

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, SEPTEMBER 11, 2007**

The Council of the City of San José convened in regular session at 9:30 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) Fong, et al. v. City of San José, et al. (B) Public Employee/Public Employee Appointment Pursuant to Government Code Section 54957: Title: Interim City Auditor. (C) to confer with Legal Counsel pursuant to: Government Code Section 54956.9 with respect to existing litigation, subsection (c), initiation of litigation in one (1) matter. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Maintenance Supervisory Personnel (AMSP); (2) Association of Engineers & Architects, (AEA) IFPTE, Local 21, Units 041 and 042; (3) Association of Engineers & Architects, (AEA) IFPTE, Local 21, Unit 043; (4) Association of Building, Mechanical and Electrical Inspectors (ABMEI); (5) Confidential Employees' Organization (CEO) AFSCME, Local 101; (6) International Brotherhood of Electrical Workers (IBEW), Local 332; (7) International Union of Operating Engineers, Local No. 3 (OE#3); (8) Municipal Employees' Federation (MEF), AFSCME, Local 101; (9) International Association of Firefighters (IAFF), Local 230; (10) San José Police Officers' Association (SJPOA); (11) City Association of Management Personnel (CAMP).

By unanimous consent, Council recessed from the Closed Session at 10:55 a.m. and reconvened at 1:32 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**

Fire Chief Darryl Von Raesfeld, Chief of Police Robert Davis, the Fire Department Chaplains and the Honor Guards presented a special memorial in honor of the victims of September 11, 2001. (District 8)

**PLEDGE OF ALLEGIANCE**

Mayor Reed and The Honor Guards led the Pledge of Allegiance.

**ORDERS OF THE DAY**

Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 1.4 dropped. (11-0.)

**CLOSED SESSION REPORT**

City Attorney Doyle disclosed the following Closed Session action of September 11, 2007:

A. Public Employee Appointment Pursuant to Government Code Section 54957:

1. Title: Interim City Auditor  
Office of the City Auditor

Name: Steven Hendrickson

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

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

**CEREMONIAL ITEMS**

**1.1 Presentation of a commendation to the Almaden Library and Community Center for being awarded the 2006 California Park and Recreation Society Achievement Award. (Parks, Recreation and Neighborhood Services)**

Action: Mayor Reed and Council Member Pyle recognized the Almaden Library and Community Center for being awarded the 2006 California Park and Recreation Society Achievement Award.

- 1.4 Presentation of a proclamation in celebration of Mexican Independence Day on September 16, 2007. (Campos)  
(Rules Committee referral 9/5/07)**

Action: Dropped per Orders of the Day.

- 1.5 Presentation of a commendation to Grainger Corporation for their contributions to the community and economic vitality of the City of San José. (Mayor/Chu)  
(Rules Committee referral 9/5/07)**

Action: Mayor Reed and Council Member Chu recognized and commended the Grainger Corporation for their contributions to the community and economic vitality of the City of San José.

- 1.6 Presentation of an award to Linda Crabill, Community Relations Manager for the City of San José's Department of Transportation, from the California Association of Public Information Officials for receipt of the Paul B. Clark Award, a lifetime achievement award that recognizes outstanding contributions in the field of public information. (City Manager/Transportation)  
(Rules Committee referral 9/5/07)**

Action: The California Association of Public Information Officials recognized Ms. Linda Crabill, Community Relations Manager for the City of San José's Department of Transportation for receipt of the Paul B. Clark Award.

## CONSENT CALENDAR

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

- 2.2 (a) ORD NO. 28107 – Rezoning certain real property situated on the south side of Alum Rock Avenue, approximately 160 feet westerly of McCreery Avenue to CP Commercial Pedestrian Zoning District. P07-038**

Documents Filed: Proof of Publication of the title of Ordinance No. 28107 executed on September 5, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28107](#) was adopted. (11-0.)

- (b) ORD NO. 28108 – Rezoning certain real property situated at the southeast corner of Zanker Road and River Oaks Drive to A(PD) Planned Development Zoning District. PDC06-038**

Documents Filed: Proof of Publication of the title of Ordinance No. 28107 executed on September 5, 2007, submitted by the City Clerk.

2.2 (b) (Cont'd.)

Action: [Ordinance No. 28108](#) was adopted. (11-0.) (First Reading: 10-1. Noes: Constant.)

(c) **ORD NO. 28109 – Rezoning certain real property situated on the east side of Radio Avenue, approximately 160 feet north of Lincoln Court to A(PD) Planned Development Zoning District. PDC05-122**

Documents Filed: Proof of Publication of the title of Ordinance No. 28107 executed on September 5, 2007, submitted by the City Clerk.

Public Comments: Jean Marlowe asked Council to reconsider its vote, that the neighborhood wants an open park.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 28109](#) was adopted. (11-0.)

2.3 **Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the lease agreement between the City of San José and Sky Chefs, Inc., to change the Base Rental for non-airline, off-Airport sales activity to 0% of gross receipts for the period of January 1, 2008 through December 31, 2008, and 2% thereafter. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-155. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated August 20, 2007, recommending approval of the first amendment to the lease agreement.

Action: [Resolution No. 73980](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Lease with Sky Chefs, Inc., to Change the Base Rental for Non-Airline, Off-Airport Sales Activity to 0% of Gross Receipts for the Period of January 1, 2008 through December 31, 2008, and 2% Thereafter”, was adopted. (11-0.)

2.4 **Adoption of a resolution authorizing the City Manager to negotiate and execute a third amendment to the grant agreement with San José Stage Company, to:**

(a) **Extend the term of the agreement to an optional fourth year with a grant in an amount not to exceed \$69,977, increasing the total grant amount to \$284,105 for the four-year term, and**

(b) **Make other amendments necessary for the administration of the grant.**

**CEQA: Not a Project. (Economic Development)**

Action: Deferred to September 25, 2007 per Administration.

