress. (Campos)
(Rules Committee referral 08/22/07)**

Action: Mayor Reed and Council Member Campos and Williams recognized and commended Ms. Lauren Bryeans, Ms. April Grolle and Ms. Lauren Chief Elk for their heroic actions and bravery in the rescue of a young woman in distress.

- 1.5 Presentation of a proclamation in celebration of the Ethiopian Millennium New Year on September 7, 2007 and annually by raising the Green, Yellow and Red flag as in the previous two years. (Liccardo)
(Orders of the Day)**

Documents Filed: Memorandum from Council Member Liccardo, dated August 23, 2007, recommending adding the celebration of the Ethiopian Millennium New Year to August 28, 2007 City Council Agenda.

Action: Mayor Reed and Council Members Liccardo, Pyle and Williams recognized the celebration of the Ethiopian Millennium New Year on September 7, 2007 and annually by raising the Green, Yellow and Red flag as in the previous two years.

CONSENT CALENDAR

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

- 2.2 (a) **ORD. NO. 28090 – Repealing Ordinance No. 27743 to terminate the commercial solid waste and recyclables collection franchise previously granted to Redwood Services, Inc. dba Redwood Debris Box Service.**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 21, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28090](#) was adopted. (11-0.)

- (b) **ORD. NO. 28094 – Rezoning certain real property situated at the southeast corner of East Hedding Street and North 17th Street (890 North 17th Street) to R-2(PD) Planned Development Zoning District. PDC07-004**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 21, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28094](#) was adopted. (11-0.)

- (c) **ORD. NO. 28095 – Rezoning certain real property situated on the northwest corner of East Santa Clara Street and North 24th Street (1135 East Santa Clara Street) to CP Commercial Pedestrian Zoning District. C07-044**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 21, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28095](#) was adopted. (11-0.)

- (d) **ORD. NO. 28096 – Rezoning certain real property situated at the southeast corner of North First Street and Holger Way to the CG Commercial General Zoning District. C07-026**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 21, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28096](#) was adopted. (11-0.)

- (e) **ORD. NO. 28097 – Rezoning certain real property situated at the west side of Fortran Drive, approximately 850 feet southerly of Nortech Parkway (4415 Fortran Drive) to IP-Industrial Park Zoning District. C07-028**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 21, 2007, submitted by the City Clerk.

2.2 (e) (Cont'd.)

Action: [Ordinance No. 28097](#) was adopted. (11-0.)

- (f) **ORD. NO. 28098 – Rezoning certain real property situated on the westerly side of the Guadalupe River, at the southern terminus of Seaboard Avenue (2500 Seaboard Avenue) to HI Heavy Industrial Zoning District. C07-034**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 21, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28098](#) was adopted. (11-0.)

- (g) **ORD. NO. 28099 – Rezoning certain real property situated on the north side of Story Road, approximately 200 feet easterly of South King Road (1705 Story Road) to CP Commercial Pedestrian Zoning District. C07-051**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 21, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28099](#) was adopted. (11-0.)

- (h) **ORD. NO. 28100 – Prezoning certain real property situated on the east side of North Bascom Avenue approximately 250 feet north of Olive Avenue (166 North Bascom Avenue) to CG Commercial General Zoning District. C07-036**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 21, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28100](#) was adopted. (11-0.)

- (i) **ORD. NO. 28101 – Rezoning certain real property situated in an area on both sides of Berryessa Road, between the Union Pacific Railroad right of way to the east and the Coyote Creek to the west, north of Mabury Road (1590 Berryessa Road) to A(PD) Planned Development Zoning District. PDC03-108**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 21, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28101](#) was adopted. (11-0.) (First Reading: 7-4. Noes: Constant, Oliverio, Williams; Reed.)

2.3 **Adopt a resolution setting population figures to calculate the Voluntary Expenditure Limits for the 2008 Municipal Election Cycle. (City Clerk) (Rules Committee referral 8/15/07)**

2.3 (Con't.d)

Documents Filed: Memorandum from City Clerk Lee Price, dated August 16, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73964](#), entitled: "A Resolution of the Council of the City of San José Setting Population Limits for Purposes of Calculating the Voluntary Expenditure Limits for the 2008 Municipal Election", was adopted. (11-0.)

**2.4 As recommended by the Parks and Recreation Commission, name a new park located at the intersection of Old Berryessa Road and Oakland Road as "Luna Park". (City Clerk)
(Rules Committee referral 8/15/07)**

Documents Filed: Memorandum from City Clerk Lee Price, dated August 13, 2007, transmitting the recommendation of the Parks and Recreation Commission.

Action: The recommendation of the Parks and Recreation Commission to name a new park located at the intersection of Old Berryessa Road and Oakland Road as "Luna Park" was approved. (11-0.)

2.5 Approval of City Manager Debra Figone's travel to Austin, Texas on October 10-12, 2007 to participate in the San José Silicon Valley Chamber of Commerce "City-to-City Trip". Source Funds: City Manager's Office. (City Manager's Office)

Documents Filed: Memorandum from City Manager Debra Figone, dated August 6, 2007, requesting approval of travel.

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

2.6 (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2007-2008:

- (1) Increase the estimate for Earned Revenue by \$150,000.
- (2) Establish an appropriation to the Department of Public Works for the Kingman Avenue and Leigh Avenue, San Antonio Avenue and Scharff Avenue Traffic Signal Installation project (PSM #497) in the amount of \$150,000.

(b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Kingman Avenue and Leigh Avenue, San Antonio Avenue and Scharff Avenue Traffic Signal Installation project as more specifically described in the memorandum from the Redevelopment Agency, dated June 8, 2007.

CEQA: Exempt, File No. PP06-210. Council Districts 5 and 6. SNI: Mayfair/Burbank Del Monte. (City Manager's Office/Public Works)

2.6 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Acting Budget Director Jennifer Maguire, dated August 6, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

Action: [Ordinance No. 28103](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Kingman Avenue and Leigh Avenue, San Antonio Avenue and Scharff Avenue Traffic Signal Installation; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 73965](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund” and [Resolution No. 73966](#), 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 Strong Neighborhoods Initiative Redevelopment Project Area”, were adopted. (11-0.)

