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## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, SEPTEMBER 25, 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, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - Constant. (Excused)

Upon motion unanimously adopted, Council recessed at 9:32 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) Ibanez, et al. v. City of San José, et al.; (2) Florendo v. City of San José, et al.; (3) City of San José v. Variety Metal Finishing, Inc. (B) to confer with Legal Counsel pursuant to: Government Code Section 54956.9 with respect to anticipated litigation, subsection (c) with significant exposure in two (2) matters. (C) 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 Advisory Personnel; (2) Association of Building, Mechanical and Electrical Inspectors.

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

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

Absent: Council Members - Constant. (Excused)

### INVOCATION

The Silver Creek High School Chamber Chorus presented the Invocation. (District 8)

### 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 Vice Mayor Cortese, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 2.1(e)(f), 3.1, 3.2 and 3.5 deferred to October 2, 2007 and Item 1.2 deferred to 10/16/07. Staff was directed to bring back on October 2, 2007 Item 3.3, heard on September 18, 2007 (approval to implement the terms of the award resulting from the interest arbitration between the City and the International Association of Firefighters, Local 230) for clarification of Council direction on implementation of Anti-Terrorism training pay. (10-0-1. Absent: Constant.)

## **CEREMONIAL ITEMS**

- 1.2 Presentation of a commendation to the Fiscal MIS Team (Work2future) for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)**

Action: Deferred to October 16, 2007 per Orders of the Day.

- 1.5 Presentation of a commendation to Fire Stations 21 and 24 for their selfless and generous work in the community. (Cortese)  
(Rules Committee referral 9/12/07)**

Action: Mayor Reed and Vice Mayor Cortese recognized and commended the firefighters of Fire Stations 21 and 24 for their selfless dedication to the residents of San José.

- 1.6 Presentation of a commendation to the Purchasing Division for receiving the Achievement of Excellence in Procurement Award. (Mayor)**

Action: Mayor Reed recognized and commended the Purchasing Division for receiving the Achievement of Excellence in Procurement Award.

- 1.7 Presentation of a proclamation for Hispanic Heritage Month beginning September 15, 2007 in the City of San José. (Campos)  
(Rules Committee referral 9/19/07)**

Action: Mayor Reed, Vice Mayor Cortese and Council Members Campos, Nguyen and Liccardo recognized the month beginning at September 15, 2007 as "Hispanic Heritage Month".

**1.9 Presentation of a commendation to Randi Kinman and Ken Henning for their hard work, dedication and commitment to the City's Kaboom!-partnership projects and the children of San José. (Pyle)**  
**(Rules Committee referral 9/19/07)**

Action: Mayor Reed and Council Members Pyle and Oliverio recognized and commended Ms. Randi Kinman and Mr. Ken Henning for their dedication to the City's Kaboom! partnership projects and the children of the City of San José.

**CONSENT CALENDAR**

Upon motion by Council Member Williams, seconded by Council Member Campos, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Constant.)

**2.1 Approval of Minutes.**

- (a) Regular minutes of June 5, 2007.**
- (b) Special Meeting minutes of June 11, 2007 on Proposed Operating and Capital Budgets.**
- (c) Regular minutes of June 12, 2007.**

Documents Filed: (1) The Regular Minutes dated June 5, 2007 and June 12, 2007. (2) The Special Meeting Minutes dated June 11, 2007 on Proposed Operating and Capital Budgets.

Council Member Chu pulled the minutes to abstain (not yet on the Council).

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the Minutes were approved. (9-0-1-1. Absent: Constant. Disqualified: Chu.)

- (d) Regular minutes of June 19, 2007.**

Action: The Minutes were approved. (10-0-1. Absent: Constant.)

- (e) Special Meeting minutes of June 21, 2007 on Various Police Related Reports.**
- (f) Regular minutes of June 26, 2007.**

Action: Deferred to October 2, 2007 per Orders of the Day.

**2.2 (a) ORD. NO. 28110 – 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.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28110 executed on September 18, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28110](#) was adopted (10-0-1. Absent: Constant.)

- 2.2 (b) **ORD. NO. 28116 – 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 16.02.505 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.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28110 executed on September 18, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28116](#) was adopted (10-0-1. Absent: Constant.)

- (c) **ORD. NO. 28117 – Rezoning certain real property situated at the west side of Dent Avenue approximately 400 feet south of Branham Lane (4977 Dent Avenue) from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District. PDC07-024**

Documents Filed: Proof of Publication of the title of Ordinance No. 28110 executed on September 18, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28117](#) was adopted (10-0-1. Absent: Constant.)

2.3 **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, thereby increasing the total grant amount to \$284,105 for the four-year term.**
- (b) **Make other amendments necessary for the administration of the grant.**
- CEQA: Not a Project. (Economic Development)**  
**(Deferred from 9/11/07 – Item 2.4)**

Documents Filed: (1) Memorandum from Chief Development Officer Paul Krutko, dated August 6, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Chief Development Officer Paul Krutko, dated September 18, 2007, clarifying certain issues.

Action: [Resolution No. 74008](#), 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 Grant Agreement with San José Stage Company to Extend the Term for an Optional Fourth Year, Increasing the Total Grant Amount by \$69,977, for a Total Grant Award of \$284,105”, was adopted. (10-0-1. Absent: Constant.)

- 2.4 Request for an excused absence for Vice Mayor Cortese from the Regular Meeting of the Evening City Council Meeting on September 11, 2007 due to Authorized City Business: Crime Update Meeting in Council District 8 at Canyon Creek Park. (Cortese)  
(Rules Committee referral 9/12/07)**

Documents Filed: Memorandum from Vice Mayor Cortese, dated September 11, 2007, requested an excused absence.

Action: The absence was excused. (10-0-1. Absent: Constant.)

- 2.5 Approval of Contract Change Order # 2 for the Norman Y. Mineta San José International Airport North Concourse Building Structural Steel, Package 02C in the total amount of \$687,201, at no increase in the total contract amount to convert certain allowance specifications for Bid Items 3 and 4 to cover the following necessary items:**
- (a) Structural steel finishes.**
  - (b) Crucible column changes resulting from coordination of the building plans, at the interface, with Terminal B, Phase One Project.**
  - (c) Package #4 coordination changes.**
  - (d) Changes due to roof opening and stair landing relocations.**
- CEQA: Resolution Nos. 67380 and 71451, File No. PP07-175. (Public Works/ Airport)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated September 4, 2007, recommending approval of the contract change order #2.

Action: The Contract Change Order # 2 for the Norman Y. Mineta San José International Airport North Concourse Building Structural Steel, Package 02C in the total amount of \$687,201, at no increase in the total contract amount to convert certain allowance specifications for Bid Items 3 and 4 was approved. (10-0-1. Absent: Constant.)

