CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA **TUESDAY, JUNE 26, 2007**

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

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:01 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) Callaway v. City of San José, et al.; (2) Naymark, et al. v. City of San José, et al.; (3) Sutter's Place, Inc. dba Bay 101 v. City of San José, et al.; (4) Sutter's Place, Inc. dba Bay 101 and Garden City, Inc. v. City of San José, et al.; (5) A&B Construction v. Elmore Pipe Jacking, Inc., et al.; (6) Quiet Technology Aerospace, Inc. v. Norman Y. Mineta San José International Airport, et al. (B) to confer with Legal Counsel pursuant to: Government Code Section 54956.9 with respect to anticipated litigation, (1) subsection (b), initiation of litigation in four (4) matters; (2), subsection (c) with significant exposure in one (1) matter. (C) Public Employee Performance Evaluation Pursuant to Government Code Section 54957: Title: City Auditor.

By unanimous consent, Council recessed from the Closed Session at 10:45 a.m. and reconvened at 1:34 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

Father Paolo Gobbo, Saint Christopher Church presented an inspirational prayer. (District 6)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the Orders of the Day and the Amended Agenda were approved, Ceremonial Item 1.3 was deferred to a future date and Items 2.1, 3.1, 3.9 and 3.10 were deferred to August 7, 2007.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of June 26, 2007:

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

Case Name: Naymark, et al, v. City of San José, et al.

Adverse Party or parties: Janice and Ronald Naymark

Substance of Litigation: Expenditure of public money with regard to the Police Department's compliance with the Public Records Act.

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 proclamation declaring the month of July 2007 as National Recreation and Parks month. (Parks, Recreation and Neighborhood Services)

Action: Mayor Reed and Director of Parks, Recreation and Neighborhood Services Albert Balagso recognized the Month of July 2007 as "National Recreation and Parks Month" in the City of San José.

1.2 Presentation of a commendation to the Mt. Pleasant High School girls track team upon winning the State Track and Field Championship. (Campos)
(Deferred from 6/19/07 – Item 1.1)

Action: Mayor Reed and Council Member Campos recognized and commended the Mt. Pleasant High School girls track team for their outstanding achievements.

1.3 Presentation of a commendation to the 76th Grand Chapter of the Sigma Chi International Fraternity held June 28 through June 30, 2007. (Campos)
(Rules Committee referral 6/20/07)

Action: Deferred per Council Member Campos under Orders of the Day.

1.4 Presentation of a commendation to the San José Convention and Visitors Bureau and the Santa Clara Chamber of Commerce and Convention – Visitors Bureau for their cooperative efforts to produce an economic impact report which highlights the potential economic benefits of a 49ers stadium in Santa Clara County. (Cortese)
(Rules Committee referral 6/20/07)

Action: Mayor Reed and Vice Mayor Cortese recognized and commended the San José Convention and Visitors Bureau and the Santa Clara Chamber of Commerce and Convention Visitors Bureau for their cooperative efforts.

1.5 Presentation of a commendation to the Bellarmine College Preparatory track team upon winning the Central Coast Section in their division and to Coach Terry Ward upon his retirement from Bellarmine College Preparatory and his years of service to youth sports. (Mayor/Oliverio/Cortese/Liccardo)
(Rules Committee referral 6/20/07)

Action: Mayor Reed, Vice Mayor Cortese and Council Members Liccardo and Oliverio recognized and commended the Bellarmine College Preparatory track team for their achievements and recognized Coach Terry Ward upon his retirement from Bellarmine College Preparatory and for his dedicated years of service to youth sports.

SPECIAL COMMENDATIONS

Mayor Reed recognized and commended City Manager Les White (30 years), Chief Deputy City Manager Kay Winer (10 years) and Budget Director Larry Lisenbee (21 years) for their outstanding dedication to the City of San José.

CONSENT CALENDAR

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

2.1 Approval of Minutes.
- **(a) Regular Minutes of April 3, 2007**
- **(b) Regular Minutes of April 10, 2007**
- **(c) Regular Minutes of April 17, 2007**
- **(d) Joint City Council/Santa Clara Valley Water District Study Session Minutes on Water Quality Issues of April 20, 2007**
- **(e) Regular Minutes of April 24, 2007**

2.1 (f) Council Study Session Minutes on Evergreen East Hills Vision Strategy of April 30, 2007
(g) Regular Minutes of May 1, 2007
(h) Council Study Session Minutes on the General Plan Update of May 3, 2007
(i) Regular Minutes of May 8, 2007
(j) Regular Minutes of May 15, 2007
(k) Regular Minutes of May 22, 2007
(l) 2007-2008 Operating and Capital Budget; 2008-2012 Capital Improvement Program Study Session Minutes of May 7, 2007 through May 17, 2007
(m) Minutes of the San José Financing Authority of May 22, 2007
(n) Special Closed Session Minutes of May 29, 2007
(o) Special Closed Session Minutes of May 30, 2007

Action: Deferred to August 7, 2007, per City Clerk under Orders of the Day.

2.2 (a) ORD. NO. 28067 - Amending Sections 5.06.335, 5.06.340, 5.06.350, 5.06.356, 5.06.390 and 5.06.440 of Chapter 5.06 of Title 5 of the San José Municipal Code to make changes to the contract authority of the City Manager and Director of Housing for development of affordable housing relating to predevelopment loans, Council approved loans and grants, repayment of project loans, outside funding, rehabilitation and improvements to City owned properties, accrued interest and loan workouts, and consultant agreements.

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on June 19, 2007, submitted by the City Clerk.

Action: Ordinance No. 28067 was adopted. (11-0.)

(b) ORD. NO. 28072 - Establishing a limited pilot program to allow certain public eating establishments, drinking establishments and/or entertainment establishments located in an area generally bounded by Saint John Street, 4th Street, San Carlos Street, Market Street, San Fernando Street and San Pedro Street and that are legally operating until 2:00 a.m. the ability to remain in operation until 3:00 a.m. for a period of up to one hundred eighty days, all as more particularly described herein.

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on June 22, 2007, submitted by the City Clerk.

Public Comments: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, Ordinance No. 28072 was adopted. (11-0.)

2.2 (c) **ORD. NO. 28074 - Amending Title 12 of the San José Municipal Code to amend Chapters 12.10 and 12.12 to: increase the revolving door prohibition to two years; amend the definition of a lobbyist; create exemptions to the requirements of the lobbyist ordinance; prohibit or require disclosure of compensation contingent on the result of a proposed government action; require more specific disclosures in the lobbyist quarterly report; impose interest on the quarterly report late filing fee; add a new part to require officials to disclose contacts with lobbyists; and make other technical and clarifying changes.**

Documents Filed: (1) Supplemental memorandum from City Attorney Richard Doyle, dated June 22, 2007, regarding the Lobbyist and Revolving Door Ordinance Amendments. (2) Proof of Publication of Notice of Public Hearing, executed on June 22, 2007, submitted by the City Clerk.

Action: Ordinance No. 28074 was adopted. (11-0.)

(d) **ORD. NO. 28075 - Rezoning certain real properties situated on the northwest corner of Capitol Avenue and Berryessa Road (13441 Berryessa Road and 1141 North Capitol Avenue) to the CG Commercial General Zoning District. C07-023**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on June 26, 2007, submitted by the City Clerk.

Action: Ordinance No. 28075 was adopted. (11-0.)

(e) **ORD. NO. 28076 - Rezoning certain real property situated at the northwest corner of The Alameda and Stockton Avenue (155 Stockton Avenue) to the A(PD) Planned Development Zoning District. PDC06-064**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on June 22, 2007, submitted by the City Clerk.

Action: Ordinance No. 28076 was adopted. (11-0.)

(f) **ORD. NO. 28077 - Rezoning certain real property situated on the west side of Stone Avenue at the intersection with Ciminio Street (1999 Stone Avenue) to the HI-Heavy Industrial Zoning District. C07-022**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on June 22, 2007, submitted by the City Clerk.

Action: Ordinance No. 28077 was adopted. (11-0.)

2.2 (g) ORD. NO. 28078 - Prezoning certain real property situated at the south side of Piercy Road, approximately 900 feet east of the intersection of Piercy Road and Tennant Avenue (725 Piercy Road) to OS - Open Space Zoning District. C07-030

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on June 22, 2007, submitted by the City Clerk.

Action: Ordinance No. 28078 was adopted. (11-0.)

(h) ORD. NO. 28079 - Amending Title 7 of the San José Municipal Code in its entirety, relating to animal care and control.

Documents Filed: (1) Supplemental memorandum from City Attorney Richard Doyle, daed June 22, 2007, transmitting Title 7 Animal Reguations. (2) Proof of Publication of Notice of Public Hearing, executed on June 22, 2007, submitted by the City Clerk.