2.7 Adoption of a resolution approving an agreement with ING National Trust to perform custody services for the Deferred Compensation Plan Loan Program, and authorizing the Secretary to the Deferred Compensation Advisory Committee to execute the agreement. CEQA: Not a Project. (Deferred Compensation Advisory Committee)

Documents Filed: Memorandum from Arlene Gibbs, Secretary, Deferred Compensation Advisory Committee, dated August 10, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73967](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Secretary to the Deferred Compensation Advisory Committee to Execute the Loan Custody Agreement with ING National Trust, N.A.”, was adopted. (11-0.)

2.8 Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

(a) Establish a Citywide appropriation to the Office of Economic Development for Economic Development Pre-Development Activities associated with the Potential Soccer Stadium and Related Developments in the amount of \$100,000.

(b) Increase the estimate for Other Revenue by \$100,000.

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

Documents Filed: Memorandum from Chief Development Officer Paul Krutko and Acting Budget Director Jennifer Maguire, dated August 6, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Council Member Williams pulled Item 2.8 for clarification.

2.8 (Cont'd.)

Public Comments: Ross Signorino spoke in favor of a soccer stadium but expressed concern regarding the financing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 28104](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund for Economic Development Predevelopment Activities; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 73968](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the General Fund”, were adopted. (11-0.)

2.9 **Approval of the Municipal Water System’s 2007 Public Health Goals Report on Water Quality and consent to file the report with the California Department of Public Health. CEQA: Not a Project. Council Districts 2, 7 and 8. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated August 6, 2007, recommending approval of the report and consent to file the report.

Action: The Municipal Water System’s 2007 Public Health Goals Report on Water Quality was approved and consent to file the report with the California Department of Public Health was authorized. (11-0.)

2.10 **Adoption of a resolution authorizing the City Manager to negotiate and execute agreements with eligible public school districts, San José/Evergreen Community College District, and San José State University to allow for reimbursement of Commercial Solid Waste Franchise Fees paid to the City for an initial term of July 1, 2007, through June 30, 2009, and authorizing the Director of Environmental Services to exercise options for up to three one-year extensions. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated August 6, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73969](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Waste Reduction and Recycling Cooperation Agreements with Eligible Public School Districts, San José/Evergreen Community College District and San José State University”, was adopted. (11-0.)

- 2.11 Approval of the second amendment to an agreement with Carollo Engineers for professional services, to delete services related to the Electrical System Review and Coordination and the Absorption Chiller Replacement Projects; and expand services related to the Alternative Disinfection Projects, and increase the maximum amount of compensation by \$65,800 from \$671,000 for a total amount not to exceed \$736,800. CEQA: Not a Project. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated August 6, 2007, recommending approval of the second amendment to the agreement. (2) Letter from the Treatment Plant Advisory Committee, dated August 9, 2007, stating concurrence with the Staff recommendation.

Action: The second amendment to an agreement with Carollo Engineers for professional services, to delete services related to the Electrical System Review and Coordination and the Absorption Chiller Replacement Projects; and expand services related to the Alternative Disinfection Projects, and increase the maximum amount of compensation by \$65,800 from \$671,000 for a total amount not to exceed \$736,800 was approved. (11-0.)

- 2.12 Report on bids and award of construction contract for the project entitled, “San José/Santa Clara Water Pollution Control Plant, FY 2007/2008 CIP, 30-inch Gate Valves Replacement for Process Water Pump Project,” to the low bidder, ERS Industrial Services, Inc. in the amount of \$117,503.38; and approval of a contingency in the amount of \$12,000. CEQA: Exempt, File No. PP05-124. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated August 6, 2007, recommending approval of the contract. (2) Letter from the Treatment Plant Advisory Committee, dated August 9, 2007, stating concurrence with the Staff recommendation.

Action: The award of the construction contract for the San José/Santa Clara Water Pollution Control Plant, FY 2007/2008 CIP, 30-inch Gate Valves Replacement for Process Water Pump Project to the low bidder, ERS Industrial Services, Inc., with related contingency was approved. (11-0.)

- 2.13 Adoption of a resolution authorizing the Director of Finance to write off the uncollectible airport accounts listed in the Bad Debt Write-Off Report in the amount of \$42,877.33, as provided for in Section 4.24.030 of the San José Municipal Code. CEQA: Not a Project. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated August 6, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Finance Scott Johnson, dated August 16, 2007, providing additional information that was inadvertently left out of the original memorandum.

Action: [Resolution No. 73970](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Write Off Uncollectible Airport Accounts”, was adopted. (11-0.)

- 2.14 (a) Approval of an agreement with San José State University for cost sharing associated with joint operations of the Dr. Martin Luther King, Jr. Library for fiscal year 2007-2008, and**
- (b) Adoption of a resolution authorizing the Library Director to exercise four renewable option terms through fiscal year 2011-2012 at an amount not to exceed \$200,000 per fiscal year, subject to annual appropriation of funds.**
- CEQA: Not a Project. (Library)**

Documents Filed: Memorandum from Director of Library Department Jane Light, dated August 6, 2007, recommending approval of an agreement and adoption of a resolution.

Action: The agreement with San José State University for cost sharing associated with joint operations of the Dr. Martin Luther King, Jr. Library for fiscal year 2007-2008 was approved and [Resolution No. 73971](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Library Services to Exercise Four Renewable Option Terms Through Fiscal Year 2011-2012 at an Amount Not To Exceed \$200,000 per Fiscal Year, Subject to Annual Appropriation of Funds”, was adopted. (11-0.)

- 2.15 Adoption of a resolution authorizing the City Manager to execute an application on behalf of the Mayor and City Council to participate in the Playful City USA recognition program sponsored by KaBOOM! CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated August 6, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73972](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Application on behalf of the Mayor and City Council to Participate in the Playful City USA Recognition Program Sponsored by KaBOOM!”, was adopted. (11-0.)