- 2.6 As recommended by the Rules and Open Government Committee of September 19, 2007:**
- (a) Accept the Staff report on the September 4, 2007 Priority Setting Follow-up Session.**
  - (b) Approve the following Core Values, as developed by the Employee Values Project Team and reaffirmed at the retreat:**
    - (1) Integrity**
    - (2) Innovation**
    - (3) Excellence**
    - (4) Collaboration**
    - (5) Respect**
    - (6) Celebration**

- 2.6 (c) **Approve the following three-year goals as reaffirmed at the retreat on September 4, 2007:**
- (1) **Maintain our status as the Safest Big City in America.**
  - (2) **Eliminate the structural budget deficit.**
  - (3) **Reduce deferred maintenance and the infrastructure backlog and develop a strategy to improve the infrastructure.**
  - (4) **Increase economic vitality.**
  - (5) **Provide full funding for parks, pools, community centers and libraries, including maintenance, operation and development.**
- (d) **Approve the six-month objectives, as noted in the matrix, for the period of September 2007 – February 2008.**

(Mayor)

[Rules Committee referral 9/19/07 – Item A(1)(a)(1)]

Documents Filed: (1) Memorandum from Mayor Reed, dated September 24, 2007, providing the six month strategic objectives. (2) Memorandum from City Clerk Lee Price, dated September 21, 2007, transmitting the recommendation of the Rules and Open Government Committee.

Action: The Staff report on the September 4, 2007 Priority Setting Follow-up Session was accepted and the core values, the three year goals and the six month strategic objectives were approved. (10-0-1. Absent: Constant.)

- 2.7 **As recommended by the Rules and Open Government Committee of September 19, 2007:**

- (a) **Approve the reappointment of Committee for Transit Accessibility incumbent Sandra Gouveia.**
- (b) **Approve the reappointment of Committee for Transit Accessibility incumbent Emma Eljas.**
- (c) **Approve the reappointment of Committee for Transit Accessibility incumbent Randy Tamez.**

(Mayor)

[Rules Committee referral 9/19/07 – Item F(1)]

Documents Filed: Memorandum from City Clerk Lee Price, dated September 21, 2007, transmitting the recommendation of the Rules and Open Government Committee.

Action: The reappointments of Sandra Gouveia, Emma Eljas and Randy Tamez were approved. (10-0-1. Absent: Constant.)

- 2.8 **As recommended by the Rules and Open Government Committee of September 19, 2007, approve the appointments of Ananth “Naga” Nagaraj and Michelle R. Montoya to serve as private sector representatives on the Work2future Board of Directors. (Mayor)**

[Rules Committee referral 9/19/07 – Item F(2)]

Documents Filed: Memorandum from City Clerk Lee Price, dated September 21, 2007, transmitting the recommendation of the Rules and Open Government Committee.

**2.8 (Cont'd.)**

Action: The appointments of Ananth “Naga” Nagaraj and Michelle R. Montoya were approved. (10-0-1. Absent: Constant.)

- 2.9 (a) As recommended by the Rules and Open Government Committee, accept a \$1,500 donation from Raisch Products to be used to cover some of the expenses of the Annual District 1 Festival in the Park on September 29, 2007, as requested by Council Member Constant.**
- (b) It is recommended that the City Council adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Gift Trust Fund.**
- (1) Establish an appropriation in the Gift Trust Fund for the Annual District I Festival in the Park in the amount of \$1,500.**
  - (2) Increase the estimate for Earned Revenue by \$1,500.**

**(Constant/City Clerk)**

**[Rules Committee referral 9/19/07 – Item G(3)]**

Documents Filed: Memorandum from City Clerk Lee Price and Budget Director Larry Lisenbee, dated September 24, 2007, transmitting the recommendation of the Rules and Open Government Committee and recommending adoption of an appropriation ordinance and funding sources resolution amendments.

Action: A \$1,500 donation from Raisch Products to be used to cover some of the expenses of the Annual District 1 Festival in the Park on September 29, 2007 was accepted and [Ordinance No. 28123](#) and [Resolution No. 74008](#) were adopted. (10-0-1. Absent: Constant.)

- 2.10 As recommended by the Rules and Open Government Committee of September 19, 2007, adoption of a resolution authorizing the City Clerk to execute an agreement with the Association of Local Government Auditors (ALGA) to perform an audit of the City Auditor’s Office for FY 2005-06 and FY 2006-07, pursuant to the peer review guidelines of the ALGA, in exchange for reimbursement of expenses for the audit team and the provision of reciprocal audit services by the City Auditor’s Office. (Mayor)**

**[Rules Committee referral 9/19/07 – Item G(4)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated September 21, 2007, transmitting the recommendation of the Rules and Open Government Committee.

Action: [Resolution No. 74009](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Clerk to Execute an Agreement with the Association of Local Government Auditors (ALGA) to Conduct a Biennial Performance Audit of the City Auditor’s Office for Fiscal Years 2005-2006 and 2006-2007 Pursuant to the AGLA Peer Review Guidelines in Exchange for Reimbursement of Expenses and the Provision of Reciprocal Audit Services by the City Auditor’s Office”, was adopted (10-0-1. Absent: Constant.)

## STRATEGIC SUPPORT SERVICES

### 3.1 Report of the Rules and Open Government Committee – August 29, 2007 Mayor Reed, Chair

Action: Deferred to October 2, 2007 per Orders of the Day.

### 3.2 Report of the Rules and Open Government Committee – September 5, 2007 Mayor Reed, Chair

Action: Deferred to October 2, 2007 per Orders of the Day.

- 3.4 (a) Acceptance of the Staff response to the Civil Grand Jury Report entitled, *“The City Fails to Hold Team San José Accountable.”*
- (b) Direction to Staff to set a City Council Special Meeting in December 2007 for the purpose of discussing and evaluating information and analysis from a variety of reports to enable the City Council to decide whether to issue a new RFP or to extend the Agreement with Team San Jose for five years.
- CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: (1) Memorandum from Chief Deputy City Manager Kay Winer, dated September 12, 2007, recommending acceptance of the staff response and direction to staff to set a study session. (2) Memorandum from Agenda Services Manager Nadine Nader, dated September 17, 2007, providing the actual Grand Jury Report entitled: “City Fails to Hold Team San José Accountable”.

Chief Deputy City Manager Kay Winer summarized the Staff Response to the Civil Grand Jury Report “The City Fails to Hold Team San José Accountable” and responded to Council questions.

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

Discussion followed.

Public Comments: Speaking in favor of the Staff recommendations were Clifton Clark, San José Marriott, Phaedra Ellis-Lamkins, South Bay Labor Council, Michael Miller, American Musical Theatre San José, Dan Fenton, Team San José, and Neil Struthers, Building Trades Council.

Action: On a call for the question, the motion carried unanimously, the Staff response to the Civil Grand Jury Report entitled, “The City Fails to Hold Team San José Accountable” was accepted and a City Council Special Meeting in December 2007 for the purpose of discussing and evaluating information and analysis from a variety of reports to enable the City Council to decide whether to issue a new RFP or to extend the Agreement with Team San Jose for five years was approved. (10-0-1. Absent: Constant.)