Council Member Oliverio pulled Item 2.2(h) to vote in opposition.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried, Ordinance No. 28079 was adopted. (8-2. Noes: Cortese, Oliverio. First Reading: 7-4. Noes: Constant, Cortese, Oliverio; Reed.)

(i) ORD. NO. 28080 - Amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal code, which lists all infractions, to update the list of infraction.

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on June 22, 2007, submitted by the City Clerk.

Action: Ordinance No. 28080 was adopted. (11-0.)

2.3 Approval to exercise a third one-year option to extend the agreement with Barnestorming Advertising and Marketing Communications, to conduct marketing communications and customer service consulting services for the Norman Y. Mineta San José International Airport for the period July 1, 2007 through June 30, 2008 in an amount not to exceed $185,000, within the original not-to-exceed contract amount of $740,000. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-057. (Airport)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated May 15, 2007, recommending approval of a third one year option to extend the agreement.

Council Member Chu pulled Item 2.3 to abstain from voting due to a conflict of interest (family owned business inside the airport).

2.3 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, a third one-year option to extend the agreement with Barnestorming Advertising and Marketing Communications, to conduct marketing communications and customer service consulting services for the Norman Y. Mineta San José International Airport for the period July 1, 2007 through June 30, 2008 in an amount not to exceed $185,000, within the original not-to-exceed contract amount of $740,000 was approved. (10-0-1. Disqualified: Chu.)

2.4 Adoption of two resolutions:

(a) Establishing fees, rental rates and charges for use of land, paved areas and structures at the Norman Y. Mineta San José International Airport, Airport parking rates, permit fees and charges for ground transportation providers, permit fees and charges for off-Airport rental car companies, fees and charges for technology services provided by the City to tenants at the Airport, and rates and fares for the operation of taxicabs at the Airport, and repealing Resolution Nos. 59614, 59857, 59988, 60081, 62781, 62790, 63461, 65335, 69512, 70866, 71251, 71336, 71647, 71746, 72250, 72687 and the new Airport Parking resolution.

(b) Establishing rates and fares for the operation of taxicabs in all areas in the City of San José outside the Airport.

CEQA: Resolution Nos. 67380 and 71451, File No. PP 07-052. (Airport)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated June 4, 2007, recommending adoption of resolutions.

Action: Resolution No. 73885, entitled: "A Resolution of the Council of the City of San José Establishing Fees, Rates and Charges at the Norman Y. Mineta San José International Airport and Repealing Resolution Numbers 59614, 59857, 59988, 60081, 62781, 62790, 63461, 65335, 69512, 70866, 71251, 71336, 71647, 71746, 72250, 72687 and 73802" and Resolution No. 73886, entitled: "A Resolution of the Council of the City of San José Fixing and Determining Rates, Fares and Tariffs for the Operation of Taxicabs in the City of San José Outside the Airport Pursuant to Municipal Code Chapter 6.64", were adopted. (11-0.)

2.5 Adoption of a resolution authorizing the City Manager to apply for federal funding, and execute a Cooperative Agreement with the Transportation Security Administration to fund eligible costs for deployment of law enforcement officers at each airport passenger-screening location at the Norman Y. Mineta San José International Airport in the estimated amounts in excess of the City Manager's contract authority of approximately $1,109,000 per year or approximately $5,545,000 for the period October 1, 2007 to September 30, 2012. CEQA: Not a Project. (Airport)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated June 6, 2007, recommending adoption of a resolution.

2.5 (Cont'd.)

Action: Resolution No. 73887, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the Transportation Security Administration for a Grant for the Deployment of Law Enforcement Officers at the Norman Y. Mineta San José International Airport in an Amount in Excess of the City Manager's Contract Authority, To Accept the Grant if Awarded and to Execute All Related Documents", was adopted. (11-0.)

2.6 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period April 16, 2007 through May 15, 2007. (City Auditor)
(Rules Committee referral 6/13/07)

Documents Filed: Report of Activities for the Period April 16 through May 15, 2007 from the Office of the City Auditor.

Action: The report was accepted. (11-0.)

2.7 That the City Council reappoint Elections Commission Vice Chair Fred de Funiak for a four year term that expires March 1, 2011. (City Clerk)
(Rules Committee referral 6/13/07)

Documents Filed: Memorandum from City Clerk Lee Price, dated June 19, 2007, transmitting the Rules and Open Government Committee recommending the reappointment of Elections Commission Vice Chair Fred de Funiak.

Action: The reappointment of Elections Commission Vice Chair Fred de Funiak was approved. (11-0.)

2.8 (a) Approval to exercise the last option of an agreement with Patton Boggs LLP, from July 1, 2007 to June 30, 2008, in the amount of $127,500;
(b) Approval of an amendment to the agreement with Patton Boggs LLP to add an additional option period of six months from July 1, 2008 to December 31, 2008, in the amount of $63,750 for the purposes of completing the Congressional Appropriations cycle and continued federal lobbying during the 110th Session.
(c) Approval for the City Manager's Office to draft and submit a Request for Qualifications (RFQ) for legislative representation services in Washington D.C. for services commencing January 1, 2009 through June 30, 2013.
CEQA: Not a Project. (City Manager's Office)

Documents Filed: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated June 7, 2007, recommending approval of the Staff recommendations referenced above.

2.8 (Cont'd.0

Action: The agreement with Patton Boggs LLP, from July 1, 2007 to June 30, 2008, in the amount of $127,500, the amendment to the agreement with Patton Boggs LLP to add an additional option period of six months from July 1, 2008 to December 31, 2008, in the amount of $63,750 for the purposes of completing the Congressional Appropriations cycle and continued federal lobbying during the 110th Session were approved and the City Manager's Office was authorized to draft and submit a Request for Qualifications (RFQ) for legislative representation services in Washington D.C. for services commencing January 1, 2009 through June 30, 2013. (11-0.)

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

(1) Increase the estimate for Earned Revenue by $50,000.

(2) Establish an appropriation to the General Services Department for the Demolition of Welch Park Playground project (PSM #488) in the amount of $50,000.

(b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Demolition of Welch Park Playground project.

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

Documents Filed: Memorandum from Budget Director Larry Lisenbee and Director of General Services Peter Jensen, dated June 4, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

Action: Ordinance No. 28081, 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 Demolition of Welch Park Playground; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 73888, 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 Redevelopment Capital Projects Fund" and Resolution No. 73889, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in K.O.N.A. Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (11-0.)

2.10 (a) Approval of the fifth amendment to the agreement between the City and the Mexican Heritage Corporation (MHC) for the Operation and Maintenance of the Mexican Heritage Plaza to require MHC to comply with additional financial reporting requirements for the remainder of the term of the agreement.

2.10 (b) Adoption of a resolution authorizing the City Manager to advance a portion of the operation and maintenance support payments for Fiscal Year 2007-2008 to defray the cost of personnel assisting MHC with revenue generation and financial controls, and to suspend MHC's contributions to the reserve account for FY07-08.
CEQA: Not a Project. Council District 5. (City Manager's Office)

Documents Filed: Memorandum from Chief Deputy City Manager Kay Winer, dated June 5, 2007, recommending approval of the fifth amendment to the agreement and adoption of a resolution.

Public Comments: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, the fifth amendment to the agreement between the City and the Mexican Heritage Corporation (MHC) for the Operation and Maintenance of the Mexican Heritage Plaza to require MHC to comply with additional financial reporting requirements for the remainder of the term of the agreement was approved and Resolution No. 73890, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Advance a Portion of the Operation and Maintenance Support Payments for Fiscal Year 2007-2008 to Defray the Cost of Personnel Assisting Mexican Heritage Corporation with Revenue Generation and Financial Controls and to Suspend Mexican Heritage Corporation's Contributions to the Reserve Account for Fiscal Year 2007-2008", was adopted. (11-0.)

2.11 Adoption of a resolution extending the Strong Neighborhoods Initiative Project Advisory Committee to March 31, 2008 and extending the term of the current members. CEQA: Not a Project. (City Manager's Office)

Documents Filed: Memorandum from Deputy City Manager Mark Linder, dated June 7, 2007, recommending adoption of a resolution.

Public Comments: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, Resolution No. 73891, entitled: "A Resolution of the Council of the City of San José Extending the Strong Neighborhoods Initiative Project Advisory Committee to March 31, 2008 and Extending the Term of the Current Members", was adopted. (11-0.)

2.12 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Mikyoung Kim to fabricate and install artwork for the South San José Police Substation in a total amount not to exceed $340,000. CEQA: Mitigated Negative Declaration, File No. PP04-304. (Economic Development)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated June 4, 2007, recommending adoption of a resolution.

2.12 (Cont'd.)

Action: Resolution No. 73892, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Mikyoung Kim to Fabricate and Install Artwork for the South San José Police Substation in a Total Amount Not To Exceed $340,00", was adopted. (11-0.)