2.5 **Acceptance of the 1Q2007 and 2Q2007 Arena Ticket Distribution Program Reports as submitted by the San José Arena Authority. CEQA: Not a Project. (Economic Development)**

**2.5 (Cont'd.)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated August 20, 2007, recommending acceptance of the report.

Action: The 1Q2007 and 2Q2007 Arena Ticket Distribution Program Reports as submitted by the San José Arena Authority Report was accepted. (11-0.)

**2.6 Adoption of a resolution authorizing the submittal of the 2006-2007 Urban Runoff Management Plan Annual Report and certification to the Regional Water Quality Control Board in conformance with the City's Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System permit requirements, pursuant to the Federal Clean Water Act. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated August 20, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73981](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Submittal of the 2006-07 Urban Runoff Management Plan Annual Report and Certification to the Regional Water Quality Control Board in Conformance with the City's Municipal Separate Storm Sewer System National Pollution Discharge Elimination System Permit", was adopted. (11-0.)

**2.7 Approval of an ordinance amending Section 19 of Ordinance No. 27521 to add domestic partners under certain circumstances to the Federated City Employees' Retirement System. CEQA: Not a Project. (Federated City Employees' Retirement Board)**

Documents Filed: Memorandum from Federated City Employees' Retirement System Secretary Edward Overton, dated August 20, 2007, recommending approval of an ordinance.

Action: [Ordinance No. 28110](#), entitled: "An Ordinance of the City of San José Amending Section 19 of Ordinance No. 27521 to Permit Retired Members of the Federated City Employees Retirement System to Add Domestic Partners Under Certain Circumstances", was passed for publication. (11-0.)

**2.8 (a) Adoption of a resolution:**

- (1) Declaring the vacant 3.6 acres of City-owned property on Corte De Rosa and Camden Avenue as surplus to the needs of the City;**
- (2) Approving the sale agreement with an adjacent property owner, Masnaghetti Family Living Trust 2002, in the amount of \$2,400,000; and**
- (3) Delegating authority to the Director for Public Works to execute all documents necessary to complete the transfer of the property.**

**2.8 (Cont'd.)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Acting Budget Director Jennifer Maguire, dated August 20, 2007, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: [Resolution No. 73982](#), entitled: "A Resolution of the Council of the City of San José Declaring Certain City Owned Property Surplus and Authorizing the Director of Public Works to Execute an Agreement for Sale of the Property Located at Corte de Rosa and Camden Avenue and All Necessary Documents Necessary for the Transfer of Such Property to the Adjacent Property Owners, Masnaghetti Family Trust", was adopted. (11-0.)

**(b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**

- (1) Increase the Economic Uncertainty Reserve by \$2,400,000; and**
- (2) Increase the estimate for Other Revenue by \$2,400,000.**

**CEQA: Not a Project. Council District 10. (Public Works/City Manager's Office)**

Action: Deferred to October 23, 2007 per Administration.

**2.9 (a) Approval of the Seventrees Branch Library and Solari Park Community Center Joint Facility Master Plan Project.**

**(b) Adoption of a resolution incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the Project.**

**CEQA: Mitigated Negative Declaration, File No. PP06-175. Council District 7. (Public Works/Parks, Recreation and Neighborhood Services/Library)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, Director of Library Department Jane Light and Director of Public Works Katy Allen, dated August 20, 2007, recommending approval of the master plan project and adoption of a resolution.

Action: The Seventrees Branch Library and Solari Park Community Center Joint Facility Master Plan Project were approved and [Resolution No. 73983](#), entitled: "A Resolution of the Council of the City of San José Approving the Seventrees Branch Library and Solari Community Center Joint Facility Master Plan Project, for Which an Initial Study/ Mitigated Negative Declaration was Prepared in Accordance with the California Environmental Quality Act and Adopting a Mitigation Monitoring and Reporting Program", was adopted. (11-0.)

**2.10 Approval of the second amendment to the agreement with Field Paoli, Inc. for consultant services for the Mayfair Community Center Project, accepting already completed additional design work and increasing the amount of compensation by \$80,170, for a total amount not to exceed \$1,645,325. CEQA: Mitigated Negative Declaration, PP06-024. Council District 5. SNI: Mayfair. (Public Works)**

**2.10 (Cont'd.)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated August 20, 2007, recommending approval of the second amendment to the agreement.

Action: The second amendment to the agreement with Field Paoli, Inc. for consultant services for the Mayfair Community Center Project, accepting already completed additional design work and increasing the amount of compensation by \$80,170, for a total amount not to exceed \$1,645,325 was approved. (11-0.)

- 2.11 (a) Appoint Steven Hendrickson as Interim City Auditor as an independent contractor at the hourly rate of \$140.**
- (b) Authorize the City Clerk to execute an agreement between the City of San José and Mr. Hendrickson for services as Interim City Auditor.**
- (c) Authorize the Mayor to retain a search firm for recruitment of a new City Auditor.**

**(Mayor)**

**[Rules Committee referral 9/5/07 – Item A(1)(a)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated September 7, 2007, transmitting the recommendation of the Rules and Open Government Committee Meeting on September 7, 2007, regarding the recommendations as outlined above.

Public Comments: William Garbett complained about the Interim City Auditor being appointed as an independent contractor. City Attorney Richard Doyle explained that there was a clerical error on the Agenda and that Mr. Hendrickson is actually a temporary unclassified employee.

Action: Upon motion by Council Member Constant, seconded by Council Member Chirco and carried unanimously, the appointment of Mr. Hendrickson as Interim City Auditor was approved, with the clarification that Mr. Hendrickson was appointed as a temporary, unclassified employee; the City Clerk was authorized to execute an agreement between the City of San José and Mr. Hendrickson for services as Interim City Auditor and the Mayor was authorized to retain a search firm for recruitment of a new City Auditor. (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

Documents Filed: The Rules and Open Government Committee Report dated August 8, 2007.