**3.5 Report of the Rules and Open Government Committee – August 22, 2007  
Mayor Reed, Chair**

Action: Deferred to October 2, 2007 per Orders of the Day.

**COMMUNITY & ECONOMIC DEVELOPMENT**

**4.2 Public Hearings on and consideration of adoption of resolutions approving the following Historic Landmark nominations for designation as Historic Landmarks and adoption of resolutions approving Historical Property Contracts related to each Historic Landmark:**

(a) **Projects located at 1023 Bird Avenue (Keith and Pamela Shukait, Owners) as follows:**

- (1) **HL06-157. Historic Landmark Nomination for the Queen Anne Victorian House as Historic Landmark No. 157.**
- (2) **MA07-002. Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property.**

**CEQA: Exempt. Council District 6. (Planning, Building and Code Enforcement)**

**(Continued from 8/14/07 – Item 4.4)**

(b) **Projects located at 754 S. Third Street (Judith and Scott Morrella, Owners) as follows:**

- (1) **HL07-159. Historic Landmark Nomination for the Brownlee House as Historic Landmark No. 159.**
- (2) **MA07-005. Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property.**

**CEQA: Exempt. Council District 3. SNI: Spartan/Keyes. (Planning, Building and Code Enforcement)**

(c) **Projects located at 328 N. Sixth Street (Diana Hardick and Miranda Von Stockhausen, Owners) as follows:**

- (1) **HL07-160. Historic Landmark Nomination for the Henry and Florence Reed House as Historic Landmark No. 160.**
- (2) **MA07-006. Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property.**

**CEQA: Exempt. Council District 3. SNI: Thirteenth Street. (Planning, Building and Code Enforcement)**

- 4.2 (d) **Projects located at 336 N. Sixth Street (Robert Abatecola and Carol Devers-Abatecola, Owners) as follows:**
- (1) **HL07-161. Historic Landmark Nomination for the Herrington house as Historic Landmark No. 161.**
  - (2) **MA07-004. Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property.**
- CEQA: Exempt. Council District 3. SNI: Thirteenth Street. (Planning, Building and Code Enforcement)**
- (e) **Projects located at 483 N. Fifth Street (Lisa and Shawn Shelton, Owners) as follows:**
- (1) **HL07-162. Historic Landmark Nomination for the Haydock house as Historic Landmark No. 162.**
  - (2) **MA07-007. Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property.**
- CEQA: Exempt. Council District 3. SNI: Thirteenth Street. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File Nos., HL06-157 & MA07-002, HL07-159 & MA07-005, HL07-160 & MA07-006, HL07-161 & MA07-004 and HL07-162 & MA07-007, dated August 27, 2007, recommending approval. (2) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated September 10, 2007, recommending adoption of the resolutions. (3) Five Affidavits of Routing executed on October 31, 2007, and distributed by the City Clerk. (4) Proofs of Publications of Notices of Public Hearings, four executed on August 24, 2007, and one executed on July 20, 2007, submitted by the City Clerk.

Public Comments: Mayor Reed opened the public hearing. Mark Trout spoke off topic. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 74010](#), “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Queen Anne Victorian House Located at 1023 Bird Avenue as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 74011](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Keith Shukait and Pamela Shukait for a Queen Anne Victorian House (City Landmark No. HL06-157)”; [Resolution No. 74012](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Brownlee House located at 754 South Third Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 74013](#), entitled: “A Resolution of the Council of the City of San José Approving a

## 4.2 (Cont'd.)

Historic Landmark Preservation Agreement with Scott Morrella and Judith Morrella for the Brownlee House (City Landmark No. HL07-159)”; [Resolution No. 74014](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Henry and Florence Reed House Located at 328 North Sixth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 74015](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Diana Hardick and Miranda Von Stockhausen for the Henry and Florence Reed House (City Landmark No. HL07-160)”; [Resolution No. 74016](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Herrington House Located at 336 North Sixth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 74017](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Robert Abatecola and Carole Devers-Abatecola for the Herrington House (City Landmark No. HL07-161)”; [Resolution No. 74018](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Haydock House located at 483 North Fifth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature” and [Resolution No. 74019](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Lisa Shelton and Christopher Shawn Shelton for the Haydock House (City Landmark No. HL07-162)”, were adopted. (10-0-1. Absent: Constant.)

## NEIGHBORHOOD SERVICES

### 5.1 Report of the Neighborhood Services and Education Committee – September 13, 2007 Council Member Chirco, Chair

Documents Filed: The Neighborhood Services and Education Committee Report dated September 13, 2007.

- (a) Report on Live Homework Help Grant. Attachment: Memorandum from Director of Library Department Jane Light, dated August 24, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (b) After School Program Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated August 31, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

**5.1 Report of the Neighborhood Services and Education Committee – September 13, 2007  
Council Member Chirco, Chair (Cont'd.)**

- (c) Grants Quarterly Status Report. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated August 22, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (d) Approval of Proposed Grants Policy and a Proposed Emergency Grants Policy and Procedure

Deferred to October 2007.

- (e) Strong Neighborhoods Monthly Update. Attachment: Memorandum from Deputy City Manager Mark Linder and Deputy Executive Director Redevelopment Agency John Weis, dated August 27, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report. Staff was directed to cross reference this item for the full Council on September 25, 2007.

- (f) Schools/City Collaborative Monthly Update
  - (1) Report on Schools/City Collaborative Meeting

No action required.

- (g) Quarterly Report on Performance Measurements.

Deferred to November 2007.

- (h) Quarterly Update on Council Directives - There were none.

- (i) Oral Petitions - There were none.

- (j) Adjournment - The meeting was adjourned at 2:19 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the Neighborhood Services and Education Committee Report and the actions of September 13, 2007 were accepted. (10-0-1. Absent: Constant.)

## TRANSPORTATION & AVIATION SERVICES

### 6.2 Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute the fifth amendment to the agreement for Management of the Airport Common Use Rental Car Bus System with Shuttleport California, LLC to extend the term of the agreement for an additional six month period, from October 1, 2007 to March 31, 2008, for a total compensation of \$2,200,000 for the extension period, subject to an earlier termination at the City's option.
- (b) Execute the fourth amendment to the agreement for Management of the Airport Shuttle Bus Transportation Personnel and Bus Scheduling with Shuttleport California, LLC to extend the term of the Agreement for an additional six (6) month period, from October 1, 2007 to March 31, 2008, for a total compensation of \$2,800,000 for the Extension Period, subject to an earlier termination at the City's option.

**CEQA: Resolution Nos. 67380 and 71451, File No. PP07-170. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated September 4, 2007, recommending adoption of a resolution.

Public Comments: William Garbett objected to the staff recommendation and suggested that this item be rebid.