2.13 Approval of an agreement with the San José Sports Authority for sports marketing services for the period July 1, 2007 to June 30, 2011, in an amount not to exceed $608,895 for FY 2007-2008. CEQA: Not a Project. (Economic Development)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated June 4, 2007, recommending approval of an agreement.

Action: The agreement with the San José Sports Authority for sports marketing services for the period July 1, 2007 to June 30, 2011, in an amount not to exceed $608,895 for FY 2007-2008 was approved. (11-0.)

2.14 Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Elite Racing, Inc. for a Rock 'n' Roll Half Marathon within the City of San José to be held on Sunday, October 14, 2007, in an amount not to exceed $180,500. CEQA: Exempt, File No. PP05-170. Council Districts 3 and 6. (Economic Development)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated June 4, 2007, recommending adoption of a resolution.

Action: Resolution No. 73893, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement with Elite Racing, Inc. for a Rock 'N' Roll Half Marathon Within the City of San José to be Held on Sunday, October 14, 2007 in an Amount Not To Exceed $180,500", was adopted. (11-0.)

2.15 Approval of Arts Commission recommendation, subject to approval of the 2007-2008 Proposed Operating Budget, to:

(a) Allocate 2007-2008 funds to the Office of Cultural Affairs arts and cultural programs, projects, grants, activities and support ("Arts Budget"), in a total amount not to exceed $4,474,371; and

(b) Adoption of a resolution authorizing the City Manager to negotiate and execute 2007-2008 grant agreements as follows:

(1) Festival, Parade and Celebration Grant Agreements with 25 organizations for 34 events, in a total amount not to exceed $413,194; and

(2) Arts Grant Agreements with 51 organizations, in a total amount not to exceed $2,432,206.

CEQA: Not a Project. (Economic Development)

2.15 (Cont'd.)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated June 4, 2007, recommending approval of the Arts Commission recommendations and adoption of a resolution.

Action: The allocation of the 2007-2008 funds to the Office of Cultural Affairs arts and cultural programs, projects, grants, activities and support ("Arts Budget"), in a total amount not to exceed $4,474,371 was approved and Resolution No. 73894, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Festival, Parade and Celebration Grant Agreements and Arts Grant Agreements for Fiscal Year 2007-2008", was adopted. (11-0.)

2.16 (a) Adoption of the following amendments to the 2007-2008 Appropriation Ordinance and Funding Sources Resolution in the General Fund:

(1) Increase existing appropriation #3486 to Police in City-Wide Expenses for the 2006 SUASI grant in the amount of $278,981 where $12,314 will be used for one Police Lieutenant on the SUASI Management Team to support regional planning and $266,667 will be used to establish a Terrorism Early Warning Group (TEWG) for the South Bay.

(2) Establish an appropriation to OES in City-Wide Expenses for the 2006 State Homeland Security Grant Program (SHSGP) in the amount of $45,444 to support the San José *Prepared!* program.

(3) Increase the estimate for Revenue from the federal government by a total of $324,425.

(b) Adoption of a resolution authorizing the City Manager to negotiate and execute separate Memoranda of Understanding (MOU) to accept program funds from:

(1) City and County of San Francisco as the fiscal agent for the FY 2006 Super Urban Area Security Initiative (SUASI) grant.

(2) Santa Clara County as the fiscal agent for the FY 2006 State Homeland Security Grant Program (SHSGP).

(3) Authorize the City Manager to amend MOUs as necessary without return to Council, in the event that additional funds become available to the City of San José from either the 2006 SUASI grant or the 2006 SHSGP grant, or spending plans need to change.

(c) Adoption of a resolution authorizing the City Manager to amend the existing Memorandum of Understanding (MOU) with Santa Clara County to provide an additional $150,000 from the FY 2005 UASI grant to Santa Clara County to support project management and installation of the Tri-County Microwave (TriMac) project, to extend the deadline from March 1, 2007 to July 31, 2007, and to undertake any additional amendments without return to Council.

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

2.16 (Cont'd.)

Documents Filed: Memorandum from Director of Office of Emergency Services Kimberly Shunk and Budget Director Larry Lisenbee, dated June 4, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments and resolutions.

Action: Ordinance No. 28082, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund for the 2006 State Homeland Security Grant Program and the 2006 Super UASI Police Grant; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 73895, entitled: Resolution No. 73888, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the General Fund", Resolution No. 73896, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding with the City and County of San Francisco Related to the FY 2006 Super Urban Security Initiative Grant and a Memorandum of Understanding with the County of Santa Clara Related to the FY 2006 State Homeland Security Grant Program" and Resolution No. 73897, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding with the County of Santa Clara Relating to the FY 2005 UASI Grant and Installation of the Tri County Microwave Project", were adopted. (11-0.)

2.17 Adoption of a resolution authorizing the Director of Finance to:

(a) Execute the third amendment to the agreement for the Operations & Maintenance of the Converged Network and Telephony System with Nortel Networks, Inc. to reduce the on-site representatives from three to one, resulting in a decrease of annual compensation by $460,000 from $1,260,000 to a not to exceed compensation of $800,000 for the maintenance period beginning July 1, 2007 and ending June 30, 2008.

(b) Negotiate and execute further amendments, as necessary, to reflect the City's needs for Nortel services, subject to appropriation of funds.

CEQA: Not a Project. (Finance)

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

Public Comments: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, Resolution No. 73898, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a Third Amendment to the Operations and Maintenance Services Agreement with Nortel Networks, Inc. for the Converged Network and Telephony System to Reduce the Number of On-Site Representatives and Authorizing the Director to Negotiate and Execute Further Amendments to the Agreement as Necessary", was adopted. (11-0.)

2.18 Adoption of a resolution authorizing the Director of Finance to:

(a) Execute an agreement with Schindler Elevator Corporation for elevator and escalator maintenance services for the Norman Y. Mineta San José International Airport for one year at a cost of $190,800 and approved supplemental funds of $10,000 to pay for unscheduled work and authority to add or delete maintenance for elevators and escalators as required, for a total first year cost not to exceed $200,800.

(b) Execute four one-year options to renew the agreement subject to annual Consumer Price Index adjustments and annual appropriations.

CEQA: Not a Project. (Finance)

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

Action: Resolution No. 73899, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Schindler Elevator Corporation for Elevator and Escalator Maintenance at the Airport", was adopted. (11-0.)

2.19 (a) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #22 and authorization for the Director of Finance to execute the purchase orders.

(b) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #1 and authorization for the Director of Finance to execute the purchase orders.

CEQA: See Administration's Memorandum to Council for specific CEQA clearance determinations on each recommended action.
(Finance)

Documents Filed: Memoranda from Director of Finance Scott Johnson, both dated June 4, 2007, recommending approval of open purchase orders for FY 2006-07 #22 and FY 2007-2008 #1.

Action: The open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #22 and for FY 2007-2008 #1 were approved and the Director of Finance was authorized to execute the purchase orders. (11-0.)

2.20 Report on bids and award the purchase of three (3) 1500 GPM (gallon per minute) Fire Engine Apparatus to the lowest responsive bidder, Hi-Tech Emergency Vehicle Service, Inc., for a total not to exceed amount of $1,489,496 including taxes and fees and authorize the Director of Finance to:

(a) Execute the purchase order;

(b) Amend the initial purchase order to purchase additional quantities of 1500 GPM Fire Engine Apparatus on an as-required basis at the same unit pricing subject to appropriation of funding; and

(c) Execute purchase orders to acquire additional quantities for two additional years subject to manufacturer's price increase and appropriation of funding.

CEQA: Not a Project. (Finance)

2.20 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated June 4, 2007, recommending approval of the purchases.

Action: The purchase of three (3) 1500 GPM (gallon per minute) Fire Engine Apparatus to the lowest responsive bidder, Hi-Tech Emergency Vehicle Service, Inc., for a total not to exceed amount of $1,489,496 including taxes and fees was approved and the Director of Finance was authorized to execute the purchase order; amend the initial purchase order to purchase additional quantities of 1500 GPM Fire Engine Apparatus on an as-required basis at the same unit pricing subject to appropriation of funding and execute purchase orders to acquire additional quantities for two additional years subject to manufacturer's price increase and appropriation of funding. (11-0.)

2.21 Adoption of a resolution authorizing the Director of Finance to donate surplus City Personal property located at Happy Hollow Park & Zoo with an estimated value of $69,800 to the Happy Hollow Corporation, a non-profit corporation, for the purpose of resale to raise funds for the renovation of Happy Hollow Park & Zoo. CEQA: Not a Project. (Finance/Parks, Recreation and Neighborhood Services)

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

Action: Resolution No. 73900, entitled: "A Resolution of the Council of the City of San José Approving the Donation of Surplus City Personal Property Located at Happy Hollow Park and Zoo with an Estimated Value of $69,800 to the Happy Hollow Corporation", was adopted. (11-0.)