- 2.16 (a) Approval of an increase in the contingency budget for the Lake Cunningham Regional Skate Park in the amount of \$349,877 for a total contingency budget of \$589,877.**
- (b) Approval of Contract Change Order Number 5 in the amount of \$349,877 for a total contract amount of \$5,111,177 with Robert A. Bothman, Inc. for the Lake Cunningham Regional Skate Park Project.**
- (c) Adoption of the following Appropriation Ordinance amendments in the Lake Cunningham Fund (Fund 462):**
- (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$200,000 for the City-wide Skateboard Park Development Project; and**
- (2) Decrease the Ending Fund Balance by \$200,000.**

- 2.16 (d) Adoption of the following Appropriation Ordinance amendments in the Construction and Conveyance Tax Fund – Citywide Parks Purposes (Fund 391):**
- (1) Increase the City-wide Skateboard Park Development appropriation to the Parks, Recreation and Neighborhood Services Department by \$180,000; and**
 - (2) Decrease the Ending Fund Balance by \$180,000.**
- CEQA: Mitigated Negative Declaration, File No. PP06-043. (Public Works/Parks, Recreation and Neighborhood Services/City Manager’s Office)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso and Acting Budget Director Jennifer Maguire, dated August 6, 2007, recommending approval of the contingency budget and contract change order 5, and adoption of appropriation ordinance amendments.

Action: The contingency budget for the Lake Cunningham Regional Skate Park in the amount of \$349,877 for a total contingency budget of \$589,877 and the Contract Change Order Number 5 in the amount of \$349,877 for a total contract amount of \$5,111,177 with Robert A. Bothman, Inc. for the Lake Cunningham Regional Skate Park Project were approved and [Ordinance No. 28105](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Lake Cunningham Fund for the Citywide Skateboard Park Development; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Ordinance No. 28106](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Construction and Conveyance Tax Fund: Citywide Parks Purposes for the Citywide Skateboard Park Development; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

- 2.17 Approval of an agreement with the Uenaka Family Partnership to obtain a temporary construction easement for access through their property to the City’s Downer-Canoas Injection Station site. CEQA: Exempt, File No. PP06-165. Council District 10. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated August 6, 2007, recommending approval of an agreement.

Action: The agreement with the Uenaka Family Partnership to obtain a temporary construction easement for access through their property to the City’s Downer-Canoas Injection Station site was approved. (11-0.)

- 2.18 Request for an excused absence for Council Member Pyle from the Regular City Council Closed Session on August 21, 2007, due to the death of a close family member. (Pyle)
(Rules Committee referral 08/22/07)**

Action: The absence for Council Member Pyle was excused. (11-0.)

**2.19 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period June 16, 2007 through July 15, 2007. (City Auditor)
(Rules Committee referral 08/22/07)**

Documents Filed: The Report of the City Auditor's Report of Activities and Findings for the Period June 16, 2007 through July 15, 2007.

Action: The Report of the City Auditor's Report of Activities and Findings for the Period June 16, 2007 through July 15, 2007 was accepted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.1 Report of the Rules and Open Government Committee – August 8, 2007
Mayor Reed, Chair**

Action: Deferred to September 11, 2007 per Orders of the Day.

**3.2 Joint Meeting of the Rules and Open Government Committee and the Sunshine Reform Task Force – June 27, 2007
Mayor Reed, Chair**

Action: Deferred to September 11, 2007 per Orders of the Day.

**3.3 Report of the Public Safety, Finance and Strategic Support Committee – August 16, 2007
Council Member Nguyen, Chair**

Documents Filed: The Public Safety, Finance and Strategic Support Committee Report dated August 16, 2007.

- (a) Report on the FY 2006-07 Fourth Quarter Debt Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated August 3, 2007, recommending acceptance of the report.

Report Accepted.

- (b) Report on the FY 2006-07 Fourth Quarter Investment Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated July 31, 2007, recommending acceptance of the report.

Report Accepted.

- (c) Report on the FY 2006-07 Fourth Quarter Revenue collection Strategic Plan Report.

Deferred.

**3.3 Report of the Public Safety, Finance and Strategic Support Committee – August 16, 2007
Council Member Nguyen, Chair (Cont'd.)**

- (d) Redevelopment Agency Monthly Financial Reports. Attachment: Memoranda from Redevelopment Agency Executive Director Harry S. Mavrogenes, all three dated August 2, 2007, recommending acceptance of the reports.
- (1) Financial Statements.
 - (2) Capital Cost Report.
 - (3) Cash Flow Projections.

The Committee accepted the Staff reports.

- (e) Review of Call Center Customer Service Standards and Vision. Attachment: Memorandum from Director of Information Technology Randall Murphy, dated August 2, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (f) Report on the Progress on Automation and Technology in the Office of the City Clerk. Attachment: Memorandum from City Clerk Lee Price and Director of Information Technology Randall Murphy, dated August 7, 2007, recommending acceptance of the report.

The Committee accepted the Staff report. **Council Member Oliverio objected to Staff's recommendations to hire a consultant to analyze the City's business needs for an electronic content management system and suggested an alternative solution. Interim Chief Information Officer Randall Murphy noted that Staff would explore all options.**

- (g) Report on Key State Legislative Items. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated August 1, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (h) Oral Petitions - None were presented.

- (i) Adjournment - The meeting was adjourned at 3:26 p.m.

Action: Upon motion by Council Member Nguyen, seconded by Vice Mayor Cortese and carried unanimously, the Public Safety, Finance and Strategic Support Committee and the actions of August 16, 2007 were accepted. (11-0.)

- 3.4 Adoption of a resolution approving a City Council Expenditure and Reimbursement Policy. (City Attorney/City Clerk/Finance)**
[Rules Committee referral 6/20/07 – Item g(1)]
(Deferred from 8/7/07 – Item 3.8 and 8/14/07 – Item 3.3)

Action: Deferred to September 11, 2007 per Orders of the Day.