Mayor Reed requested that Staff post in the buses the phone number of the appropriate Airport Office to call if wait times are longer than standard, or to express other concerns.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 74020](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute Amendments to the Agreements with Shuttleport California, LLC for Management of Airport Shuttle Bus Services", was adopted, with Staff requested to post in buses the phone number of the appropriate Airport Office to call if wait times are longer than standard, or to express other concerns. (10-0-1. Absent: Constant.)

### 6.3 (a) Adoption of a Resolution authorizing the City Manager to negotiate and execute the following grant agreements and lease agreement with Our City Forest:

- (1) An Annual Operating Grant Agreement for 2007-08, not to exceed One-Hundred Forty-Three Thousand (\$143,000) dollars;
- (2) A Matching Grant Agreement in an amount not to exceed One-Hundred Twenty Thousand (\$120,000) dollars for Our City Forest to apply towards its local match required to secure the AmeriCorps Grant; and
- (3) A Lease Agreement allowing Our City Forest to use office space, at below market rate, in the City-owned building at 151 W. Mission Street from October 1, 2007 to September 30, 2008, with an option for the City to extend the lease on a month-to-month basis thereafter for up to a maximum of two additional years.

- 6.3 (b) **Adoption of a Resolution finding Our City Forest exempt from the provision in Council Policy 7-1 that requires Our City Forest to fund repair and maintenance costs of the City-owned facility.**
- (c) **Direction to the Administration to incorporate future grant requests for tree-related services through the annual budget process.**
- CEQA: Exempt, File No. PP04-313. (Transportation)**  
**(Deferred from 9/18/07 – Item 6.2)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated September 12, 2007, recommending adoption of resolutions and direction to staff.

Motion: Council Member Pyle moved approval of the staff recommendations. Council Member Williams seconded the motion.

Public Comments: Speaking in support to the Staff recommendation were Esther Rechenmacher, Rita Norton, Our City Forest and Doris Liverey, Tree Amigos.

Director of Transportation James Helmer and Deputy City Manager Ed Shikada responded to Council questions.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 74021](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Grant Agreements and an Office Space Lease Agreement with Our City Forest” and [Resolution No. 74022](#), entitled: “A Resolution of the Council of the City of San José Finding Our City Forest Exempt from the Provision in City Council Policy 7-1 Relating to Funding of Repair and Maintenance Costs of a City Owned Facility”, were adopted and Administration was directed to incorporate future grant requests for tree-related services through the annual budget process. (10-0-1. Absent: Constant.)

## **PUBLIC SAFETY SERVICES**

- 8.2 **Acceptance of the Police Department’s (SJPD) report on the referral issued in the Mayor’s March Budget Message, “Safest Big City in America: The residents of San José and the City Council have made public safety a priority. The City Manager is directed to report to the City Council on any additional steps necessary for San José to maintain its title as Safest Big City in America”. CEQA: Not a Project. (Police)**

Documents Filed: Memorandum from Police Chief Robert Davis, dated September 11, 2007, recommending acceptance of the report.

Chief of Police Robert Davis presented an outline of the keeping San José the Safest Big City in America and responded to Council questions.

Public Comments: Ross Signorino urged the City Council to keep San José the “Safest Big City in America”.

## 8.2 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the Report accepted, with Staff requested to report out when resources or additional funding is needed to address gang activity and further to bring options forward to Council for consideration and/or reevaluation for purposes of shifting City resources. (10-0-1. Absent: Constant.)

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:29 p.m. to consider Items 9.1 and 9.2 in a Joint Session.

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

Documents Filed: Memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated September 4, 2007, transmitting and recommending acceptance of the report.

Deputy City Manager Ed Shikada responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Oliverio and carried unanimously, the Status Report on the Citywide Capital Improvement Program, including Parks, Library, and Public Safety Bond Projects, and Strong Neighborhoods Initiative Projects funded by the City and the Redevelopment Agency was accepted. (10-0-1. Absent: Constant.)

### 9.2 **Adoption of resolutions by the City Council and Agency Board that:**

- (a) **Define a pipeline project in the City's recently revised Inclusionary Housing Policy to include those projects that have filed for a discretionary permit with Planning and have an Agency-approved written Compliance Plan dated prior to July 1, 2007.**
  - (b) **Clarify the required number of affordability units to be used to calculate the in-lieu fee payments under the various options and programs provided in the Inclusionary Housing Policy.**
  - (c) **Extend the term of the Amnesty period provided for under the Inclusionary Housing Policy from 90 days to 120 days.**
- (City Manager's Office/Redevelopment Agency)  
(Rules Committee referral 9/12/07)**

Documents Filed: Memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated September 13, 2007, recommending adoption of resolutions.

## 9.2 (Cont'd.)

Motion: Vice Mayor Cortese moved approval of the Staff recommendations. Council Member Oliverio seconded the motion.

Council Member Liccardo requested to amend the motion with a clarification that the definition of “pipeline project” does not apply to any future policy the Council may craft for Inclusionary Housing outside of the Redevelopment areas. The amendment was accepted by Vice Mayor Cortese and Council Member Oliverio.

Public Comments: William Garbett objected to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 74023](#), entitled: “A Resolution of the Council of the City of San José (A) Defining a Pipeline Project in the City of San José’s Recently Revised Inclusionary Housing Policy to Include those Projects that have Filed for a Discretionary Permit with Planning and have an Agency Approved Written Compliance Plan dated Prior to July 1, 2007; (B) Clarifying the Required Number of Affordability Units to be Used to Calculate the In-Lieu Fee Payments Under the Various Options and Programs Provided in the Inclusionary Housing Policy; (C) Extending the Term of the Amnesty Period Provided for Under the Inclusionary Housing Policy from 90 Days to 120 Days”, and [Redevelopment Agency Resolution No. 5782](#) were adopted, as amended, with a clarification that the definition of “pipeline project” does not apply to any future policy the Council may craft for Inclusionary Housing outside of the Redevelopment areas. (10-0-1. Absent: Constant.)

## 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>
9951	S/S of Paula Street, 200’ W of Race Street	6	Rockwell Homes	1 Lot/ 12 Units	MFA

## OPEN FORUM

- (1) Robert Apgar shared personal observations.
- (2) Mark Trout expressed religious points of view.
- (3) Ross Signorino spoke in support of paying living wages.
- (4) Peter Ross complained about the “belligerent” street level noise.
- (5) Stephen Hazel commented on current events and observed that for every action, there is a reaction.

## ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 4:51 p.m.

## **RECESS/RECONVENE**

The City Council recessed at 4:51.m. from the afternoon Council Session and reconvened at 7:01 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chirco, Chu Constant, Cortese, Liccardo, Nguyen, 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 Campos, and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

## **CEREMONIAL ITEMS**

- 1.8 Presentation of a commendation to the Pune Sister City Committee and students from the Saint Francis High School for their efforts to help middle school-age girls continue their education in the City of Pune, India. (Mayor)  
(Rules Committee referral 9/19/07)**

Action: Mayor Reed recognized and commended the Pune Sister City Committee and students from the Saint Francis High School for their efforts to help middle school-age girls continue their education in the City of Pune, India.