2.22 Adoption of a resolution authorizing the City Manager to submit a grant application and letter of commitment to the Bay Area Air Quality Management District in the amount of $240,000 to support the efforts of General Services Fleet Management in greening the City's vehicle fleet, to accept the grant if awarded, and to execute a grant agreement accepting the grant and any collateral documents. CEQA: Not a Project. (General Services/Environmental Services)

Documents Filed: Memorandum from Director of General Services Peter Jensen and Director of Environmental Services John Stufflebean, dated June 4, 2007, recommending adoption of a resolution.

Action: Resolution No. 73901, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the Bay Area Air Quality Management for a Transportation Fund for Clean Air Grant in an Amount Not To Exceed $240,000, To Accept the Grant if Awarded and To Execute All Related Documents", was adopted. (11-0.)

2.23 Adoption of a resolution:

(a) Approving a 12-month extension to the Housing Services Partnership contract to provide homeless services on behalf of the City from July 1, 2007 through June 30, 2008;

(b) Approving an increase in the Housing Services Partnership contract in an amount of $1,284,943, from $2,247,879 to $3,532,822 to cover the cost of services provided through June 30, 2008;

(c) Authorizing the Director of Housing to negotiate and execute all necessary documents.

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated June 5, 2007, recommending adoption of a resolution.

Action: Resolution No. 73902, entitled: "A Resolution of the Council of the City of San José (a) Approving a 12 Month Extension to the Housing Services Partnership Contract to Provide Homeless Services on Behalf of the City from July 1, 2007 through June 30, 2008; (b) Approving an Increase in the Housing Services Partnership Contract in an Amount of $1,284,943 from $2,247,879 to $3,532,822 to Cover the Cost of Services Provided Through June 30, 2008; (c) Authorizing the Director of Housing to Negotiate and Execute all Necessary Documents", was adopted. (11-0.)

2.24 Acceptance of Staff's response to the Civil Grand Jury Report regarding the City's Supplemental Military Leave Policy. CEQA: Not a Project. (Human Resources)

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated June 4, 2007, recommending acceptance of the Staff's response.

Action: Staff's response to the Civil Grand Jury Report regarding the City's Supplemental Military Leave Policy was accepted. (11-0.)

2.25 Approval of Mayor Reed's travel to Washington, D.C. on June 6-10, 2007 for Silicon Valley Leadership Group trip and scheduled meetings with Federal elected officials. Source of Funds: Mayor's Office. (Mayor)
(Rules Committee referral 6/6/07)

Documents Filed: Memorandum from Mayor Reed, dated June 1, 2007, requesting approval of travel.

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

2.26 (a) Approval of an exemption from the Qualifications-Based Consultant Selection Policy with regard to the selection of Winzler & Kelly Consulting Engineers to provide engineering services for Upper Penitencia Creek Bridge and Stream Bank Repair Projects in Alum Rock Park.

2.26 (b) Approval of an agreement with Winzler & Kelly Consulting Engineers for consultant services to design engineering solutions to repair Upper Penitencia Creek stream damage in Alum Rock Park from the date of execution to March 1, 2008, in an amount not to exceed $300,000.

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

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 4, 2007, recommending approval of an exemption and an agreement.

Action: The exemption from the Qualifications-Based Consultant Selection Policy with regard to the selection of Winzler & Kelly Consulting Engineers to provide engineering services for Upper Penitencia Creek Bridge and Stream Bank Repair Projects in Alum Rock Park and the agreement with Winzler & Kelly Consulting Engineers for consultant services to design engineering solutions to repair Upper Penitencia Creek stream damage in Alum Rock Park from the date of execution to March 1, 2008, in an amount not to exceed $300,000, were approved. (11-0.)

2.27 Adoption of a resolution authorizing the City Manager to negotiate and execute all of the following agreements, subject to the appropriation of funds by City Council, and on such terms and conditions as deemed appropriate by the City Manager:

(a) Agreements and amendments to agreements, for Parks, Recreation and Neighborhood Services Department programs identified on the attachment, consistent with the amounts budgeted for these programs in the adopted budget for FY 2007-08.

(b) Agreements and amendments to agreements, accepting grant funds from the County of Santa Clara for provision of mental health services and senior nutrition programs, in amounts consistent with budgeted amounts in the adopted budget for FY 2007-08.

(c) A three-month extension of the agreement with the County of Santa Clara of the Senior Nutrition Agreement into the first three months of FY 2007-08 and to accept grant funds for that period in amounts consistent with budgeted amounts in the adopted budget for FY 2007-08, until a new agreement for FY 2007-08 is finalized with the County.

(d) A second amendment to the County of Santa Clara 2001-02 Mental Health agreement to accept additional funding of $85,828 due to an underpayment to the City which was identified through County's audit-reconciliation of records.

(e) Designate the Director of Parks, Recreation and Neighborhood Services to negotiate and execute all contracts and amendments in FY 2007-08 related to the following grant programs for that period in amounts consistent with budgeted amounts in the adopted budget for FY 2007-08, and further authorizing the Director to execute amendments to the following grant agreements during the FY 2007-08, subject to appropriation of funds by City Council: Bringing Everyone's Strengths Together (BEST), Healthy Neighborhood Venture Funds (HNVF) and San José After School Program (SJAS).

CEQA: Exempt, File No. PP02-370. (Parks, Recreation and Neighborhood Services)

2.27 (Cont'd.)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 4, 2007, recommending adoption of a resolution.

Action: Resolution No. 73903, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Various Agreements and Amendments to the Agreements and to Accept Grant Funds for Parks, Recreation and Neighborhood Services Programs; and Authorizing the Director of Parks, Recreation and Neighborhood Services to Negotiate and Execute Agreements and Amendments to Agreements Related to Certain Grant Programs, All Consistent with the Amounts Budgeted for these Programs in the Adopted Budget for Fiscal Year 2007-2008", was adopted. (11-0.)

2.28 Adoption of a resolution authorizing the City Manager to negotiate and execute a second amendment to the consultant agreement with CSDC Systems, Incorporated for technical consulting services related to the AMANDA permit software and other Integrated Development Tracking System software, extending the term from July 1, 2007 to December 30, 2008, with no change to the original contract amount. CEQA: Not a Project. (Planning, Building and Code Enforcement).

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 4, 2007, recommending adoption of a resolution.

Action: Resolution No. 73904, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Agreement with CSDC Systems, Incorporated for Technical Consulting Services", was adopted.

2.29 Adoption of a resolution to submit an application to the FOCUS program to designate Special Strategy Areas and Specific Plan/Planned Community areas identified in the San José 2020 General Plan to be regional priority development areas. CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 4, 2007, recommending adoption of a resolution.

Action: Resolution No. 73905 , entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Specify Priority Development Areas for Participation in the Focus Program and to Submit an Application for the Designation of Priority Development Areas to Specified Regional Government Agencies for Participation in the Focus Program", was adopted. (11-0.)

2.30 Adoption of a resolution to amend the resolution setting forth the Schedule of In-Lieu Fees Charged and Credits Issued Pursuant to Chapters 14.25 (Park Impact Ordinance) and 19.38 (Parkland Dedication Ordinance) of the San José Municipal Code (Fees and Credits Resolution), in order to modify the definition of "projects in process". CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 4, 2007, recommending adoption of a resolution. (2) Letter from Sobrato Development Companies, dated June 25, 2007, regarding the Park Fee Pipeline Extension.

Council Member Oliverio pulled Item 2.30 to object to the release of the late memoranda. He stated it did not give the Council Members the opportunity to outreach to the community.

Public Comments: Speaking in opposition to the Staff recommendations and/or the manner in which the item came to Council were Jim Foran, William Garbett, Helen Chapman, Randi Kinman, Ed Rast and Harvey Darnell.

Speaking in favor of the Staff recommendations were Eric Morely, Sue Dillon, Braddock & Logan and Tim Steele, Sobrato Development Company.

Director of Planning, Building and Code Enforcement Joseph Horwedel and City Manager Les White responded to Council questions and concerns.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Williams and carried unanimously, Resolution No. 73906, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73587, The Schedule of In Lieu Fees Charged and Credits Issued Pursuant to Chapters 14.25 and 19.38 of the San José Municipal Code", was adopted, with Staff requested to inventory the projects and look at the differential of the old park fees versus the new park fees. (11-0.)

2.31 Approval of an ordinance amending Section 18 of Ordinance No. 27712 to revise the transition provisions relating to domestic partners' benefits in the Police and Fire Department Retirement Plan. CEQA: Not a Project. (Police and Fire Retirement Board)

Documents Filed: Memorandum from Federated City Employees' Retirement System Secretary Edward Overton, dated June 4, 2007, recommending approval of an ordinance.

Action: Ordinance No. 28083, entitled: "An Ordinance of the City of San José Amending Section 18 of Ordinance No. 27712 to Revise the Transition Provisions Relating to Domestic Partners in the Police and Fire Department Retirement Plan", was passed for publication. (11-0.)