- 3.6 Presentation of statewide ethics issues in response to Reed Reform #26, “Hold regular public hearings on ethical issues around the state so we can learn from our mistakes and the mistakes of others”. (City Attorney's Office)**

Action: Deferred to September 11, 2007 per Orders of the Day.

- 3.7 As recommended by the Rules and Open Government Committee on August 8, 2007, adoption of a resolution authorizing the City Manager to annually display the POW/MIA Flag as outlined in the memorandum previously submitted to and approved by the Rules and Open Government Committee.**
[Rules Committee referral 08/08/07 – Item (g)(1)]

Documents Filed: Memorandum from City Clerk Lee Price, dated August 17, 2007, transmitting the recommendation of the Rules and Open Government Committee on August 8, 2007.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, [Resolution No. 73973](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Display of the POW/MIA Flag at City Hall on National POW/MIA Recognition Day”, was adopted. (11-0.)

- 3.8 As recommended by the Rules and Open Government Committee on August 22, 2007, approve a support position on SB264 (Alquist) as outlined in the memorandum previously submitted to and approved by the Rules and Open Government Committee.**
[Rules Committee referral 08/22/07 – (c)(1)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, dated August 24, 2007, transmitting the recommendation of the Rules and Open Government Committee on August 22, 2007.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, a support position on SB264 was approved. (11-0.)

- 3.9 As recommended by the Rules and Open Government Committee on August 22, 2007, approve an oppose position on SB375 (Steinberg) and recommend that it be made a two year bill to allow the City and other affected agencies to continue to work towards resolving the serious problems associated with the current bill as outlined in the memorandum previously submitted to and approved by the Rules and Open Government Committee.**
[Rules Committee referral 08/22/07 – (c)(1)(b)]

3.9 (Cont'd.)

Documents Filed: Memorandum from City Clerk Lee Price, dated August 24, 2007, transmitting the recommendation of the Rules and Open Government Committee on August 22, 2007.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, an oppose position on SB375 was approved. (11-0.)

- 3.10 As recommended by the Rules and Open Government Committee on August 22, 2007, approve the recommended City positions for four (4) resolutions to be considered at the Annual League of California Cities Conference to be held in Sacramento in September as outlined in the memorandum previously submitted to and approved by the Rules and Open Government Committee.
[Rules Committee referral 08/22/07 – (c)(1)(c)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated August 24, 2007, transmitting the recommendation of the Rules and Open Government Committee on August 22, 2007.

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously, the recommended City positions for four resolutions to be considered at the Annual League of California Cities Conference to be held in Sacramento in September as outlined in the memorandum previously submitted to and approved by the Rules and Open Government Committee were approved. (11-0.)

NEIGHBORHOOD SERVICES

- 5.2 Approval of the Neighborhood Commission Proposal as approved by the NSE Committee approved with the following amendments:**
- (a) The Neighborhoods Commission annual work plan will be developed in coordination with, and approved by, the NSE Committee.**
 - (b) The Neighborhoods Commission be instituted as a pilot from April 1, 2008 to March 31, 2010.**
 - (c) The Neighborhoods Commission provide quarterly updates to the NSE Committee throughout the two-year pilot period.**

CEQA: Not a Project. (City Manager's Office)

[Neighborhood Services and Education Committee 8/9/07 – Item (e)(1)]

Action: Deferred to September 25, 2007 in the Evening per Administration.

- 5.3 (a) Report on bids and take appropriate action based on the evaluation of bids for the Happy Hollow Park & Zoo - Pedestrian Bridge Project.
- (b) Report on bids and take appropriate action based on the evaluation of bids for the Happy Hollow Park & Zoo - Zoo and Attractions Project.
- CEQA: Mitigated Negative Declaration, File No. PP05-142. (Public Works/Parks, Recreation and Neighborhood Services)**

Action: Deferred to September 11, 2007 per Administration.

TRANSPORTATION & AVIATION SERVICES

- 6.2 Acceptance of the status report on the implementation of the Enhanced Parking Security and Cleaning Plan, and the six-month pilot program on the \$5 rate at City parking garages after 10 p.m. on Thursday through Saturday that began July 1, 2007. **CEQA: Not a Project. (Transportation)**

Action: Deferred to September 11, 2007 per Orders of the Day.

- 6.3 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute the Right-of-Way Cooperative Agreement between the City of San José, Santa Clara County, State of California and Valley Transportation Authority for the Guadalupe Corridor project.
- (b) Adoption of a resolution authorizing the Director of Public Works to:
- (1) Execute all documents necessary on behalf of the City of San José for the conveyance and acceptance of property interests, including fee title and easements, associated with the Guadalupe Corridor project.
- (2) Negotiate and execute the Joint Use Agreements between the State of California and the City of San José for affected City sewer facilities related to the Guadalupe Corridor project.
- (c) Adoption of a resolution authorizing the Director of Transportation to negotiate and execute those freeway Maintenance Agreements between the State of California and the City of San José that include the Guadalupe Corridor project as follows:
- (1) Route 85 from Route 101 to De Anza Boulevard.
- (2) Route 87 from the Route 85/87 Interchange to Coleman Avenue.

CEQA: Exempt, File No. PP07-129. Council Districts 1, 2, 3, 6, 7, 9 and 10. (Transportation/Public Works)

Documents Filed: Memorandum from Director of Transportation James Helmer and Director of Public Works Katy Allen, dated August 6, 2007, recommending adoption of resolutions.

6.3 (Cont'd.)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Williams and carried unanimously, [Resolution No. 73974](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Right of Way Cooperative Agreement Between the City of San José, State of California, Santa Clara County and Valley Transportation Authority for Final Transfer of Property Interests Pertaining to the Guadalupe Corridor Project”; [Resolution No. 73975](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute all Documents Necessary to Convey, Transfer and Accept all Property Interests Associated with the Guadalupe Corridor Project, Pursuant to the Right of Way Cooperative Agreement Between the City of San José, State of California, County of Santa Clara and Valley Transportation Authority” and [Resolution No. 73976](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Freeway Maintenance Agreements with the State of California Relating to the Guadalupe Corridor Project”, was adopted. (11-0.)