- 1.3 Presentation of a commendation to Timothy Chang for his accomplishments as a dedicated member of the Oakland Cloud Dusters, one of the oldest, continuously operating model airplane clubs in the country, and as an active participant in the Moreland West Community Center Model Airplane program. (Constant)**

Action: Mayor Reed and Council Member Constant recognized and commended Mr. Timothy Chang for his outstanding achievements.

- 1.4 Presentation of a commendation to the Moreland Little League 12-Year Old All Stars in recognition of their accomplishments in the Northern California Little League. (Constant)**

Action: Mayor Reed and Council Member Constant recognized and commended the Moreland Little League 12-Year Old All Stars for their achievements.

- 1.1 Swearing in ceremony for District 1 Youth Commissioner Kavya Shankar, District 5 Youth Commissioner Kim Nguyen, District 7 Youth Commissioner Amanda Aldama, and District 9 Youth Commissioner Katie Hawn. (City Clerk)  
(Rules Committee referral 9/12/07)**

**1.1 (Cont'd.)**

Documents Filed: Memorandum from City Clerk Lee Price, dated September 13, 2007, listing the appointments to the Youth Commission.

Action: City Clerk Lee Price administered Oaths of Office to the new Youth Commissioners Kavya Shankar, District 1; Kim Nguyen, District 5; Amanda Aldama, District 7 and Katie Hawn, District 9.

**COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.3 (a) Provide direction to staff on whether the City's Prevailing Wage Policy should be revised to exclude:**
- (1) Work performed by volunteers, volunteer coordinators, and Conservation Corps, as defined in the California Labor Code, and Habitat for Humanity;**
  - (2) Construction and/or maintenance services donated by private entities to the City;**
  - (3) Services involving expenditures less than \$25,000 for new construction and \$15,000 (annually) for alteration, demolition, repair or maintenance work; and/or,**
  - (4) If Council determines prevailing wage should apply to donated services, eliminate the reporting requirements.**
- (b) Direction to the City Attorney's Office to draft revisions to the City's Prevailing Wage Policy in accordance with City Council direction.**

**CEQA: Not a Project. (City Manager's Office/Parks, Recreation and Neighborhood Services/Public Works)**

Documents Filed: (1) Memorandum from Mayor Reed, dated September 20, 2007, recommending items as depicted in "Action". (2) Supplemental memorandum from Mayor Reed, dated September 24, 2007, amending recommendation Item (2) from his memorandum dated September 20, 2007. (3) Memorandum from Deputy City Manager Ed Shikada, Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated September 13, 2007, recommending direction to Staff as stated above. (4) Letter from Habitat for Humanity Silicon Valley, dated September 20, 2007, regarding the City's Prevailing Wage Policy.

Deputy City Manager Ed Shikada presented a brief overview Public/Private Partnerships and the applicability of the Prevailing Wage to donated services.

Motion: Vice Mayor Cortese moved approval of the two memorandums from Mayor Reed, including direction to Staff to include public/private partnerships for parks maintenance for all new parks as part of the analysis to be brought forth by the City Manager's Structural Deficit Team and to amend the policy to make it clear that that it excludes work performed by the Conservation Corps, as defined by the California Labor Code and Habitat For Humanity, including the addition that that Our City Forest be one of the nonprofits that is specifically excluded. Council Member Nguyen seconded the motion.

### 4.3 (Cont'd.)

Public Comments: Speaking in support of public/private partnerships were Hamid Razavi, Anders Ramos, Don Gagliardi, Bob Hennessy, Neil Kozuma (San José Conversation Corps), Phaedra Ellis-Lamkins (South Bay Labor Council), Tina Morrill, Helen Chapman, Autumn Gutierrez, Neil Struthers (Building Trades Council), Ken Henning, Beverly Bryant (Homebuilders Association), Leslee Hamilton, Pat Dando (San José/Silicon Valley Chamber of Commerce) and Ed Rast.

Speaking in opposition to public/private partnerships were Juan Garza (Joint Electrical Industry Fund), Paul Oller, Warren Berry (Plumbers and Fitters Local 393), Bill Pope (Local 3 Operating Engineers), Butch Cabrera (Local 3 Operating Engineers Joint Apprentices), Carlos Lejan, Enrique Arguello (Laborers Local 270), Bob Trotney (IBEW 332), Max Vargas (Drywall Lathers 9144), Jose Garcia (Building Trades Council), Mario Delgado, David Collins (Carpenters Union) and Mark Van Den Henvel.

Council Member Oliverio requested to amend the motion to make it clear that the policy also excludes work of community service days by paid employees of corporations. The amendment was accepted by Vice Mayor Cortese and Council Member Nguyen.

Action: On a call for the question, the motion carried unanimously, the Staff recommendations were approved, as amended, the memoranda from Mayor Reed, dated September 20, 2007, and September 24, 2007 were approved, with the following recommendations: (1) Confirm existing Prevailing Wage Policy language for Parks Maintenance: "City maintenance projects of a routine, recurring or usual nature for preservation, protection and keeping of City owned buildings, structures and ground facilities, where work is performed pursuant to contracts to which the City is a party and which exceed the contractual amount of \$1,000.00". (2) Staff was directed to refer analysis first to the "public/private partnerships labor partners stakeholder group"; and further directed to include in the analysis to be brought forth by the City Manager's Structural Deficit Task Force a review of the implications of a policy that would exempt private sector entities that donate services for parks maintenance from the Prevailing Wage Policy if the City is not paying for the work and jobs of regular City employees are not eliminated as a result of the donation. (3) Amend the Policy to make clear that it excludes work performed by volunteers or volunteer coordinators. (4) Staff was directed to include public/private partnerships for parks maintenance for all new parks as part of the analysis to be brought forth by the City Manager's Structural Deficit Team. (5) Amend the Policy to make it clear that that it excludes work performed by the Conservation Corps, as defined by the California Labor Code, Habitat For Humanity, Our City Forest and community service days by paid employees of corporations. (11-0.)

## NEIGHBORHOOD SERVICES

### 5.2 Approval of the concept of a new Neighborhood Commission, as proposed to the NSE Committee, which approved with the following amendments:

- (a) The Neighborhoods Commission annual work plan will be developed in coordination with, and approved by, the NSE Committee; and,
- (b) The Neighborhoods Commission be instituted as a pilot from April 1, 2008 to March 31, 2010; and,
- (c) The Neighborhoods Commission provide quarterly updates to the NSE Committee throughout the two-year pilot period; and,
- (d) Direction to the City Attorney to draft an ordinance establishing the Neighborhoods Commission on a pilot basis.