2.32 Adoption of a resolution authorizing the sale of a water line easement over a City-owned landfill along South 22nd Street to KB Homes South Bay in the amount of $159,733 for the installation and extension of a water line to the existing Forestdale Avenue waterline; and authorizing the Director of Public Works to execute all documents necessary to complete transfer of the easement. CEQA: Mitigated Negative Declaration, File No. PP07-080. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 4, 2007, recommending adoption of a resolution.

Action: Resolution No. 73907, entitled: "A Resolution of the Council of the City of San José Approving the Sale of a Water Line Easement to KB Homes South Bay and Authorizing the Director of Public Works to Execute Certain Documents Necessary to Complete the Transfer of the Easement", was adopted. (11-0.)

2.33 (a) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute a Tariff Agreement with AT&T to provide telecommunications services and equipment for the Norman Y. Mineta San José International Airport in an amount not to exceed $400,000.

(b) Adoption of a resolution authorizing the Director of Finance to negotiate and execute an accompanying non-tariff agreement based on the State of California CalNet agreement for circuit relocation and reconnection in an amount not to exceed $600,000.

CEQA: Resolution Nos. 67380 and 71451. (Public Works/Finance)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Finance Scott Johnson, dated June 4, 2007, recommending adoption of a resolutions.

Action: Resolution No. 73908, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute a Tariff Agreement with AT&T to Provide Telecommunications Services and Equipment for the Norman Y. Mineta San José International Airport in an Amount Not To Exceed $400,000" and Resolution No. 73909, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute a Non Tariff Agreement with AT&T in an Amount Not To Exceed $600,000", was adopted. (11-0.)

2.34 Adoption of a resolution authorizing the Director of Public Works to execute the "Letter of Agreement and Request for Provisionally Accredited Levee Designation and Agreement to Provide Adequate Compliance with the Code of Federal Regulations, Title 44, Section 65.10 (44 CFR 65.10)" or "PAL Agreement" on behalf of the City for submission to FEMA for the Coyote Creek Levee extending from Trimble Road to the Water Pollution Control Plant. CEQA: Not a Project. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 4, 2007, recommending adoption of a resolution.

2.34 (Cont'd.)

Action: Resolution No. 73910, entitled: "A Resolution of the Council of the City of San José Authoring the Director of Public Works to Execute a Letter of Agreement and Request for Provisionally Accredited Levee (PAL) Designation and Agreement to Provide Adequate Compliance with Code of Federal Regulations Title 44, Section 65.10 with the Federal Emergency Management Agency for the Coyote Creek Levee from Trimble Road to the Water Pollution Control Plant", was adopted. (11-0.)

2.35 Adoption of a resolution:

(a) Declaring the following seven parcels of City-owned property surplus to the needs of the City:

(1)	**20399 Almaden Road**	**APN No. 583-13-013**
(2)	**510 Park Avenue**	**APN No. 259-47-081**
(3)	**460 Park Avenue**	**APN No. 259-46-097**
(5)	**1360 State Street**	**APN No. 015-12-091**

(b) Authorizing the publication and auction of those seven City-owned properties.

CEQA: Not a Project. Council Districts 3, 4, 6 and 10. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 4, 2007, recommending adoption of a resolution.

Council Member Oliverio pulled Item 2.35 for questions. Director of Public Works Katy Allen responded, noting this action is the first of two steps. Brief discussion ensued.

Public Comments: Randi Kinman stated she prefers the property be used for open space and not sold. Harvey Darnell suggested another park, perhaps utilizing a public/private partnership.

Action: Upon motion by Council Member Oliverio, seconded by Vice Mayor Cortese and carried unanimously, Resolution No. 73911, 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 Conduct an Auction of Surplus Real Property in Accordance with the Municipal Code", was adopted, as amended, parcels from District 6 were pulled. (11-0.)

(a)	**(4)**	**Bird Avenue N. of Fuller**	**APN No. 264-43-018**
	(6)	**1015 S. Bascom Avenue**	**APN No. 282-11-014**
	(7)	**1015 S. Bascom Avenue**	**APN No. 282-11-015**

Director of Public Works Katy Allen responded to Council questions about pulling the above mentioned parcels.

2.35 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Staff was directed to pull these parcels as listed above, until such time there has been sufficient community outreach. Staff directed to: (1) Return to Council by October 16, 2007, with a full report outlining the properties, discussion of the process, and how Staff disposes of surplus properties. (2) Conduct extensive community outreach regarding surplus City owned parcels. (3) Continue to keep Council informed of all surplus properties in each District. (11-0.)

2.36 (a) Authorization for the termination of the existing agreement with Boy's and Girl's Club of Silicon Valley for their use of the City-owned property located at 110 E. Jackson Street.

(b) Approval of a lease agreement with Yu-Ai-Kai Japanese American Community Senior Services for the use of City-owned property located at 110 E. Jackson Street for an initial term of 5 years with an automatic extension for an additional ten-year term.

CEQA: Exempt, File No. PP07-108. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 4, 2007, recommending authorization for termination of the existing agreement and approval of a lease agreement.

Council Member Liccardo pulled Item 2.36 for clarification.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, the termination of the existing agreement with Boy's and Girl's Club of Silicon Valley for their use of the City-owned property located at 110 E. Jackson Street was authorized and the lease agreement with Yu-Ai-Kai Japanese American Community Senior Services for the use of City-owned property located at 110 E. Jackson Street for an initial term of 5 years with an automatic extension for an additional ten-year term was approved, with Staff directed to return with a specific appropriation action to transfer $50,000 from the District 3 Construction and Conveyance funds to the Capital Improvements for the Boy's and Girl's Club, as requested by Council Member Liccardo. (11-0.)

2.37 Approval of an agreement between the City of San José and San José Unified School District to quitclaim a portion of parcel 264-18-047 beneath Gardner Elementary School in order to correct a historical title irregularity. CEQA: Not a Project. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 4, 2007, recommending approval of an agreement.

Action: The agreement between the City of San José and San José Unified School District to quitclaim a portion of parcel 264-18-047 beneath Gardner Elementary School in order to correct a historical title irregularity was approved. (11-0.)

2.38 Approval of a lease agreement with Santa Clara County Office of Education for the use of City-owned property located at 3322 Noble Avenue for a term of less than 3 years. CEQA: Not a Project. Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 4, 2007, recommending approval of a lease agreement.

Action: Dropped per Mayor and Council District 4.

2.39 Adoption of a resolution authorizing the City Manager to execute and submit a grant application to the Metropolitan Transportation Commission in the amount of $1,625,000 for the Hensley Historic District portion of the San José State University to Japantown Pedestrian Corridor project, to accept the grant if awarded, and to execute all documents necessary to effectuate the grant. CEQA: Negative Declaration, File Nos. PP02-05-115 and PP04-293. Council District 3. SNI: Thirteenth Street. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated June 4, 2007, recommending adoption of a resolution.

Action: Resolution No. 73912, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the Metropolitan Transportation Commission for STP and CMAQ Grant Funding in an Amount Not To Exceed $1,625,000 for the Hensley Historic District Portion of the San José State University to Japantown Pedestrian Corridor Project and to Execute all Documents Necessary to Effectuate the Grant", was adopted. (11-0.)

2.40 Adoption of a resolution authorizing the installation of bicycle lanes on the following street segments; and repealing Resolution No. 72813:

(a) Aborn Road (White Road to east end).
(b) Almaden Road (Almaden Expressway to McKean Road).
(c) Camden Avenue (Coleman Road to Meridian Avenue).
(d) Chynoweth Avenue (west end to 100' east of Barron Park Drive).
(e) Coleman Avenue (Taylor Street to Santa Teresa Street).
(f) Hamilton Avenue (Bascom Avenue to Leigh Avenue).
(g) Nieman Boulevard (Blanding Avenue to Yerba Buena Road).
(h) Quimby Road (Ruby Avenue to Murillo Avenue).
(i) Ruby Avenue (Quimby Road to Aborn Road).
(j) Taylor Street (Walnut Street to First Street).

CEQA: Exempt, File No. PP07-119. (Transportation).

Documents Filed: Memorandum from Director of Transportation James Helmer, dated June 4, 2007, recommending adoption of a resolution.

Action: Resolution No. 73913, entitled: "A Resolution of the Council of the City of San José Designating Bicycle Lanes on Those Portions of Streets Specified Herein, Pursuant to the Authority of California Vehicle Code Section 21207; and Repealing Resolution No. 72813", was adopted. (11-0.)

2.41 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant funding agreement with the Santa Clara Valley Transportation Authority (VTA) that will provide grant funds to the City for the procurement and installation of new traffic signal controllers for the VTA Bus Rapid Transit Line 522 Bus Signal Priority (BSP) Upgrade project in an amount not to exceed $295,000.