PUBLIC SAFETY SERVICES

- 8.1 (a) **Acceptance of the cost benefit analysis and direct staff to proceed with one of the three options for the Fire Station No. 2 Project.**
- (b) **Adoption of the appropriate appropriation ordinance and funding resolution amendments for the approved option as outlined in Attachment A of the Council report.**

CEQA: Exempt, File No. PP05-220. Council District 5. (Fire/City Manager’s Office/Public Works)

Action: Deferred to September 25, 2007 in the Evening per Administration.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Council/Redevelopment Agency Board convened at 2:18 p.m. to consider Item 9.1 in a Joint Session.

- 9.1 (a) **Adoption of a resolution by the City Council authorizing the City Manager to appoint a City representative to the Downtown Property and Business Improvement District Owners Association Board of Directors.**
- (b) **Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to appoint a Redevelopment Agency representative to the Downtown Property and Business Improvement District Owners Association Board of Directors.**
- (c) **Adoption of a resolution by the City Council authorizing the City Manager to cast votes and submit a ballot for the election of members to the Downtown Property and Business Improvement District Owners Association Board of Directors.**

- 9.1 (d) **Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to cast votes and submit a ballot for the election of members to the Downtown Property and Business Improvement District Owners Association Board of Directors.**

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

Documents Filed: Memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated August 9, 2007, recommending adoption of resolutions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73977](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Appoint a City Representative to the Downtown Property and Business Improvement District Owners Association Board of Directors"; [Resolution No. 73978](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Cast Votes and Submit a Ballot for the Election of Members to the Downtown Property and Business Improvement District Owners Association Board of Directors" and Redevelopment Agency Resolution Numbers 5777 and 5778, were adopted. (11-0.)

- 9.2 (a) **Approval of the work plan for the North San José Neighborhoods Planning Taskforce.**
- (b) **Appointment of the North San José Neighborhoods Planning Taskforce.**
- (c) **Consideration of an ordinance rezoning the real property located on the southeast corner of Zanker Road and River Oaks Drive (3300 Zanker Road) from (IP) Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 1,900 single-family attached residences and 31,360 square feet for retail commercial, leasing office, and clubhouse uses on a 38.25 gross acre site (Irvine Apartment Communities, property owner and developer). CEQA: Resolution No. 72768 and addendum thereto. Director of Planning, Building and Code Enforcement recommends approval of the proposed zoning and Planning Commission recommended that the City Council defer consideration of the proposed project until the completion of a Master Plan for the North San José area (5-1-1).**

PDC06-038 – District 4

(Continued from 6/5/07 – Item 11.6, 6/19/07 – Item 11.2, and 8/14/07 – Item 11.3)

Action: See Item 11.2 for Council action taken.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 (a) **Approval to incorporate the following Sunshine Reform Task Force Recommendations into Council-adopted Cost-Benefit Analysis Pilot Program: D.1.i. (Accountability), D.1.ii. (Net fiscal impact), D.1.iv.(A) (Housing Impact: Number of units constructed/demolished), D.1.v. (Source of funds), and D.1.vi. (Neighborhood impacts).**
- (b) **Approval to continue Council action to implement a Pilot Cost-Benefit Program apart from the Sunshine Ordinance.**

**CEQA: Not a Project. (Economic Development)
(Deferred from 8/14/07 – Item 4.2)**

Documents Filed: (1) Memorandum from Council Members Pyle and Campos, dated August 27, 2007, recommending approval of actions related to the Cost Benefit Analysis Pilot Program. (2) Memorandum from Chief Development Officer Paul Krutko, dated July 23, 2007, recommending approval to the recommendations. (3) Memorandum from Don Gralnek, Executive Vice President/General Counsel, San José Sharks, dated August 27, 2007, regarding the Sunshine Reform Task Force recommendations.

Chief Development Officer Paul Krutko and Redevelopment Agency Director Harry Mavrogenes presented an outline of the Cost Benefit Analysis Pilot Program.

Motion: Council Member Pyle moved approval of the memorandum she cosigned with Council Member Campos recommending that the Sunshine Reform Task Force recommendations be incorporated into the Council Adopted Cost Benefit Analysis Pilot Program, as proposed by Staff. Council Member Campos seconded the motion.

Chief Development Officer Paul Krutko responded to Council questions.

Public Comments: Speaking in support of the Sunshine Reform Task Recommendations were Donna Furuta, Yvonne Tran, Father Bill Leninger (The Interfaith Council), Aurelia Sanchez, Tom Fink, Phaedra Ellis-Lamkins (South Bay Labor Council), Jean Cohen, (Sacred Heart Community Service), Reverend Reginald Swilley, Clark Williams, Claudia Shope, Erik Larsen (AFSCME), Ken Podgorsek (United Neighborhoods of Santa Clara County), Harvey Darnell, Ed Rast, and Diane Fisher.

Speaking in opposition to the Staff recommendations and in favor of Staff's recommendation to adopt a pilot program were Scott Knies (San José Downtown Association), Beverly Bryant, (Home Builders Association), Neil Struthers (Building Trades Council), and Pat Dando and Jody Hansen (San José Silicon Valley Chamber of Commerce).

Speaking in opposition to the Sunshine Reform Task Force recommendation and voicing concerns about the lack of timeliness of distributing the Council Memo on this subject were Suzanne Salata (Garden City Construction) and Nanci Williams (San José Silicon Valley Chamber of Commerce and Member of the SRTF (who presented a minority opinion on this topic).

4.2 (Cont'd.)

Stephen Hazel spoke off topic.

Extensive Council discussion followed.