(a) City Council

(1) Review New Add Items to August 14, 2007 Agenda

The Committee approved the August 14, 2007 City Council Agenda with two additions.

(2) Review August 21, 2007 Draft Agenda

The Committee approved the August 21, 2007 Draft City Council Agenda with six additions.

(b) Redevelopment Agency items reported out at Redevelopment Agency meeting

(c) Legislative Update

(1) State

(a) AB 548 (Levine, et al), Solid Waste; Multifamily Dwellings. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated August 1, 2007, recommending approval of support position if amended.

The Committee approved the support position, if amended, of AB548. Heard By Council 8/14/07 – Item 3.17.

(b) AB 845 (Bass), Foster Youth: Transitional Housing.

No action was taken at this time.

(c) SB 275 (Cedillo), Health Care Facilities: Patient Transport. Attachment: Memorandum from Director of Housing Leslye Krutko, dated July 30, 2007, recommending support if amended.

Staff to go back to talk to the hospital representatives on the Blue Ribbon Commission and return to a future Rules and Open Government Committee with a response.

**3.1 Report of the Rules and Open Government Committee – August 8, 2007 (Cont'd.)**  
**Mayor Reed, Chair**

(c) Legislative Update (Cont'd.)

(1) State

- (d) SB 1020 (Padilla), Solid Waste: Diversion. Memorandum from Director of Environmental Services John Stufflebean, dated August 1, 2007, recommending adoption of a resolution.

The Committee approved the support position. Heard By Council 8/14/07 – Item 3.18.

- (2) Federal - There were none.

(d) Meeting Schedules

- (1) Recommend Elected Officials attend a new Crisis Communication Class facilitated by the Governor's Office of Homeland Security on Monday, August 20, 2007.
- (2) Approve a Priority Setting Session Follow-up Meeting with City Council for September 4, 2007, 9 am – 4 pm.
- (3) Approve a Joint Study Session on Flood Management Issues with City Council and the Santa Clara Valley Water District Board of Directors for November 19, 2007, 1 – 4 pm.

The Committee approved the meeting schedules.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated August 2, 2007, transmitting items for the Public Record for the period of June 15-August 2, 2007.

The Committee noted and filed the Public Record and referred the issue of costs related to expanded background checks and fingerprinting for all senior programs.

(f) Appointments to Boards, Commissions and Committees

- (1) Approve the amended City Council and Redevelopment Agency Committee Appointments. Attachment: Memorandum from Mayor Reed, dated July 24, 2007, recommending approval of the appointments.

The Committee approved the appointments with a one week turnaround to Council Heard by Council 8/14/07 – Item 9.1.

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) POW/MIA Flag Raising. Attachment: Memorandum from Mayor Reed, dated August 1, 2007, recommending adoption of a resolution.

The Committee approved the POW/MIA Flag Raising. Heard By Council 8/28/07 – Item 3.7.

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

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)  
(2) Approve Mayor's Travel to Los Angeles, CA, for the U.S. Conference of Mayors on June 22-23, 2007 and Mayor's Travel to Sacramento, CA, for the Silicon Valley Leadership Group's 11<sup>th</sup> Annual Sacramento Advocacy Trip on April 25-26, 2007. Attachment: Memoranda from Mayor Reed, both dated July 23, 2007, requesting approval of travel.

The Committee approved the travel request.

- (3) League of California Cities Voting and Alternate Voting Delegates at the Annual Business Meeting. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated July 31, 2007, recommending approval.

The Committee approved the proposed voting and alternate voting delegates. Heard By Council 8/14/07 – Item 3.19.

- (4) Public/Private Partnership Update. Attachment: Memorandum from Deputy City Manager Ed Shikada and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated July 26, 2007, recommending acceptance of the report.

The Committee approved this item to be agendaized on the September 11, 2007 City Council Agenda.

- (h) Review of Council Committee Agendas  
(3) Transportation and Environment Committee  
(a) Add item entitled, "Amendment to the Airport Design Build Contract with Hensel Phelps Construction Company to increase the size of the Consolidated Rental Car Garage" to the August 27, 2007 agenda. Attachment: Memorandum from Director of Aviation William Sherry, date August 2, 2007, recommending approval of the addition.

The Committee approved the addition.

- (4) Public Safety, Finance and Strategic Support Committee  
(a) Add item entitled, "Public and Educational Cable Access Transition Planning" to the September 20, 2007 agenda.  
The Committee approved the addition.

- (i) Open Government Initiatives - There were none.

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

- (j) Open Forum - None were presented.
- (k) Adjournment - The meeting was adjourned at 3:42 p.m.  
(Deferred from 8/28/07 – Item 3.1)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of August 8, 2007 were accepted. (11-0.)

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

Documents Filed: The Rules and Open Government Committee and the Sunshine Reform Task Force Meeting Report dated June 27, 2007.

- (a) Call to Order.  
  
Mayor Reed called the meeting to order at 8: 35 a.m.
- (b) Overview of the Day/Review Expected Outcomes.  
  
Mayor Reed recommended that public meetings be held in September.
- (c) Discussion and Recommendations on Section 4 – Public Information (resume discussion from 6/6/07 Rules & Open Government Committee meeting).  
  
The Committee approved the Task Force recommendations on Section 4.
- (d) Discussion and Recommendation on Section 2 – Closed Session.  
  
The Committee agreed to move Section 2 on to the Council Agenda in August for consideration.
- (e) Discussion and Recommendations on Bodies Subject to the Sunshine Ordinance – Policy Body, Ancillary Body, Non-Governmental Body (Section 2 – Public Meetings).  
  
The Committee agreed to continue discussion of this section at the next Rules and Open Government Committee meeting in August.
- (f) Public Comments.  
  
None were presented.