(b) Adoption of the following 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments in the Building and Structure Construction Tax Fund:

(1) Establish an appropriation to the Department of Transportation for the ITS: VTA Rapid 522 Bus Signal Priority Upgrades in the amount of $425,000.

(2) Increase the estimate for Earned Revenue by $295,000.

(3) Decrease the ITS: Regional Signal Coordination appropriation by $53,000.

(4) Decrease the Ending Fund Balance by $77,000.

CEQA: Not a Project. Council Districts 3 and 6. SNI: Thirteenth Street/Five Wounds/ Brookwood Terrace. (Transportation/City Manager's Office)

Documents Filed: Memorandum from Director of Transportation James Helmer and Budget Director Larry Lisenbee, dated June 4, 2007, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 73914, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement with the Santa Clara Valley Transportation Authority to Provide Grant Funds to the City for the VTA Bus Rapid Transit Line 522 Bus Signal Priority Upgrade Project, in an Amount Not to Exceed $295,000", Ordinance No. 28084, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Building and Structure Construction Tax Fund for the ITS: VTA Rapid 522 Bus Signal Property Upgrades; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 73915, entitled: Resolution No. 73888, 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 Building and Structure Construction Tax Fund", were adopted. (11-0.)

2.42 Report on bids and award of contract for the Street Resurfacing 2007 Backlog Reduction Project – Phase 2 to the low bidder O'Grady Paving, Inc., in the amount of $6,806,200, and approval of a 5% contingency in the amount of $340,000. CEQA: Exempt, File No. PP06-066. Council Districts 1, 2, 5, 6, 8, 9 and 10. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated June 4, 2007, recommending award of the contract to the low bidder.

Action: The award of the contract for the Street Resurfacing 2007 Backlog Reduction Project – Phase 2, to the low bidder, O'Grady Paving, Inc., in the amount of $6,806,200, with related contingency, was approved. (11-0.)

2.43 Adoption of a resolution authorizing the City Manager to award the Surface Transportation Program Street Resurfacing/Rehab Project – Round 2 to the low bidder, and approval of a five percent contingency in an amount not to exceed the funds appropriated for the project. CEQA: Exempt, File No. PP06-066. Council Districts 3, 6, 9 and 10. (Transportation/Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Transportation James Helmer, dated June 4, 2007, recommending adoption of a resolution.

Action: Resolution No. 73916, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Construction Contract for the Surface Transportation Program Street Resurfacing/Rehab Project – Round 2 to the Low Bidder and Approval of a Five Percent Contingency, in a Total Amount Not To Exceed the Amount of Funds Appropriated for this Project", was adopted. (11-0.)

2.44 Adoption of a resolution authorizing the Director of Finance to execute the third amendment to the agreement with Scheidt & Bachmann USA, Inc. to extend the term of the agreement through September 30, 2007, revise the statement of work, and reduce the amount of total compensation by $15,000 from $2,003,091 to $1,988,091 for a total agreement amount of $1,988,091. CEQA: Not a Project. Council District 3. (Finance)
(Deferred from 6/19/07 – Item 2.11)

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated May 29, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Finance Scott Johnson, dated June 21, 2007, correcting the amount of total compensation, restating the recommended language and correcting a transposition in figures in the Analysis Section.

Action: Resolution No. 73917, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a Third Amendment to the Agreement with Scheidt & Bachmann USA, Inc. for Parking Access and Revenue Control Equipment", was adopted. (11-0.)

2.45 Adoption of a resolution:

(a) Authorizing the City Manager to negotiate and execute an agreement with Fair Isaac Corporation to provide workers' compensation cost containment services at a cost not to exceed $750,000 during the period July 1, 2007 to June 30, 2008, with four one-year options to renew at a cost not to exceed $750,000 per year, subject to annual appropriation of funds by the City Council; and,

(b) Authorizing the City Manager to execute a continuation agreement to extend the current agreement with Fair Isaac Corporation for a period of up to three months, in the event negotiations are not finalized by June 30, 2007.

CEQA: Not a Project. (Human Resources)
(Deferred from 6/19/07 – Item 2.20)

2.45 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Human Resources Mark Danaj, dated May 29, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Human Resources Mark Danaj, dated June 12, 2007, providing additional information and recommending deferral of this item to the June 26, 2007 City Council Meeting.

Action: Resolution No. 73918, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Fair Isaac Corporation for Workers Compensation Cost Containment Services in an Amount Not To Exceed $750,000", was adopted. (11-0.)

2.46 Approval of travel by Council Member Campos to Sacramento, CA on September 5-8, 2007 to attend the League of California Cities 2007 Annual Conference Exposition. Source of Funds: Mayor/Council Travel Fund. (Campos)
(Rules Committee referral 6/20/07)

Documents Filed: Memorandum from Council Member Campos, dated June 20, 2007, requesting approval of travel.

Action: The travel request from Council Member Campos was approved. (11-0.)

2.47 Request for a late arrival for Vice Mayor Cortese to the Special Rules Committee/Sunshine Reform Task Force Discussion on June 27, 2007 due to Authorized City Business: Attendance at the Metropolitan Transportation Commission in Oakland, CA. (Cortese)
(Rules Committee referral 6/20/07)

Documents Filed: Memorandum from Vice Mayor Cortese, dated June 20, 2007, requesting approval for an excused absence due to authorized City business.

Action: The excused absence was approved. (11-0.)

2.48 Approval of travel by Council Member Nguyen to India and Pakistan on November 30 – December 14, 2007 to serve as a delegate and speaker for the American Council of Young Political Leaders (ACYPL) International Exchange Program. Source of Funds: The American Council of Young Political Leaders (ACYPL). (Nguyen)
(Rules Committee referral 6/20/07)

Documents Filed: Memorandum from Council Member Nguyen, dated June 18, 2007, requesting approval of a travel request.

Action: The travel request for Council Member Nguyen was approved. (11-0.)

2.49 Council is requested to adopt support positions on the following staff recommendations on the Federal Aviation Administration Reauthorization Bill:

(a) Raise the Passenger Facility Charge (PFC) ceiling from the current $4.50 per enplaned passenger to $7.50 per enplaned passenger.

(b) Streamline the PFC review process and expand the eligibility criteria.

(c) Increase funding for the Airport Improvement Program.

(d) Establish and maintain a predictable and stable revenue streams for FAA operating and capital programs.

(e) Treat airport bonds as tax-exempt public purpose bonds.

CEQA: Not a Project. (Airport)

[Rules Committee Referral 6/13/07 – Item (c)(2)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, dated June 22, 2007, transmitting as recommended by the Rules and Open Government Committee adoption of support positions.

Public Comments: William Garbett spoke regarding the need for acoustic controls.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, the positions of support were approved. (11-0.)

2.50 (a) Adoption of a resolution to oppose any change to the Proposition 42 formula allocations or formula splits between the State Transportation Improvement program (STIP), cities, countries and transit. Cities support transit funding, but oppose efforts to change Proposition 42 that could jeopardize or destabilize local streets and road funds. CEQA: Not a Project. (City Manager's Office)

(b) (1) Authorizing a letter of support to Senator Padilla;

(2) Directing staff to pursue amendments to SB 1021 that will strengthen implementation of the bill and allow for increased state funding and fund use; and

(3) Authorizing Environmental Services staff to participate as technical resources during the development of future legislation on distribution of redemption payments for beverage containers.

CEQA: Not a Project. (Environmental Services)

[Rules Committee Referral 6/20/07 – Item (c)(1)(a) and (b)]

Documents Filed: Memoranda from City Clerk Lee Price, both dated June 22, 2007, transmitting as recommended by the Rules and Open Government Committee adoption of a resolution of opposition and authorizing a letter of support to Senator Padilla with direction to Staff.

2.50 (Cont'd.)

Action: Resolution No. 73919, entitled: "A Resolution of the Council of the City of San José Opposing Any Change to the Proposition 42 Formula Allocations or Formula Splits", was adopted; a letter of support to Senator Padilla was approved; Staff was authorized to pursue amendments to SB 1021 that will strengthen implementation of the bill and allow for increased state funding and fund use and Environmental Services Staff was authorized to participate as technical resources during the development of future legislation on distribution of redemption payments for beverage containers. (11-0.)

2.51 As recommended by the Rules and Open Government Committee on June 20, 2007 approve the appointments to the following commissions: Airport, Advisory Commission on Rents, Arts, Disability Advisory, Early Care and Education, Housing and Community Development Advisory, Library, Parks and Recreation, and Senior Citizens Commission. (City Clerk)
[Rules Committee referral 6/20/07 – Item (f)(1)]

Documents Filed: Memorandum from City Clerk Lee Price, dated June 22, 2007, transmitting as recommended by the Rules and Open Government Committee approval of the appointments.

Action: The appointments to Airport, Advisory Commission on Rents, Arts, Disability Advisory, Early Care and Education, Housing and Community Development Advisory, Library, Parks and Recreation, and Senior Citizens Commissions were approved. (11-0.)