Council Member Liccardo requested to amend the motion to direct Staff to indicate to any potential recipient of a public subsidy the Council's intention to require disclosure of net job impact and the impact on extremely low income housing. Further, he proposed Staff be directed to request the disclosure of this information and if the subsidy's recipient refuses or fails to provide the requested information, Staff be directed to bring the matter to Council to either approve the subsidy (without the requested information) or reject it. The amendment was accepted by Council Members Pyle and Campos.

Action: On a call for the question, the motion carried unanimously, the joint memorandum from Council Members Pyle and Campos, dated August 27, 2007 was approved with Staff directed to: (1) Incorporate all of the Sunshine Reform Task Force Recommendations into the Council Adopted Cost Benefit Analysis Pilot Program, including I Accountability; II Net Fiscal Impact; III Net Job Impact; IV Housing Impact; V Source of Funds and VI Neighborhood Impacts. (2) Consider including the Sunshine Reform Task Force recommendations on public subsidies into the already Council Adopted Cot Benefit Analysis Pilot Program; and, (3) Continue the Council's consideration of remaining Sunshine Reform Task Force recommendations when agendized by the Rules and Open Government Committee. (4) Staff directed to indicate to any potential recipient of a public subsidy the Council's intention to require disclosure of net job impact and the impact on extremely low income housing. Further, Staff directed to request the disclosure of this information. If the subsidy's recipient refuses or fails to provide the requested information, Staff directed to bring the matter to Council and the Council may either approve the subsidy (without the requested information) or reject it. (11-0.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9939	West side of Dent Ave., 500' N of Kooser Rd.	9	Rockwell Homes, Inc.	12 Lots/12 Units	SFD

OPEN FORUM

Documents Filed: Newspaper article, dated April 23, 2004, submitted by Stephen Hazel.

- (1) Robert Apgar voiced personal observations.
- (2) Stephen Hazel expressed personal views.
- (3) Ed Rast suggested that the City needs to solve the budget shortfall.
- (4) Mark Trout presented religious points of view.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon Council Session at 6:06 p.m.

RECESS/RECONVENE

The City Council recessed at 6:06 p.m. from the afternoon Council Session and reconvened at 7:05 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

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

CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to Barry Del Buono and EHC Lifebuilders for their ongoing efforts to protect human rights and their long-term contributions toward building a better community for all of our residents now and in the future. (Nguyen/Liccardo/Cortese)**

Action: Mayor Reed, Vice Mayor Cortese and Council Members Nguyen and Liccardo recognized and commended Mr. Barry Del Buono and EHC Lifebuilders for their exemplary service to the residents of San José.

PUBLIC HEARINGS ON CONSENT CALENDAR

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

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the south side of Alum Rock Avenue, approximately 160 feet westerly of McCreery Avenue (1866 and 1870 Alum Rock Avenue: APN: 481-18-012) from the CG – Commercial General Zoning District to the CP – Commercial Pedestrian District to allow commercial uses on a 0.20 gross acre site (Manuel Matos, Owner/ Developer). SNI: Mayfair. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-038 – District 5
[Continued from 8/14/07 – Item 11.1(f)]**

11.1 (a) (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-038, dated July 23, 2007, recommending approval on the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on August 3, 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: The recommendation of the Planning Director was approved, and Ordinance No. 28107, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Alum Rock Avenue, Approximately 160 Feet Westerly of McCreery Avenue (1866 and 1870 Alum Rock Avenue) to CP Commercial Zoning District", was passed for publication. (11-0.)

- (b) **Consideration of an ordinance rezoning the real property located on the south side of Olga Drive Approximately 200 feet easterly of Saratoga Avenue (4170 Olga Drive) from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to five single-family detached residences on a 0.36 gross acre site (Noel Avenue LLC, Owner). SNI: Blackford. CEQA: Negative Declaration. PDC06-112 – District 1**

Action: Continued to September 11, 2007 per Administration.

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

Action: Continued to September 25, 2007 per Administration.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 (a) **Approval of the work plan for the North San José Neighborhoods Planning Task Force.**
- (b) **Appointment of the North San José Neighborhoods Planning Task Force.**
- (c) **Consideration of an ordinance rezoning the real property located on the southeast corner of Zanker Road and River Oaks Drive (3300 Zanker Road) from (IP) Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 1,900 single-family attached residences and 31,360 square feet for retail commercial, leasing office, and clubhouse uses on a 38.25 gross acre site (Irvine Apartment Communities, property owner and developer). CEQA: Resolution No. 72768 and addendum thereto. Director of Planning, Building and Code Enforcement recommends approval of the proposed zoning and Planning Commission recommended that the City Council defer consideration of the proposed project until the completion of a Master Plan for the North San José area (5-1-1).**

PDC06-038 – District 4

(Continued from 6/5/07 – Item 11.6, 6/19/07 – Item 11.2, and 8/14/07 – Item 11.3)

Documents Filed: (1) Memorandum from Mayor Reed, dated June 4, 2007, requesting the Planning Commission hold a special meeting regarding the proposed rezoning. (2) Memorandum from Council Member Council Member Chu, dated August 24, 2007, recommending conditions of approval of the project as described below in “Action”. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 23, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-038, dated May 23, 2007, recommending approval on the subject rezoning. (4) Initial Study and Addendum to the Final Program Environmental Impact Report for the North San José Development Policies Update dated May 2007. (5) Memorandum from Planning Commission Secretary Joseph Horwedel, dated August 1, 2007, transmitting the Planning Commission recommendation of approval. (6) Supplemental memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated August 24, 2007, recommending that Council appoint members of the North San José Neighborhoods Planning Task Force as advisory to the City Council regarding the North San José Implementation Strategy. (7) Proofs of Publications of Notices of Public Hearings, executed on June 15, 2007 and June 16, 2007, submitted by the City Clerk.

Deputy Director Redevelopment Agency John Weis presented an outline of the Task Force schedule. Director of Planning, Building and Code Enforcement Joseph Horwedel presented an overview of the project.

Mayor Reed opened the public hearing.