**3.2 Joint Meeting of the Rules and Open Government Committee and the Sunshine Reform Task Force – June 27, 2007 (Cont'd.)**  
**Mayor Reed, Chair**

- (g) Continuation of Discussion.  
(Deferred from 8/7/07 – Item 3.6, et al and 8/28/07 – Item 3.2)

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the Joint Meeting of the Rules and Open Government Committee and the Sunshine Reform Task Force and the actions of June 27, 2007 were accepted. (11-0.)

**3.3 Report of the Rules and Open Government Committee – August 15, 2007**  
**Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated August 15, 2007.

- (a) City Council
- (1) Review August 21, 2007 City Council Agenda  
The Committee approved the August 21, 2007 City Council Agenda with three additions.
  - (2) Review August 28, 2007 Draft City Council Agenda  
The Committee approved the August 28, 2007 Draft City Council Agenda with six additions.
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
- (1) State
    - (a) SB275 (Cedillo), Health Care Facilities: Patient Transport  
  
Deferred to 8/29/07
    - (b) SB2 (Cedillo), By Right Housing. Attachment: Memorandum from Director of Housing Leslye Krutko and Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 10, 2007, recommending opposing SB2.

The Committee approved this item with a one week turnaround for City Council approval. Heard By Council on 8/21/07.

**3.3 Report of the Rules and Open Government Committee – August 15, 2007  
Mayor Reed, Chair**

(c) Legislative Update (Cont'd.)

(1) State

- (c) Acceptance of the August 8, 2007 State Legislative Bill Matrix. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell and Legislative Representative Roxanne Miller, dated August 8, 2007, recommending acceptance of the matrix.

The Committee approved this item with a one week turnaround for City Council approval. Heard By Council on 8/21/07.

- (2) Federal - There were none.

(d) Meeting Schedules

- (1) Setting a Hearing for December 2007 for General Plan Amendments. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 6, 2007, recommending approval of the schedule.

The Committee approved the meeting schedule.

- (e) The Public Record - There were none.

- (f) Appointments to Boards, Commissions and Committees - There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Approve use of Mayor/Council Travel Fund for Council Member Chu to participate in the League of California Cities' Annual Conference in Sacramento, California on September 5-7, 2007. Attachment: Memorandum from Council Member Chu, dated August 6, 2007, requesting approval of travel.

The Committee approved the travel request.

- (2) Amicus Brief/Closed Session Discussion

The Committee deferred this item to August 22, 2007.

### **3.3 Report of the Rules and Open Government Committee – August 15, 2007 Mayor Reed, Chair**

- (h) Review of Additions to Council Committee Agendas
  - (1) Community and Economic Development Committee
    - (a) Add item entitled, “Approve the Process Report and Timeline Update for Adoption of the 2007 California Building Standards, CCR Title 24, Parts 2-6, 8-10, and 12 to the September 24, 2007 agenda.
    - (b) Add item entitled, “Assessing Performance: An Analytical Framework for the San José McEnery Convention Center” to the October 22, 2007 agenda.
    - (c) Add item entitled, “The 2005-06 and 2006-07 Annual Performance Audit of Team San José” to the November 26, 2007 agenda.

The Committee approved the work plan as amended.

- (2) Neighborhood Services and Education Committee
  - (a) Add items entitled, “Grants Quarterly Status Report” to the September 13, 2007, November 8, 2007, February 14, 2008 and May 8, 2008 agendas.  
The Committee approved the work plan as amended.

- (i) Open Government Initiatives - There were none.
- (j) Open Forum - None were presented.
- (k) Adjournment - The meeting was adjourned at 3:23 p.m.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Liccardo and carried unanimously, the Rules and Open Government Committee Report and the actions of August 15, 2007 were accepted. (11-0.)

### **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) (Deferred from 8/28/07 – Item 3.6)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated August 16, 2007, recommending acceptance of Staff’s presentation.

Senior Deputy City Attorney Lisa Herrick presented issues related to ethics and conflicts of interest under the Political Reform Act.

Public Comments: Ross Signorino spoke regarding the issues.

Action: The Staff Presentation was heard. No Council Action taken.

**3.7 Adoption of a resolution approving a revised City Council Policy No. 9-5, “Travel by Elected and Appointed City Officials”. (City Attorney/City Clerk)**

Action: Deferred to September 18, 2007 per City Clerk.

**3.8 As recommended by the Rules and Open Government Committee on August 29, 2007, approval of a support position, if amended, for SB275 (Cedillo), which prohibits hospitals from transporting patients to locations other than their residence without the patient’s consent. (Housing)**

**[Rules Committee referral 8/29/07 – Item (c)(1)(b)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated August 29, 2007, transmitting the recommendation of the Rules and Open Government Committee.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, a position of support for SB275 was approved. (11-0.)

**3.9 As recommended by the Rules and Open Government Committee on August 29, 2007, approval of a support position for SB184 (Alquist and Correa) relating to the elimination of a 12-month time limit on state reimbursements to local transportation agencies that spend their own funds to advance state transportation projects. (Transportation)**

**[Rules Committee referral 8/29/07 – Item C(1)(c)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated August 29, 2007, transmitting the recommendation of the Rules and Open Government Committee.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, a position of support for SB184 was approved. (11-0.)