2.52 As recommended by the Rules and Open Government Committee on June 20, 2007 approve the reappointment of Mayor Chuck Reed to the Bay Area Water Supply and Conservation Agency to fill a four year term ending June 30, 2011. (Mayor)
[Rules Committee referral 6/20/07 – Item (f)(2)]

Documents Filed: Memorandum from City Clerk Lee Price, dated June 22, 2007, transmitting as recommended by the Rules and Open Government Committee approval of the reappointment of Mayor Reed to the Bay Area Water Supply and Conservation Agency.

Action: The reappointment of Mayor Reed to the Bay Area Water Supply and Conservation Agency was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – June 6, 2007
Mayor Reed, Chair

(a) City Council
  (1) Review New Add Items to June 12, 2007 Final Agenda
  (2) Review June 19, 2007 Draft Agenda
(b) Redevelopment Agency items reported out at Redevelopment Agency meeting
(c) Legislative Update
  (1) State
    (a) AB 1030 (Caballero) Libraries: Literacy and English Acquisition Services
      Heard By Council 6/12/07 – Item 3.7.
    (b) Propositions 1E and 84
      Heard By Council 6/12/07 – Item 3.8.
  (2) Federal
(d) Meeting Schedules
(e) The Public Record
(f) Appointments to Boards, Commissions and Committees
(g) Rules Committee Reviews, Recommendations and Approvals
  (1) Smoking Prohibition in City Parks
  (2) Request for Workload Assessment
  (3) Authorization to Travel
    See Item 2.14 for Council Action Taken.
  (4) Council Expenditures and Reimbursement Policy
    (Continued from 5/23/07)
    Deferred to June 13, 2007 per the Mayor
(h) Review of Council Committee Agendas
  (1) Community and Economic Development Committee
    (a) Add item to the CEDC Work Plan Agenda of June 25, 2007
  (2) Neighborhood Services and Education Committee
  (3) Transportation and Environment Committee
  (4) Public Safety, Finance and Strategic Support Committee
(i) Open Government Initiatives
  (1) Reed Reforms
  (2) Sunshine Reform Task Force
    (a) Meeting Schedule for Discussion of SRTF Phase 1 Report
  (3) Significant Public Records Act Requests
  (4) Council Policy Manual Update
    (a) Approval to Validate Selected Policies Contained in the City Council Policy Manual
(j) Open Forum
(k) Adjournment

Action: Deferred to August 7, 2007 per Mayor under Orders of the Day.

3.3 (a) Approval of a phased approach relating to recommendations contained in the Macias Consulting Group's Evaluation of the City's Investment Program for additional resource allocations to the Department of Finance to implement active management initiatives in the City's investment program for the purpose of enhancing the City's investment yield.

(b) Adoption of the following 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

(1) Increase the appropriation for the Personal Services to the Finance Department by $105,000;

(2) Increase the appropriation for Non-Personal / Equipment to the Finance Department by $168,000; and

(3) Increase the estimate for Other Revenue by $273,000.

(c) Authorization by the City Council to add 1.0 FTE Senior Analyst position in the Finance Department to serve in the capacity as an Investment Manager.

CEQA: Not a Project. (Finance)
(Deferred from 6/12/07 – Item 3.6)

Documents Filed: Memorandum from Director of Finance Scott Johnson and Budget Director Larry Lisenbee, dated June 7, 2007, recommending approval of a phased approach relating to recommendations contained in the Macias Consulting Group's Evaluation of the City's Investment Program and adoption of appropriation ordinance and funding sources resolution amendments.

Public Comments: William Garbett objected to the Staff recommendation.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried, phased approach relating to recommendations contained in the Macias Consulting Group's Evaluation of the City's Investment Program was approved; Ordinance No. 28085, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund for Personal Services and Non Personal/Equipment Services; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 73920, entitled: Resolution No. 73888, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the General Fund" were adopted; and authorization to add 1.0 FTE Senior Analyst position in the Finance Department to serve in the capacity as an Investment Manager was approved. (10-1. Noes: Oliverio.)

3.4 Adoption of a resolution to:

(a) Amend the City of San José Pay Plan to provide general salary increases of 3% effective July 1, 2007 for unrepresented employees in Units 81, 82 and 99, excluding Temporary Employees.

(b) Amend the health insurance co-pays to align all Health Maintenance Organization (HMO) plans currently available to City employees effective January 1, 2008.

3.4 (c) Increase the monthly vehicle allowance for Senior Staff under the City Manager's appointing authority from $350 to $600 effective July 1, 2007.

(d) Amend the City of San José Pay Plan effective July 1, 2007 to change the salary ranges and titles for the classifications of:

(1) Secretary to the City Manager U (1162).

(2) Emergency Preparedness Director U (2341).

(3) Manager of Public Education and Community Information U (1671).

(These changes will not result in automatic salary increases for employees in these classifications.)

(e) Amend the City of San José Pay Plan to provide total compensation increases of 3% effective July 1, 2007 for Council Appointees. (Mayor)

(Rules Committee referral 6/13/07)

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

Documents Filed: Memorandum from Mayor Reed, dated June 18, 2007, recommending amending the City of San José Pay Plan to provide a base salary increase of 3% and no increase in auto allowance effective July 1, 2007 for Council Appointees and unrepresented employees in Units 81, 82 and 99, excluding temporary employees and the City Manager. (2) Memorandum from City Manager Les White, dated June 4, 2007, recommending adoption of a resolution.

Motion: Vice Mayor Cortese moved approval of the memorandum from Mayor Reed, dated June, 18, 2007, amending the Staff recommendations. Council Member Williams seconded the motion. Council Member Campos objected to the base salary increase of 3%.

City Manager Les White and Director of Finance Scott Johnson responded to Council questions.

Public Comments: Matt Loesch, AEA, objected to the Staff recommendations.

Action: On a call for the question, the motion carried, Resolution No. 73921, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan to Provide General Salary Increases of 3% Effective July 1, 2007 for Unrepresented Employees in Units 81, 82 and 99, Excluding Temporary Employees; Approving the Health Insurance Co-Pays to Align All Health Maintenance Organization Plans (HMO) Currently Available to City Employees Effective January 1, 2007; Increasing the Monthly Vehicle Allowance for Senior Staff Under the City Manager's Appointing Authority from $350 to $600 Effective July 1, 2007 and Amending the Pay Plan Effective July 1, 2007 to Change the Salary Ranges and Titles for Specified Classifications", was adopted; the memorandum from Mayor Reed dated June 18, 2007, was approved, amending the City of San José Pay Plan to provide a base salary increase of 3% and no increase in auto allowance effective July 1, 2007 for Council Appointees and unrepresented employees in Units 81, 82 and 99, excluding temporary employees and the City Manager. (10-1. Noes: Campos.)

3.5 (a) Acceptance of the City's Administrative Project System (CAPS) Database Report, which includes a Remove Projects Report, a Completed Projects Report and an Active Projects Report.

(b) Acceptance of the list of recommended project removals from departmental work plans per the following March Budget directive: Direction to the City Manager to make recommendations on prioritizing and possibly eliminating old Council directives and report to Council.

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

Documents Filed: Memorandum from City Manager Les White, dated June 4, 2007, recommending as stated above.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Cortese and carried unanimously, the CAPS Report was accepted; the list of recommended project removals from departmental work plans per the following March Budget directive was accepted; the City Manager was directed to make recommendations on prioritizing and possibly eliminating old Council directives and report to Council and Staff was further directed to place the Relocation of the Salvation Army back on the active projects list and continue to find another appropriate site location. (11-0.)

3.6 Public Hearing and adoption of a resolution approving the report of the Director of Finance on the Cost of Sidewalk Repairs, confirming the assessments contained in the Report and directing the recording of liens on the property tax roll for the cost of sidewalk repairs. CEQA: Not a Project. (Finance)

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated May 29, 2007, recommending conducting a public hearing and adoption of a resolution. (2) Supplemental memorandum from Director of Finance Scott Johnson and Director of Transportation James Helmer, dated June 22, 2007, updating the Final Report on the Sidewalk Repair Administrative Hearings.

Director of Finance Scott Johnson and Director of Transportation James Helmer provided a summary of the Staff report and responded to Council questions.

Mayor Reed opened the public hearing.

Public Comments: Harvey Darnell asked about whether sidewalk grinding has been eliminated. Director of Transportation James Helmer replied that it is still in effect.

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Constant, seconded by Council Member Williams and carried unanimously, Resolution No. 73922, entitled: "A Resolution of the Council of the City of San José Accepting the Report of the Directors of Finance and Transportation on the Cost of Sidewalk Repairs, Confirming the Assessments Contained in the Report and Directing the Recording of Liens", was adopted. (10-0-1. Absent: Nguyen.)