Public Comments: Rick Lamprecht, The Irvine Company, representing the Applicant, outlined the rezoning application and spoke to the merits of the project. He agreed with Items (a) through (g) of the memorandum from Council Member Chu but disagreed with Item (h), moving the location of the park.

11.2 (Cont'd.)

Speaking in objection to the proposed location of the park were Jean Marlowe, Marcelle Kube, Erik Kaeding, Abhay Bhorkar and Leigh Cagan.

Roger Barnes and Joseph Fota agreed that the Task Force should complete its work before the project goes forward at this time.

Rhonda Striegel, River Oaks Neighborhood Association, complained about the lack of planning. William Garbett objected and stated that money is needed for schools.

Bob Gross expressed concern with the infrastructure and added that more police protection is needed in that area.

Jody Hansen, San José Silicon Valley Chamber of Commerce, expressed support of the recommendations.

Rick Lamprecht presented rebuttal comments and added that significant delay would result if the park was moved to a different location. Mayor Reed closed the public hearing.

Council discussion followed.

Council Member Constant expressed concern about the LEED Silver Certification requirements adding that there should be an adopted standard. Council Member Liccardo expressed concern about the loss of park land and parking in the North San José.

Action on 11.2(a): Upon motion by Council Member Council Member Chu, seconded by Council Member Williams and carried unanimously, the approval of the work plan for the North San José Neighborhoods Planning Task Force was continued to September 25, 2007. (11-0.)

Action on 11.2(b): Upon motion by Council Member Council Member Chu, seconded by Council Member Williams and carried unanimously, the appointment of the North San José Neighborhoods Planning Task Force was approved and to include two representatives from the North Valley Association, one representative from the San José Silicon Chamber of Commerce and one representative from the South Bay Labor Council. (11-0.)

Motion on 11.2(c): Council Member Chu moved approved of his memorandum dated August 24, 2007, with the conditions (a)-(h) as outlined. Vice Mayor Cortese seconded the motion.

Amendment to the Motion: Council Member Constant moved to delete Item (h), moving the location of the park. Council Member Oliverio seconded the motion. (6-5. Noes: Campos, Chu, Cortese, Nguyen, Pyle.)

11.2 (Cont'd.)

Amendments to the Motion: Vice Mayor Cortese moved to amend the motion with the following: (1) Staff to proceed with a Traffic Calming Study, including working with the neighborhoods east of the subject site concurrent with the North San José Task Force. (2) Update City Council on a bi-monthly basis on the progress of the Task Force and make it available on the web site. (3) When the work plan comes back, Staff to return with a way of ensuring the Task Force work is completed prior to any land use applications coming forward. Council Member Council Member Chu accepted the amendments.

Action: On a call for the question, the motion carried, [Ordinance No. 28108](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of Zanker Road and River Oaks Drive (3300 Zanker Road) to A(PD) Planned Development Zoning District”, was passed for publication, as amended; The memorandum from Council Member Chu, dated August 24, 2007, was approved with the following conditions: (a) Install a 5 acre turnkey public park on the project site. (b) Pay in-lieu fees for entire affordable housing obligation. (c) Provide a financial contribution of up to \$15,000 towards the cost of the North San José Neighborhoods Planning Task Force. (d) Provide residents of the River Oaks Neighborhood Association (RONA) access and use of a clubroom for board meetings and community gatherings. (e) Provide the community, the City of San José and adjacent property owners with regular updates on the progress of the project during construction. (f) Make a good faith effort to implement transportation opportunities with Valley Transportation Authority and the City of San José to provide accommodations for shuttles and van pools and access to transit passes. (g) Sustainability: Require the use of Leadership in Energy and Environmental Design (LEED) practices to achieve credits sufficient for a LEED Silver Certification. (h) The request to move the park was not approved. Additional approved amendments: (1) Staff to proceed with a Traffic Calming Study, including working with the neighborhoods east of the subject site concurrent with the North San José Task Force. (2) Update City Council on a bi-monthly basis on the progress of the Task Force and make it available on the web site. (3) When the work plan comes back, Staff to return with a way of ensuring the Task Force work is completed prior to any land use applications coming forward. (10-1. Noes: Constant.)

11.3 **Consideration of an ordinance rezoning the real property located on the southwest corner of North 1st Street and Century Center (1733 North 1st Street) from CO(PD) Commercial Office Planned Development, LI light Industrial, and CG Commercial General Zoning district to A(PD) Planned Development Zoning District to allow up to 460 single-family attached residences and 20,000 square feet for retail commercial uses on a 2.4 gross acres site (James Schmidt Et Al, Owner). CEQA: Resolution No. 72768 and Addenda thereto.**

PDC05-114 - District 3

(Continued from 8/14/07 – Item 11.6)

Action: Continued to September 11, 2007 per Administration.

- 11.4 Consideration of an ordinance rezoning the real property located on the east side of Radio Avenue, approximately 160 feet north of Lincoln Court (2102 Radio Avenue) from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow one single-family detached residence and up to 13 single-family attached residences on a 0.74 gross acre site (Willow Village Square, LLC, Paul Majoulet, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC05-122 - District 6
(Continued from 8/14/07 – Item 11.7)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-122, dated July 10, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 23, 2007, transmitting the Planning Commission recommendation. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 24, 2007, explaining that the decision to defer this item to August 28, 2007, allowed the Planning Staff and applicant an opportunity to continue to work on the proposed project and to provide additional background information on the processing of the application. (4) Proof of Publication of Notice of Public Hearing, executed on July 6, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. Henry Sager spoke in opposition to many of the Staff recommendations. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28109](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Radio Avenue, Approximately 160 Feet North of Lincoln Court (2102 Radio Avenue, APN: 439-08-014) to A(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

STRATEGIC SUPPORT SERVICES

- 3.5 (a) Acceptance of the report on Retiree Healthcare.**
(b) Direct staff to develop options to achieve full pre-funding of the retiree healthcare liability.
(c) Direct staff to develop options to reduce the retiree healthcare liability.
CEQA: Not a Project. (City Manager’s Office)
(Continued from 8/7/07 – Item 3.11)

3.5 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, Vice Mayor Cortese and Council Members Pyle and Williams, dated August 23, 2007, recommending acceptance of the staff report with direction as depicted below in "Action". (2) Memorandum from Director of Employee Relations Alex Gurza, Director of Human Resources Mark Danaj and Director of Finance Scott Johnson, dated July 24, 2007, recommending acceptance of the report with direction to staff as restated above. (3) Six letters from the public regarding the Retiree Healthcare report.