**3.10 (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #1:**

- (1) Increase the Beginning Fund Balance by \$165,000;**
- (2) Increase the Calabazas Park Improvements appropriation to the Parks, Recreation and Neighborhood Services Department by \$39,000; and**
- (3) Increase the TRAIL: Saratoga/San Tomas Aquino Creek Reach 6 appropriation to the Parks, Recreation and Neighborhood Services Department by \$126,000.**

**(b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4:**

- (1) Increase the Beginning Fund Balance by \$41,000; and**
- (2) Increase the TRAIL: Lower Guadalupe River Interim Improvements appropriation to the Parks, Recreation and Neighborhood Services Department by \$41,000.**

- 3.10 (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction and Conveyance Tax Fund: City-wide Parks Purposes:**
- (1) Increase the Beginning Fund Balance by \$45,000; and**
  - (2) Increase the Columbus Park Horseshoe Court appropriation to the Parks, Recreation and Neighborhood Services Department by \$45,000.**
- (d) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Parks and Recreation Bond Projects Fund:**
- (1) Increase the Beginning Fund Balance by \$846,000;**
  - (2) Increase the Happy Hollow Park and Zoo Renovation and Improvements appropriation to the Parks, Recreation and Neighborhood Services Department by \$18,000; and**
  - (3) Increase the TRAIL: Los Gatos Reach IV appropriation to the Parks, Recreation and Neighborhood Services Department by \$828,000.**
- (e) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Services for Redevelopment Capital Projects Fund:**
- (1) Increase the Beginning Fund Balance by \$2,374,627; and**
  - (2) Increase the Mayfair Community Center appropriation to the Public Works Department by \$2,374,627.**

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

Documents Filed: Memorandum from Acting Budget Director Jennifer Maguire, dated August 20, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Campos and carried unanimously, [Ordinance No. 28111](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 1 for the Calabazas Park Improvements and the Trail: Saratoga/San Tomas Aquino Creek Reach 6 Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73984](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 1"; [Ordinance No. 28112](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 4 for the Trail; Lower Guadalupe River Interim Improvements; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73985](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 4"; [Ordinance No. 28113](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Construction Tax and

### 3.10 (Cont'd.)

Property Conveyance Tax Fund: Citywide Parks Purposes for the Columbus Park Horseshoe Court; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 73986](#), 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 in the Construction Tax and Property Conveyance Tax Fund: Citywide Parks Purposes”; [Ordinance No. 28114](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Parks and Recreation Projects Fund for the Happy Hollow Park and Zoo Renovation and Improvements and the Trail: Los Gatos Reach IV Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 73987](#), 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 Parks and Recreation Projects Fund”; [Ordinance No. 28115](#), 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 Mayfair Community Center Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 73988](#), 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”, were adopted. (10-0-1. Absent: Constant.)

### 3.11 **Adoption of a resolution authorizing the City Manager to negotiate and execute the third amendment to the operations agreement to advance the second quarter payment for the period of October through December 2007 in the amount of \$143,705.75. CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: Memorandum from Chief Deputy City Manager Kay Winer, dated August 30, 2007, recommending adoption of a resolution.

Chief Deputy City Manager Kay Winer responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, [Resolution No. 73989](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Third Amendment to the Agreement with History San José to Advance the Second Quarter Payment for the Period of October to December 2007 in the Amount of \$143,705.75”, was adopted. (11-0.)

### 3.12 (a) **Adoption of a resolution approving a revised Council Policy 2-4 for Council Office Space Acquisition and Modification.** (b) **Adoption of a resolution approving a revised Council Policy 9-9 for Smoking in Any Building Owned, Leased, or Occupied by the City.** CEQA: Not a Project. (General Services)

### 3.12 (Cont'd.)

Documents Filed: Memorandum from Director of General Services Peter Jensen, dated August 20, 2007, recommending adoption of resolutions.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos and carried unanimously, [Resolution No. 73990](#), entitled: "A Resolution of the Council of the City of San José Approving Revised City Council Policy No. 2-4 Regarding Council Office Space Acquisition and Modification" and [Resolution No. 73991](#), entitled: "A Resolution of the Council of the City of San José Approving Revised City Council Policy No. 9-9 Regarding Smoking in Buildings Owned, Leased or Occupied by the City", was adopted. (11-0.)

### 3.13 **Adoption of a resolution authorizing the City Manager to negotiate and execute Employee Assistance Plan and Critical Incident Stress Debriefing service agreements with Managed Health Network for the period of October 1, 2007 through June 30, 2011. CEQA: Not a Project. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated August 20, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73992](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Agreements with Managed Health Network to Provide Employee Assistance Plan and Critical Incident Stress Debriefing Services for the Period of October 1, 2007 through June 30, 2011", was adopted. (11-0.)

### 3.14 **As recommended by the Rules and Open Government Committee on September 5, 2007, adopt an oppose position to SB732 (Steinberg) – Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection and Bond Act of 2006, and recommend that it be made a two-year bill to allow additional time to resolve fundamental problems associated with the current proposal. (Planning, Building and Code Enforcement)**

**[Rules Committee referral 9/5/07 – Item c(1)(a)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated September 7, 2007, transmitting the recommendation of the Rules and Open Government Committee.

Director of Intergovernmental Relations Betsy Shotwell responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, a position of oppose was approved. (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 Report of the Community and Economic Development Committee – August 27, 2007 Councilmember Pyle, Chair

Documents Filed: The Community and Economic Development Committee Report dated August 27, 2007.

(a) Review of Committee Work Plan

Staff will work with Committee members to identify dates to bring forward a second October meeting and a special meeting time for the Berryessa Flea Market item.

(b) Downtown Retail/Office Business Strategy. Attachment: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated August 10, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

(c) “Small Wonders” Work Plan to Enhance the Public Realm and Pedestrian Experience Downtown and Advance the 1<sup>st</sup> ACT Vision. Attachment: Memorandum from Chief Development Officer Paul Krutko and Deputy Executive Director Redevelopment Agency John Weis, dated August 13, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report. To be heard by Council on 10/2/07.

(d) Economic Indicators. Attachment: Memorandum from Chief Development Officer Paul Krutko, dated August 9, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

(e) Status Report for Secondary Units Pilot Program - Deferred.

(f) Proposition 1C Housing and Emergency Shelter Trust Fund - Deferred.

(g) Report on Key Legislative Items. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated August 9, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

#### **4.1 Report of the Community and Economic Development Committee – August 27, 2007 Councilmember Pyle, Chair**

- (h) Arts Stabilization Loan Fund. Attachment: Memorandum from Chief Development Officer Paul Krutko, dated August 9, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report. See Item 4.2 For Council Action To Be Taken.