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

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

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

Documents Filed: (1) Memorandum from Mayor Reed and Council Members Chirco and Pyle, dated September 20, 2007, recommending approval of the staff recommendations, with conditions as described in "Action". (2) Memorandum from Agenda Services Manager Nadine Nader, dated September 12, 2007, recommending approval of the staff recommendations.

Strong Neighborhoods Manager Laura Lam presented an overview of the Neighborhoods Commission Proposal.

Motion: Council Member Chirco moved approval of the joint memorandum she cosigned with Mayor Reed and Council Member Pyle. Council Member Nguyen seconded the motion.

A short discussion followed.

Public Comments: Speaking in support of forming the Neighborhood Commission were Ernest Guzman, Tina Morrill, Autumn Gutierrez, Don Galiardi, Lisa Jensen, Beth Shafran-Mukai, Robert Dolci, Judy Purrington and Richard Kabanel.

Action: On a call for the question, the motion carried unanimously, the Staff recommendations were approved as amended, and the memorandum from Mayor Reed and Council Members Chirco and Pyle, dated September 20, 2007, was approved with the following conditions: (1) The Neighborhoods Commission will not duplicate the mission or work of any existing commission, including the Planning Commission, Library Commission, Parks and Recreation Commission or Historic Landmarks Commission. (2) The Neighborhoods Commission is not to be another level of review for land use projects. (3) Until the Neighborhoods Commission annual work plan is completed and approved by Council, no decisions will be made about staffing and budget requirements. (4) Staff was directed to return with an analysis of all existing boards, commissions and other public bodies and the costs to staff each, looking at redundancies and opportunities for consolidation, efficiency and elimination. (10-0-1. Absent: Constant.)

## **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 renovation or reconstruction of 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)**

**(Deferred from 8/28/07 – Item 8.1)**

Documents Filed: (1) Memorandum from Vice Mayor Cortese and Council Members Campos, Nguyen and Chu, dated September 25, 2007, recommending approval of the rebuild of Fire Station 2 with additional direction. (2) Memorandum from Fire Chief Darryl Von Raesfeld, Director of Public Works Katy Allen and Acting Budget Director Jennifer Maguire, dated August 6, 2007, recommending acceptance of the cost benefit analysis with direction to staff to proceed and adoption of appropriation ordinance and funding sources resolution amendments. (3) Supplemental memorandum from Deputy City Manager Ed Shikada, Fire Chief Darryl Von Raesfeld and Director of Public Works Katy Allen, dated September 21, 2007, providing additional information, including input from stakeholders and an analysis of the potential effect of Redevelopment funding. (4) Memorandum from Senior Deputy City Attorney Susan Devencenzi, dated October 5, 2007, explaining that Ordinance No. 28124 and Resolution No. 74024 were not adopted. (5) Four hundred sixty letter from the public, dated September 25, 2007, in support of the rebuild Fire Station 2.

Deputy City Manager Ed Shikada presented the Cost and Funding Analysis for Fire Station No. 2.

Motion: Council Member Campos moved approval of the Staff recommendations and the memorandum she cosigned with Vice Mayor Cortese and Council Members Nguyen and Chu, dated September 25, 2007. Council Member Nguyen seconded the motion.

Extensive Council discussion followed.

Mayor Reed, Council Member Constant and Council Member Oliverio spoke in opposition to the rebuild of Fire Station 2.

Public Comments: Speaking in support to the rebuild of Fire Station 2 were Bob Nunez, Elsie Aranda, Jim Boales, Helen Johnson, Ted Johnson, Helen Chapman, Robert Dolci and Neil Struthers. Caroline Martin and Leslee Hamilton objected to the rebuild of Station No. 2.

Substitute Motion: Council Member Constant moved and Council Member Liccardo seconded the motion to approve Option 2 and to eliminate recommendation (2) in the

## 8.1 (Cont'd.)

memorandum from Vice Mayor Cortese and Council Members Campos, Nguyen and Chu. The substitute motion failed. (5-6. Noes: Campos, Chu, Nguyen, Oliverio, Pyle, Williams.)

Action: On a call for the question, the motion carried, the cost benefit analysis and direction to Staff to proceed with one of the three options for the renovation or reconstruction of the Fire Station No. 2 Project was accepted; and the memorandum from Vice Mayor Cortese and Council Members Campos, Nguyen and Chu, dated September 25, 2007 was approved as follows: (1) Approved the rebuild of Fire Station 2 and designated the following appropriations to the remaining unfunded project costs of the rebuild. (a) Direct the Redevelopment Agency Executive Director to allocate \$1.4 million from the sale of the vacant P1 pad at Plaza de San José, with RDA funds being conditional upon amendment of the Redevelopment Plan. The use of these funds and the amendment of the Redevelopment Plan should be coordinated to prevent any further project delays. (b) Direct the Redevelopment Agency Executive Director to allocate \$1.3 million in future Strong Neighborhoods Initiative reserves. (c) Designate \$500,000 in funds from the Fire Construction and Property Conveyance Tax Fund (d) Allocate \$1.8 million from the Public Safety Bond Contingency Reserve. (2) Direct Staff to work in good faith towards finalized an agreement with the East Side Union High School District for \$1.5 million to accommodate fire magnet program students. This should be done either by maximizing efficiency of the building to accommodate the program students or by utilizing adjacent property. To the extent that a joint use agreement is required, this agreement should return to the City Council for approval. Ordinance No. 28124 and Resolution No. 74024 were not used or adopted. (6-5. Noes: Chirco, Constant, Liccardo, Oliverio; Reed.)

## PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, the Public Hearings on Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Chirco.)

- 11.1 (a) **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**  
**[Continued from 8/28/07 – Item 11.1(c)]**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on July 27, 2007, submitted by the City Clerk.

Action: Item 11.1(a) was dropped.

- 11.1 (b) **Consideration of an ordinance rezoning the real property located at/on the southeast corner of east St. John Street and North 17 Street (838 E. St. John St.) (Health Trust, Owner) from A(PD) Planned Development Zoning District to R-1-8 Single Family Residence Zoning District to allow one single family detached residence on a 0.12 gross acre site. SNI: 13<sup>th</sup> Street. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C07-045 - District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-045, dated August 29, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on September 14, 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. 28125, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of East St. John Street and North 17<sup>th</sup> Street (838 East St. John Street) to R-1-8 Single Family Residence", was passed for publication. (10-0-1. Absent: Chirco.)

- (c) **Consideration of an ordinance rezoning the real property located on the northwest corner of Airport Parkway (East Brokaw Road) and North First Street (2101 North First Street) from LI-Light Industrial Zoning District to CG-Commercial General Zoning District to allow commercial uses on a 0.49 gross acre site (Tosco Corporation, Conocophillips Company, Owner; Mr David Joines, Developer). CEQA: Resolution No. 72768. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**  
**C07-039 - District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-039, dated August 10, 2007, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 4, 2007, transmitting the Planning Commission recommendation of approval. (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.

11.1 (c) (Cont'd.)