Public Comments: Speaking in objection to changing benefits on Retiree Healthcare were Joe Bass, Phaedra Ellis-Lamkins (South Bay Labor Council), Bob Leininger (San José Retired Employees Association), Tim Reilly, Russ Northup, Gay Gale, Rich Coco (City Association of Management Personnel), Erik Larsen, Yolanda Cruz, Tracy Jacobs, Ruby Justo (AFSCME MEF), Tim Bowman, Andres Ramos, Peter Patron, Jenny Nusbaum, David Rodriguez, Brian Doyle, Mary Toller, Tom Brim, Paul Prange and Pascal Roubineau.

Motion: Vice Mayor Cortese moved approval of the memorandum he cosigned with Mayor Reed and Council Members Pyle and Williams. Council Member Pyle seconded the motion.

Council Member Liccardo requested to amend the motion to ensure all meetings are noticed and open to the public and to include in the process an effort to transparently describe the different assumptions and keep all parties apprised. Vice Mayor Cortese and Council Member Pyle accepted the amendments.

Council Member Liccardo moved to amend the neighborhood representation to include the stakeholders. The motion failed, lack of a second.

Council discussion followed.

Action: On a call for the question, the motion carried unanimously, the Retiree Healthcare report was accepted and the joint memorandum from Mayor Reed, Vice Mayor Cortese and Council Member Pyle and Williams, dated August 23, 2007 was approved, with additional direction to Staff as follows: (1) Engage stakeholders in identifying strategies and alternatives to address the unfunded liability for retiree healthcare. Stakeholders will include, at a minimum, employees, City Labor Alliance, Executive Management Forum, retiree associations, retirement board and South Bay Labor Council. (2) Continue to survey how other cities and counties are addressing their unfunded liabilities. (3) Engage experts, identified by the Administration and stakeholders, as necessary to evaluate strategies and approaches that are identified by stakeholders or have been implemented in other cities or counties. (4) Study how pre-full funding of benefits can be accomplished through a phased approach. (5) Ensure all meetings are noticed and open to the public. (6) Include in the process an effort to transparently describe the different assumptions and keep all parties apprised. (11-0.)

ADJOURNMENT

The Council of the City of San José was adjourned at 10:19 p.m. in memory of Lou Garcia, a long time City employee who passed away suddenly last month. Lou, who served the City of San José as a Deputy City Manager of Environmental Services, was well liked and respected by many City employees.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/8-28-07MIN

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 REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 7:11 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

- 8.1 City Council and Redevelopment Agency Board approval of an agreement with Charities Housing and Paseo Center II, LP, for child care, providing for an Agency contribution of \$500,000 toward renovation of a portion of the Paseo Senter Plaza housing development and for covenants to operate the renovated portions with Smart Start operating standards. [Deferred June 26, 2007, Item 8.3(a)] CEQA: Addendum to a Negative Declaration for Paseo Senter at Coyote Creek File No. PDC03-057 & PP07-138. [MERGED]**

Documents Filed: Supplemental memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated August 21, 2007, recommending approval of the agreement.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the agreement with Charities Housing and Paseo Center II, LP, for child care, providing for an Agency contribution of \$500,000 toward renovation of a portion of the Paseo Senter Plaza housing development and for covenants to operate the renovated portions with Smart Start operating standards was approved. (10-0-1. Absent: Constant.)

- 8.2 (a) Adoption of a resolution by the Agency Board directing the Executive Director to negotiate agreements necessary to enable Cirque du Soleil to occupy the former San Jose Water Company property located on Santa Clara Street and Delmas Avenue, including property use agreements with Adobe Systems as owners of the property and property use agreements with Cirque du Soleil, and utility relocation agreements with PG&E, AT&T, and Comcast Cable.**
- (b) Adoption of a resolution by the Agency Board approving an adjustment to the FY 2007-08 Adopted Capital budget authorizing \$700,000 for Cirque du Soleil, a new project line in the Merged Redevelopment Area, and amending the FY 2007-08 Agency appropriations resolution.**
- (c) Adoption of a resolution by the City Council directing the City Manager to negotiate agreements necessary to enable Cirque du Soleil to occupy the former San Jose Water Company property, including the waiver of parking fees for Adobe Systems at the Market Street Garage.**

CEQA: Not a Project. The negotiated agreements and Planned Development Permit will undergo environmental review prior to any Agency or City approval actions. [MERGED]

Action: Upon motion by Council Member Liccardo, seconded by Council Member Campos and carried unanimously, Item 8.2 was deferred to September 11, 2007. (11-0.)

- 8.3 (a) It is recommended that the City Council adopt a resolution making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for funding of the Japantown Cultural Preservation Projects.
- (b) It is recommended that the Redevelopment Agency Board adopt a resolution authorizing the Executive Director to execute purchase orders and construction contracts in a total amount not to exceed \$280,000, to construct and install the landmarks and history marker projects consistent with the Japantown CDBG and Proposition 40 grants.
- CEQA: Exempt. File No. PP07-171 [JAPANTOWN]**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated August 24 2007, recommending adoption of resolutions.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73979](#), entitled: “A Resolution of the Council of the City of San José Making Certain Determinations Required by Redevelopment Law, Health and Safety Code Section 33445, for Funding of the Japantown Cultural Preservation Projects” and Redevelopment Agency Resolution No. 5779 were adopted. (11-0.)

The Council of the City of San José and Redevelopment Agency Board adjourned at 7:14 p.m.