- (i) Status Report on Proposed Soccer Stadium. Attachment: Memorandum from Chief Development Officer Paul Krutko, dated August 9 10 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (j) Oral Petitions - None were presented.

- (k) Adjournment - The meeting was adjourned at 4:22 p.m.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the Community & Economic Development Committee and the actions of August 27, 2007, were accepted. (11-0.)

#### **4.2 Approval of the recommendations of the Arts Commission regarding the Arts Stabilization Loan Fund, as modified by the Offices of Economic Development and Cultural Affairs, and direct the City Manager to implement the revised Arts Commission recommendations. CEQA: Not a Project. (Economic Development) [Community and Economic Development Committee referral 8/27/07 – Item (h)]**

Action: Deferred to September 18, 2007 per Administration.

#### **4.3 Acceptance of the following two new chapters to add to the Residential Design Guidelines:**

- (a) Chapter 25A – Transit-Oriented development guidelines; and,
- (b) Chapter 26 – Mid and High-rise design guidelines.

**CEQA: Not a Project. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (6-0-1). (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Planning Commission Secretary Joseph Horwedel, dated August 27, 2007, transmitting the recommendation of the Planning Commission.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to Council questions.

#### 4.3 (Cont'd.)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and the two new chapters to the Residential Design Guidelines were accepted. (11-0.)

#### 4.4 **Approval of the framework for Task Force membership for the proposed Envision San José 2040 General Plan Task Force. CEQA: Not a Project. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 24, 2007, recommending approval of the framework.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the framework for the Task Force membership for the proposed Envision San José 2040 General Plan Task Force was approved, with Staff directed to strike affiliations as shown on the Task Force Membership roster. (11-0.)

#### 4.5 **Public Hearing and adoption of a resolution to vacate a portion of Paula Street, between Race Street and Meridian Way at 1024, 1044 and 1050 Paula Street with reservation of a public service easement over the area proposed for vacation. CEQA: Exempt. Council District 6. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated August 20, 2007, recommending conducting a public hearing and adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 22, 2007 and August 29, 2007, submitted by the City Clerk.

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

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73993](#), entitled: "A Resolution of the Council of the City of San José Vacating a Portion of Paula Street between Race Street and Meridian Way and Reserving a Public Service Easement", was adopted. (11-0.)

#### 4.6 **Public Hearing and adoption of a resolution to vacate portions of a Public Service Easement behind the right of way line of Tract 7502 along Samaritan Drive and Clydelle Avenue at 2039 Samaritan Drive and a portion of Sidewalk Easement behind the right of way line of Tract 7502 along Samaritan Drive. CEQA: Mitigated Negative Declaration, File No. PDC05-036. Council District 9. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated August 20, 2007, recommending conducting a public hearing and adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 22, 2007 and August 29, 2007, submitted by the City Clerk.

#### 4.6 (Cont'd.)

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

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73994](#), entitled: “A Resolution of the Council of the City of San José Vacating Portions of a Public Service Easement Within Lot 1 of Tract 7502 Along Samaritan Drive and Clydelle Avenue and Portions of a Sidewalk Easement Within Lot 1 of Tract 7502 Along Samaritan Drive”, was adopted. (11-0.)

### NEIGHBORHOOD SERVICES

- 5.2 (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)  
(Deferred from 8/28/07 – Item 5.3)**

Documents Filed: Memoranda from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Albert Balagso, both dated August 6, 2007, reporting on bids and recommending taking action based on the evaluation of bids for both projects.

Action: Item 5.2 was dropped.

### TRANSPORTATION & AVIATION SERVICES

- 6.1 **Report of the Transportation and Environment Committee – August 27, 2007  
Councilmember Williams, Chair**

Documents Filed: The Transportation and Environment Committee Report dated August 27, 2007.

- (a) Update Report on California High Speed Rail/Bay Area Rail Transit Master Plan. Attachment: Memorandum from Director of Transportation James Helmer, dated August 13, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

**6.1 Report of the Transportation and Environment Committee – August 27, 2007  
Councilmember Williams, Chair (Cont'd.)**

- (b) Report on the Implementation of an Environmental Management System to Improve the Environmental Efficiency of City Operations Pilot and Expansion to Other City Operations. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated August 13, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (c) Update Report on Recycled Water Master Plan and City of San José/Santa Clara Valley District Collaboration Efforts and Funding for Recycled Water Treatment Infrastructure

Deferred to September.

- (d) Review of Current and Proposed Solar Energy Initiatives. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated August 13, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (e) Status Report on Las Plumas EcoPark Site Development

Deferred to November.

- (f) Recycle Plus Transition Update. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated August 13, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (g) Progress Report on Strategies to Reduce Deferred Maintenance and City Infrastructure Backlog. Attachment: Memorandum from Deputy City Manager Ed Shikada, dated August 20, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (h) Proposed Amendment to the Airport Design Build Contract for the Consolidated Rental Garage and Other Adjustments

Deferred to September.

**6.1 Report of the Transportation and Environment Committee – August 27, 2007  
Councilmember Williams, Chair (Cont'd.)**

- (i) Report on Key Legislative Issues. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated August 13, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (j) Oral Petitions  
None were presented.

- (k) Adjournment  
The meeting was adjourned at 10:55 a.m.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Cortese and carried unanimously, the Transportation and Environment Committee Report and the actions of August 27, 2007 were accepted. (11-0.)

**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)  
(Deferred from 8/28/07 – Item 6.2)**

Documents Filed: (1) Memorandum from Director of Transportation James Helmer, dated August 13, 2007, recommending acceptance of the report. (2) Supplemental memorandum from Director of Transportation James Helmer and Director of Parking and Administration of Redevelopment Agency Abi Maghamfar, dated September 7, 2007, transmitting additional information.

Deputy Director of Transportation Jim Ortbal presented the Status Report on the Parking Security Cleaning and \$5 Pilot Study and responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, 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 was accepted. (11-0.)