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28126](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwest Corner of Airport Parkway (on East Brokaw Road) and North First Street (2102 North First Street) from LI Light Industrial Zoning District to CG Commercial General Zoning District”, was passed for publication. (10-0-1. Absent: Chirco.)

- (d) **Consideration of an ordinance rezoning the real property located on the southeast corner of McKee Road and La Pala Drive (3754 McKee Road) (MJ Core Holdings, LLC, Owner) from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 10 single family attached or detached residences and associated improvements on a 0.4 gross acre site. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).  
PDC06-060 - District 5**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 4, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-060, dated August 29, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 13, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on August 31, 2007, submitted by the City Clerk. (4) Statement and Declaration of Conflict of Interest Form from Vice Mayor Cortese, dated September 24, 2007, stating that he is “of Counsel” with Van Keulen Law Firm which represents owner of property at 3851 McKee Road, Cortese Family.

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

Vice Mayor Cortese abstained due to a conflict of interest (business relationship with property owner).

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28127](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of McKee Road and La Pala Drive (3754 McKee Road) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0-1-1. Absent: Chirco. Disqualified: Cortese.)

- 11.1 (e) **Consideration of an ordinance rezoning the real property located on the north side of University Avenue, approximately 240 feet westerly of The Alameda (1871 The Alameda) from A(PD) Planned Development Zoning District to CO Commercial Office District on a 0.91 gross acre site (Rosendin Alameda LLC, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C07-032 - District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-032, dated July 23, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on September 14, 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. 28128](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the North Side of University Avenue Approximately 240 Feet Westerly of the Alameda (1871 The Alameda) from A(PD) Planned Development Zoning District to CO Commercial Office Zoning District", was passed for publication, as amended, with the clarification that the property is rezoned from R-1-8 Single Family Residential District. (10-0-1. Absent: Chirco)

- (f) **Consideration of an ordinance rezoning the real property located on the northwest corner of Lincoln Avenue and Pascoe Avenue (1114 Curtner Avenue) (Douglas E. and Ann M. Scolari Trustee, Owner) from R-2 Two Family Residence Zoning District (Lot 12) and R-1-8 Single Family Residence Zoning District (Lot 13) to CP Commercial Pedestrian District to allow commercial retail parking on a 0.29 gross acre site. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C07-029 - District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-029, dated August 17, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on September 14, 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.

11.1 (f) (Cont'd.)

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 28129](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwest Corner of Lincoln Avenue and Pascoe Avenue (1114 Curtner Avenue) From R-2 Two Family Residence Zoning District and R-1-8 Single Family Residence Zoning District to CP Commercial Pedestrian Zoning District”, was passed for publication. (10-0-1. Absent: Chirco)

- (g) **Consideration of an ordinance rezoning the real property located on the southeast corner of Senter Road and Southside Drive (3060 and 3070 Senter Road) from the CP – Commercial Pedestrian Zoning District to the CN – Commercial Neighborhood Zoning District to allow commercial uses on a 0.36 gross acre site (Nguyen Cuc Trinh, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C07-059 - District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-059, dated July 23, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on September 14, 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. 28130](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of Senter Road and Southside Drive (3060 and 3070 Senter Road) to CN Commercial Neighborhood District”, was passed for publication. (10-0-1. Absent: Chirco)

- (h) **Consideration of an ordinance rezoning the real property located on the south side of Blossom Hill Road, approximately 70 feet westerly of Hoffman Court (1250 Blossom Hill Rd) from R-1-8 Single-Family Residence Zoning District to R-M Multiple Residence District on a 0.26 gross acre site. SNI: Hoffman/Via Monte. CEQA: Exempt.**  
**C07-027 - District 10**

Action: Continued to October 16, 2007 per Administration.

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## PUBLIC HEARINGS

- 11.6 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). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

**PDC06-112 – District 1**

**[Continued from 8/28/07 – Item 11.1(b) and 9/11/07 – Item 11.2]**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 4, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-112, dated August 13, 2007, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 13, 2007, transmitting the Planning Commission recommendation of approval. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 4, 2007, transmitting additional information. (4) Proof of Publication of Notice of Public Hearing, executed on July 27, 2007, submitted by the City Clerk.

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

Action: Upon motion by Council Member Constant, seconded by Council Member Williams and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28131](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the South Side of Olga Drive Approximately 200 Feet Easterly of Saratoga Avenue (4170 Olga Drive) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Chirco)

- 11.7 Consideration of an ordinance rezoning the real property located on the east side of Monterey Highway, approximately 1,000 feet northerly of Skyway Drive (4280 Monterey Road) from R-1-2 Residence and CP Commercial Pedestrian Zoning Districts to A(PD) Planned Development Zoning District to allow up to 38 single-family detached residences on a 4.5 gross acre site (Monterey Town Ctr, LLC, owner; Sabercat Holdings Michael Luu, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

**PDC06-004 - District 2**

## 11.7 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 31, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-004, dated August 13, 2007, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 13, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on August 1-, 2007, submitted by the City Clerk.

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

Action: Upon motion by Council Member Williams, seconded by Council Member Constant and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28131](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the East Side of Monterey Highway, Approximately 1,000 Feet Northerly of Skyway Drive (4280 Monterey Road) to A(PD) Planned Development Zoning District", was passed for publication. (10-0-1. Absent: Chirco)

- 11.2 (a) **Approval of the Work Program, including scope and schedule, for the North San José Neighborhoods Planning Taskforce as input to the development of an Implementation Strategy for the recently updated *North San José Area Development Policy*.**
- (b) **Direction to staff to continue to review and process applications for commercial, industrial and residential projects to implement the adopted *North San José Area Development Policy* and related General Plan policies, in parallel to the Taskforce Work activity.**

**CEQA: Resolution No. 72768. Council Districts 3 and 4. (Planning, Building and Code Enforcement)**

**[Continued from 6/5/07 – Item 11.6, et al. 8/28/07 – Item 11.2(a)]**

Documents Filed: (1) Memorandum from Mayor Reed, Vice Mayor Cortese and Council Members Chu, Pyle and Williams, dated September 21, 2007, recommending approval of the staff recommendations with direction as noted in "Action". (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 10, 2007, recommending approval of the actions as stated above.

Senior Planner Andrew Crabtree outlined the North San José Neighborhoods Planning Task Force Work Program.

*Council Member Constant left the Council Meeting at 10:39 p.m.*

Public Comments: Beverly Bryant (Homebuilders Association of Northern California) spoke in support of the North San José Development Policy.

## 11.2 (Cont'd.)

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

A short discussion followed.

Council Member Liccardo requested that Staff continue to pay attention to those older established neighborhoods impacted with traffic.