**PUBLIC SAFETY SERVICES**

**8.1 Approval of an ordinance to add a new Chapter 16.50 to Title 16 of the San José Municipal Code, Gaming Control, to authorize nonprofit organization fundraisers by eligible nonprofit organizations, and amending various other sections of Title 16 to make technical and conforming changes. CEQA: Not a Project. (City Attorney's Office)**

## 8.1 (Cont'd.)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated August 30, 2007, recommending approval of an ordinance.

Public Comments: Speaking to the Staff recommendations were Pat Dando, Rich Crowley, Almaden Business Association and Sherry Houston, Stroke Awareness Foundation.

City Attorney Richard Doyle responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Constant and carried unanimously, [Ordinance No. 28116](#), entitled: "An Ordinance of the City of San José Amending Title 16 of the San José Municipal Code to Add a New Chapter 16.50 to Authorize Nonprofit Organization Fundraisers by Eligible Nonprofit Organizations, Adding Section 16.02.315 Defining an Eligible Nonprofit Organization, Adding Section 16.02.455 Defining Nonprofit Organization Fundraisers, Adding Section 16.02.475 Defining a Person or Entity, Adding Section 16.02505 Defining a Registrant and to Make Conforming, Clarifying and Technical Amendments to Sections 16.02.010, 16.02.240, 16.02.260, 16.02.270, 16.06.030, 16.26.010, 16.40.060 and 16.40.070", was passed for publication. (11-0.)

## 8.2 Approval of Staff's response to the 2006-2007 Santa Clara County Civil Grand Jury's report entitled "Record Keeping in Disarray at San José Bureau of Fire Prevention". CEQA: Not a Project. (Fire)

Documents Filed: Memorandum from Fire Chief Darryl Von Raesfeld, dated August 20, 2007, recommending approval to the response.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Campos and carried unanimously, Staff's response to the 2006-2007 Santa Clara County Civil Grand Jury's report entitled "Record Keeping in Disarray at San José Bureau of Fire Prevention" was approved. (11-0.)

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board was convened at 4:12 p.m. to consider Item 9.1 in a Joint Session.

- 9.1 (a) **Adoption of a resolution by the City Council:**
- (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; and,**

- 9.1 (a) (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 consultant services undertaken outside of Redevelopment Areas.**
- (b) **Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to execute a Cooperation Agreement to allow City of San José General Funds to be used to compensate the Redevelopment Agency for staff time, design work, supplies and consultant services undertaken outside of Redevelopment Areas.**

**CEQA: Not a Project. Council Districts 7, 9 and 10. (City Manager’s Office/ Redevelopment Agency)**

Documents Filed: Memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated August 20, 2007, recommending adoption of resolutions.

City Attorney Richard Doyle and Corporate Outreach Manager, Office of Economic Development Nanci Klein responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, [Resolution No. 73995](#), entitled: “A Resolution of the Council of the City of San José 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; and Authorizing the City Manager to Execute a Cooperation Agreement to Allow City to Compensate the San José Development Agency for Staff Time, Design Work, Supplies and Consultant Services Undertaken Outside of Redevelopment Areas” and Redevelopment Agency Resolution No. 5780, entitled: entitled: “A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing the Executive Director to Execute a Cooperation Agreement with the City of San José to Allow the City to Compensate Agency for Staff Time, Design Work, Supplies and Consultant Services Undertaken Outside of Redevelopment Project Areas in Connection with the City’s Pilot Shopping Center Improvement Program”, were adopted. (10-0-1. Absent: Chu.)

**NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS**

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9900	East side of Park Avenue, 100 feet north of Emory Street	6	Mary Frye	1 Lot / 2 Units	Single Family Attached	Approve

## 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>
9943	Kentwood Ave., Highway 85 and South DeAnza Blvd	1	Braddock & Logan Group III, L.P.	78 Lots / 57 Units	Multi-Family Attached
9944	Southwesterly side of Campbell Ave., 950 feet northwesterly of Newhall St.	6	Santa Clara Development	31 Lots / 28 Units	Single Family Detached
9949	South side of Shenado Pl., 500 feet east of Gerine Blossom Dr.	2	Shenado Place LLC	7 Lots / 6 Units	Single Family Detached

## OPEN FORUM

Documents Filed: Jim Griffith submitted the Sunnyvale Library of the Future November 2007 Measure B Overview.

- (1) Robert Apgar shared personal views.
- (2) Stephen Hazel presented personal observations.
- (3) Armando Casadio complained that he still has not received a copy of a police report and declared that the Police Department is corrupt.
- (4) Mark Trout expressed religious points of view.
- (5) Jim Griffith urged the City Council to endorse Measure B (Library Bond).

## STRATEGIC SUPPORT SERVICES

- 3.5 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, et al and 8/28/07 – Item 3.4)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle and City Clerk Lee Price, dated August 20, 2007, transmitting the policy. (2) Staff presentation of the Council Expenditure and Reimbursement Policy, dated September 11, 2007.

City Clerk Lee Price and Chief Deputy City Attorney Patricia Deignan presented an overview of the Draft City Council Expenditure and Reimbursement Policy.

Extensive Council discussion followed.

### 3.5 (Cont'd.)

Motion: Council Member Liccardo moved to direct Staff to return with a proposal that will allow the phasing out of office holder campaign accounts. Council Member Oliverio seconded the motion. (11-0.)

Council discussion continued on various elements of the policy.

Motion: Vice Mayor Cortese moved the Staff recommendations, as amended: (1) provide a standardized template for Council advertising; (2) add language that specifies when expenditures are “paid for by the City of San José”; (3) increase food and beverage allowance for Mayor/Council Office employee recognition from \$15 to \$50 per employee per fiscal year; (4) increase “Mini-Grants” from \$250 to \$500 or less; (5) add provisions requiring Council Members to disclose when they are members of recipient organizations before grants are awarded; and prohibiting Council Members from granting funds to organizations on which they serve as a board member. Council Member Constant seconded the motion. (9-0-2. Absent: Oliverio, Pyle.)