Action: On a call for the question, the motion carried unanimously, the Staff recommendations and the joint memorandum from Mayor Reed, Vice Mayor Cortese and Council Members Chu, Pyle and Williams, dated September 21, 2007 were approved, with Staff directed to present to the City Council a status report of the North San José Neighborhood Planning Task Force Work Program in November 2007. Topics to be presented should include: (1) An inventory of government owned lands in North San José and Alviso. (2) An inventory of total employment lands in North San José and Alviso. (3) A potential school site analysis and an explanation of school financing mechanisms. (4) A report on school capacity and process associated with redistricting if applicable. (5) An analysis of the need to retain a schools financing consultant. (6) An analysis of whether or not PDO/PIO funds could finance parks. (7) An analysis of sites available, if any, for a sports complex in the North San José area. (8) A report on urban design guidelines, a plan for retail amenities and transportation improvements plan. (9) An analysis of the City's compliance with the North San José Litigation Settlement Agreement. (10) Staff was further directed to provide the City Council with a report on the Task Force process each time a pipeline residential or industrial Phase I project comes before the Council for approval. (9-0-2. Absent: Campos, Constant.)

## 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 recommends approval; Planning Commission recommends approval, with a minimum of 10,000 square feet of retail (7-0-0).**

### **PDC05-114 - District 3**

**(Continued from 8/14/07 – Item 11.6, et al. 9/11/07 – Item 11.3)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-114, dated August 16, 2007, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 13, 2007, transmitting the Planning Commission recommendation of approval with a minimum of 10,000 square feet of retail. (3) Proofs of Publications of Notices of Public Hearings, executed on July 27, 2007 and August 10, 2007, submitted by the City Clerk.

### 11.3 (Cont'd.)

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

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28133](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of North First Street and Century Center Court (1733 North First Street) from CO (PD) Commercial Office Planned Development, LI Light Industrial and CG Commercial General Zoning Districts to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Constant.)

### 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 Invrs LLC, Owner). CEQA: Resolution No. 72768, and Addendum thereto File No. PDC06-093. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

**PDC06-093 - District 4**

**(Continued from 9/11/07 – Item 11.4)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 4, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-093, dated September 4, 2007, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 13, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on August 10, 2007, submitted by the City Clerk.

Mayor Reed opened the public hearing on Items 11.4 and 11.5.

Discussion: Items 11.4 and 11.5 were heard together. See Item 11.5 for discussion and further action.

Action: Upon motion by Council Member Chu, seconded by Vice Mayor Cortese and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28134](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwest Corner of Zanker Road and Tasman Drive (3811 Zanker Road) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Constant.)

- 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 Py) 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: Resolution No. 72768, and Addendum thereto File No. PDC06-061. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

**PDC06-061 - District 4**

**(Continued from 9/11/07 – Item 11.5)**

Documents Filed: (1) Memorandum from Council Member Chu, dated September 24, 2007, recommending approval of Items 11.4 and 11.5 with additional conditions as described below in “Action”. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 4, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-061, dated September 4, 2007, recommending approval of the subject rezoning. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 13, 2007, transmitting the Planning Commission recommendation of approval. (4) Proof of Publication of Notice of Public Hearing, executed on August 10, 2007, submitted by the City Clerk.

Ed McCoy, representing the applicant, Fairfield Residential, presented an overview of the Projects Baypointe and Northpointe.

A short discussion followed.

Public Comment: Jean Marlowe expressed concerns regarding density and traffic issues. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Chu, seconded by Vice Mayor Cortese and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28135](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwesterly Side of Baypointe Parkway, approximately 370 Feet Northwesterly of Tasman Drive (163 Baypointe Parkway) to A(PD) Planned Development Zoning District”, was passed for publication, as amended, the memorandum from Council Member Chu, dated September 24, 2007, was approved, as amended, with the following conditions: (1) Parks: The City and Redevelopment Agency Staffs were directed to return in November 2007 with a funding strategy to secure the three acre parcel at 191 Baypointe Parkway for a park. (2) Good Neighbor: Provide the City of San José and adjacent property owners with regular updates on the progress of the project during construction. (3) Sustainability: Use of Leadership in Energy and Environmental Design (LEED) practices to achieve credits sufficient for a

## 11.5 (Cont'd.)

LEED Silver certification or equivalent, at the discretion of the Director of Planning, Building and Code Enforcement. (4) Retail: Staff was directed to coordinate with the developer throughout the design and permit process to ensure quality retail amenities have been designed within the project, i.e. ample clear heights, approximately sized grease interceptors, odor filtration systems, delivery options, pedestrian amenities including outdoor seating and storage for outdoor tables and chairs. (10-0-1. Absent: Constant.)

## ADJOURNMENT

The Council of the City of San José was adjourned at 11:27 p.m. in memory of former Mayor Ernest Renzel, a dedicated public servant who will always be remembered as the “Father of the San José International Airport,” and for the outstanding contributions he made to the City of San José.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

smd/9-25-07MIN

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## JOINT REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 4:55 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

**8.1 City Council and Redevelopment Agency Board approval of a Grant Agreement, in the amount of \$100,000, with the Mexican Heritage Corporation for promotion and marketing of the 16<sup>th</sup> Annual Mariachi International Festival and Conference in downtown San José. CEQA: Not a Project. [ALUM ROCK]**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated September 13, 2007, recommending approval of the grant agreement.

Action: Upon motion by Council Member Campos, seconded by Council Member Liccardo and carried unanimously, the Grant Agreement, in the amount of \$100,000, with the Mexican Heritage Corporation for promotion and marketing of the 16<sup>th</sup> Annual Mariachi International Festival and Conference in downtown San José was approved. (11-0.)

**8.2 Approval of the Mayor's Redevelopment Budget Message.**

Documents Filed: Memorandum from Mayor Reed, dated September 14, 2007, recommending approval of the Redevelopment Agency's Amended Capital Budget for Fiscal Year 2007-2008.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the Mayor's Redevelopment Budget Message, as amended, was approved. (11-0.)

**8.3 (a) The Redevelopment Agency Board approval of the Redevelopment Agency's Amended Capital Budget for Fiscal Year 2007-2008.**  
**(b) The Redevelopment Agency Board approval of the Redevelopment Agency's Capital Improvement Program for Fiscal Years 2008-2012.**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated September 13, 2007, recommending approval of the above recommendations.

Motion: Council Member Liccardo moved approval of the Redevelopment Agency's Amended Capital Budget for Fiscal Year 2007-2008 and the Redevelopment Agency Board approval of the Redevelopment Agency's Capital Improvement Program for Fiscal Years 2008-2012. Council Member Nguyen seconded the motion.

Public Comments: Chuck Jeffery, Sam Kimura and Phi Foster spoke in support for the park near Tully and McLaughlin.

### **8.3 (Cont'd.)**

Action: On a call for the question, the motion carried unanimously and the Redevelopment Agency Board approval of the Redevelopment Agency's Amended Capital Budget for Fiscal Year 2007-2008 and the Redevelopment Agency Board approval of the Redevelopment Agency's Capital Improvement Program for Fiscal Years 2008-2012 were approved. (11-0.)

The Council of the City of San José and Redevelopment Agency Board adjourned at 5:15 p.m.