Action: On a call for the question, both motions carried unanimously, the Staff recommendations were approved, as amended, with input and Staff was directed to bring the policy back for Council approval. In addition, Staff was directed to return within a realistic timeline with a proposal to phase out Officeholder Campaign Accounts. (11-0.)

### ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 6:00 p.m.

## **RECESS/RECONVENE**

The City Council recessed at 6:00 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Cortese. (Excused)

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Pyle, seconded by Council Member Williams, and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Cortese.)

## **CEREMONIAL ITEMS**

- 1.2 Presentation of a commendation to the San José Youth Symphony for their successful completion of their 55<sup>th</sup> season, which concluded with a tour of Eastern Europe. (Williams/Pyle)  
(Rules Committee referral 08/29/07)**

Action: Mayor Reed and Council Members Williams and Pyle recognized and commended the San José Youth Symphony for their successes.

- 1.3 Presentation of commendations to the four recipients of the 2007 HACE scholarships: Pamela Nicole Bailey, Tirza Maria Banuelos, Diego Lorenzo Ortiz, and Jennifer Andrion. (Campos)  
(Rules Committee referral 9/5/07)**

Action: Mayor Reed and Council Member Campos recognized and commended Pamela Nicole Bailey, Tirza Maria Banuelos, Diego Lorenzo Ortiz, and Jennifer Andrion for being recipients of the 2007 HACE scholarships.

## **PUBLIC HEARINGS ON CONSENT CALENDAR**

Upon motion by Council Member Chirco, 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. (10-0-1. Absent: Cortese.)

- 11.1 (a) **Consideration of an ordinance rezoning the real property located on the west side of Dent Avenue, approximately 400 feet south of Branham Lane (4977 Dent Avenue) from the R-M Residential Zoning District to the A(PD) Planned Development Zoning District to allow 20 single-family attached residences on 0.50 gross acre site (Bryce Baker Trustee, Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (7-0-0).  
PDC07-024 - District 9**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-024, dated August 10, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated August 23, 2007, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on August 10, 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 Commission and the Planning Director was approved, and [Ordinance No. 28117](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the West Side of Dent Avenue Approximately 400 Feet South of Branham Lane (4977 Dent Avenue) from the RM Multiple Residence Zoning District to the A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Cortese.)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## **PUBLIC HEARINGS**

- 11.2 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  
[Continued from 8/28/07 – Item 11.1(b)]**

Action: Continued to September 25, 2007 per Administration.

- 11.3 Consideration of an ordinance rezoning the real property located on the southwest corner of North 1<sup>st</sup> Street and Century Center (1733 N. 1<sup>st</sup> Street) from CO(PD) Commercial Office Planned Development, LI Light Industrial, and CG Commercial General Zoning Districts 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. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (7-0-0). PDC05-114 - District 3**

Action: Continued to September 25, 2007 per Rules and Open Government Committee.

- 11.4 Consideration of an ordinance rezoning the real property located at/on the northwest corner of Zanker Road and Tasman Drive (3811 Zanker Road) from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 705 single-family and multi-family attached residences, 25,000 square foot retail space, and underground parking on a 10.01 gross acre site (Zanker Road Invr LLC, Owner). CEQA: Addendum to EIR. PDC06-093 - District 4**

Action: Continued to September 25, 2007 per Administration.

- 11.5 Consideration of an ordinance rezoning the real property located at/on the northwest side of Baypointe Parkway, approximately 370 feet northerly of Tasman Drive (163 Baypointe Parkway) from the IP Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 183 single-family attached residences on a 3.16 gross acre site (First Real Estate, LLC, First Real Estate, LLC Wayne Sun, Owner; Ff Development Dan Milich, Developer). CEQA: Addendum to EIR. PDC06-061 - District 4**

Action: Continued to September 25, 2007 per Administration.

## **OPEN FORUM**

- (1) Roy Que-Heath spoke regarding AB221 Retirement Funds passed by the State last week.

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 7:23 p.m. in memory of Robert Gordon Llewellyn for exemplary service to the community and outstanding accomplishments; Robert touched the lives of many and will be deeply missed by his family, friends, and the community.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

smd/9-11-07MIN

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>

## **8. JOINT REDEVELOPMENT AGENCY ITEM**

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The Joint Redevelopment Agency Board convened at 7:14 p.m. to consider Item 8.2 in a Joint Session.

- 8.1 (a) Adoption of a resolution by the Agency Board:**
- (1) 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.**
  - (2) Adding \$400,000 to the 1<sup>st</sup> Act Small Wonders Program new project line in the Merged Redevelopment Area, and amending the FY 2007-2008 Agency appropriations resolution.**
- (b) 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]**

**(Deferred 8/28/07, Item 8.2)**

Documents Filed: (1) Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated August 16, 2007, recommending adoption of resolutions. (2) Supplemental memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated September 7, 2007, recommending support of a site location downtown for Cirque du Soleil be dropped for the time being, as there is a delay in the final site determination.

Action: Item 8.1 was dropped per Orders of the Day.

- 8.2 Joint Public Hearing on the Redevelopment Agency's Proposed FY 2007-2008 Capital Budget and 2008-2012 Capital Improvement Program.**

Documents Filed: Staff presentation of the Redevelopment Agency's Proposed FY 2007-2008 Capital Budget and 2008-2012 Capital Improvement Program.

Public Comments: Mayor Reed opened the public hearing. Speaking to the Redevelopment Agency's Proposed FY 2007-2008 Capital Budget and 2008-2012 Capital Improvement Program were Father Robert Brocato, Judy Purrington, Ash Kalra and Tim Kirby. Mayor Reed closed the public hearing.

Action: No City Council/RDA action was taken at this time.

The Council of the City of San José and Redevelopment Agency Board adjourned at 7:21 p.m.