3.7 (a) Adoption of a resolution establishing an exception to the prevailing wage rate policy for sidewalk repairs performed by the City on behalf of property owners for which the City is reimbursed by property owners, until June 30, 2008.

Action: No action taken.

(b) Authorize the Director of Finance to execute Purchase Orders with Willson Concrete, Duran Hogan Construction, Inc., and Valley Concrete & Redwood for a total not-to-exceed amount of $500,000, for the period July 1, 2007 through June 30, 2008 with non-prevailing wage rates.

CEQA: Exempt, File No. PP03-04-139. (Finance/Transportation)

Documents Filed: (1) Memorandum from Vice Mayor Cortese and Council Members Campos, Williams and Chu, dated June 22, 2007, with direction to Staff. (2) Memorandum from Director of Transportation James Helmer and Director of Finance Scott Johnson, dated Jun 4, 2007, recommending adoption of a resolution and authorization of purchase orders with Willson Concrete.

Director of Transportation James Helmer presented the staff report.

Motion: Council Member Campos moved approval of the joint memorandum she cosigned with Vice Mayor Cortese and Council Members Williams and Chu, dated June 22, 2007. Council Member Williams seconded the motion.

Council Member Constant requested to amend the motion to direct staff to show that the pricing disparity would be more clearly delineated. Council Member Campos objected to the amendment.

Amendment to the Motion: Council Member Constant moved to amend the motion to provide direction to Staff to develop language to put into the notice that allows residents to make an informal decision. Council Member Chirco seconded the motion.

Council discussion on the amendment followed.

Vice Mayor Cortese requested that Council Member Constant reconsider the language the City Manager proposed and could not support the amendment.

Council Member Chirco expressed concern that the public needs a clear understanding and requested this language return to the Neighborhood Services and Education Committee. Council Member Chirco withdrew her second to the motion because the language should be made clear to all community members.

Council Member Oliverio seconded the amendment to the motion by Council Member Constant. Council Member Constant added the request that this returns to the Neighborhood Services and Education Committee.

3.7 (Cont'd.)

Council Member Constant restated the amendment to the motion, to direct Staff to ensure language in the noticing letters clearly explain the status of the prevailing wage in the City bids and for the Neighborhood Services and Education Committee to clarify the language. On a call for the question, the amendment to the motion failed. (5-6. Noes: Campos, Cortese, Nguyen, Pyle, Williams; Reed.)

Deputy City Manager Ed Shikada responded to questions regarding timing of notices sent out regarding approximately 220 projects in the "pipeline". Council Member Campos recommended these projects be rebid at prevailing wage. In response to inquiry from Council Member Constant, Deputy City Manager Ed Shikada confirmed that this would require re-noticing because projects were based on non-prevailing wage prices. Council Member Pyle argued that none of the projects should be constructed at non-prevailing wage rates.

Original Motion: Council Member Campos moved to direct Staff to bid the contracts for sidewalk repairs based on a process that incorporates the City's Prevailing Wage Policy and in moving forward, request Staff to come up with some type of language for future projects and to return to the Neighborhood Services and Education Committee. The amendment to the original motion was accepted by Council Member Williams.

Public Comments: Speaking in favor of requiring prevailing wage: Juan Garza, Joint Electrical Industry Fund, Jorge Moreno, Warren Barry, Paul Oller, Plumbers and Fitters Local 393, Tina Petzak, Jose Garcia, Building Trades Council, Jerry Zamora, Hector Cortez, Ernesto Gonzales, Carlos Lujan, Enrique Arguello, Mario Delgado, Laborers Local 270, David Collins, Cesilio Longoria, Kenneth Pajon, Daniel Garcia, Roofers and Waterproofers Local 95, Fred Hirsh, Mark Van Den Hewel, Sheet Metal Workers 104, Bob Tragni, IBEW Local 332, Manuel Velasco and Max Vargas.

Council Member Constant objected to the motion because projects already in the pipeline have been noticed and he opposes changing the rules after the fact.

Action: On a call for the question, the motion carried, the Director of Finance was authorized to execute Purchase Orders with Willson Concrete, Duran Hogan Construction, Inc., and Valley Concrete & Redwood for a total not-to-exceed amount of $500,000, for the period July 1, 2007 through June 30, 2008 with *prevailing wage rates*, as amended (pay prevailing wage rates); the memorandum from Vice Mayor Cortese and Council Members Campos, Williams and Chu, dated June 22, 2007, was approved, as amended, with Staff directed to: (1) Follow the City's Prevailing Wage Resolution and incorporate the prevailing wage requirement for all sidewalk repairs performed or contracted by the City, including those repairs performed on behalf of property owners for which the City is reimbursed by the property owners. (2) Award purchase orders for FY2007-08 sidewalk repair projects based on paying prevailing wage. (3) Bid contracts for future sidewalk repairs based on the City's prevailing wage policy. (4) Incorporate language that clearly explains the status of the City's prevailing wage policy into future property owner notices and forward it to the Neighborhood Services and Education Committee for consideration. (10-1. Noes: Constant.)

3.8 (a) Appointment of Chief Deputy City Manager Kay Winer as Acting City Manager beginning July 8 through July 13, 2007.

(b) Appointment of Deputy City Manager Ed Shikada as Acting City Manager beginning July 14 through July 22, 2007.

(Mayor)
(Rules Committee referral 6/13/07)

Documents Filed: Memorandum from Mayor Reed recommending two appointments as described above.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, Chief Deputy City Manager Kay Winer was appointed as Acting City Manager from July 8 through July 13, 2007 and Deputy City Manager Ed Shikada was appointed as Acting City Manager from July 14 through July 22, 2007. (11-0.)

3.9 Report of the Rules and Open Government Committee – May 23, 2007
Mayor Reed, Chair

(a) City Council
- (1) Review New Add Items to May 29, 2007 Agenda
  None – Meeting Canceled.
- (2) Review June 5, 2007 Draft Agenda
  - (a) Add New Items to final agenda
    - (1) City Manager Compensation. (Mayor)
      Heard By Council 6/5/07 – Item 3.10.
    - (2) Elections Commission Recommendation to Change Special Eligibility Requirement that One Member of the Elections Commission Be an Attorney at Law. (City Clerk)
      Heard By Council 6/5/07 – Item 3.6.
    - (3) Vietnamese Business District Designation. (Nguyen/Mayor)
      Heard By Council 6/5/07 – Item 9.1.

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

(c) Legislative Update
- (1) State
  - (a) AB 1252 (Caballero) – Housing Related Parks Program. (Housing)
  - (b) AB 1460 (Saldana) – Multifamily Housing Program. (Housing)
  - (c) SB 46 (Perata) – Proposition 1C Regional Planning, Housing, and Incentive Account. (Housing)
  - (d) SB 586 (Dutton) – Proposition 1C Innovation Fund. (Housing)

  Heard By Council 6/5/07 – Item 3.8.
- (2) Federal

(d) Meeting Schedules

(e) The Public Record

(f) Appointments to Boards, Commissions and Committees

3.9 Report of the Rules and Open Government Committee – May 23, 2007 (Cont'd.)
Mayor Reed, Chair

(g) Rules Committee Reviews, Recommendations and Approvals
- (1) Council Expenditures and Reimbursement Policy. (City Clerk/City Attorney/Finance)
  (Continued from 5/16/07)
- (2) Approve the revised Commission/Liaison Code of Conduct Policy. (City Attorney)
  Heard By Council 6/19/07 – Item 2.5.
- (3) Response to the Macias Consulting Group's Report on the Finance Department's Investment Unit and the Finance Department's Response. (City Auditor)
- (4) Discussion of Cost Neutral Opportunities for a Public Safety Memorial at New City Hall with Direction to Implement Memorial and Process for Accepting Private Sponsorship. (Constant/Pyle)

(h) Review of Council Committee Agendas
- (1) Community and Economic Development Committee
- (2) Neighborhood Services and Education Committee
- (3) Transportation and Environment Committee
- (4) Public Safety, Finance and Strategic Support Committee

(i) Open Government Initiatives
- (1) Reed Reforms
- (2) Sunshine Reform Task Force
- (3) Significant Public Records Act Requests
- (4) Council Policy Manual Update
  - (a) Approval to Validate Selected Policies Contained in the City Council Policy Manual. (City Manager)
    Heard By Council 6/19/07 – Item 2.6 (a)-(c).

(j) Open Forum

(k) Adjournment

(Deferred from 6/12/07 – Item 3.1 and 6/19/07 – Item 3.1)

Action: Deferred to August 7, 2007 per Mayor under Orders of the Day.

3.10 Report of the Rules and Open Government Committee – May 30, 2007
Mayor Reed, Chair

(a) City Council
- (1) Review New Add Items to June 5, 2007 Agenda
- (2) Review June 12, 2007 Draft Agenda

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

(c) Legislative Update
- (1) State
  - (a) SB 966 (Simitian and Kuehl) – Pharmaceutical Drug Disposal
    Heard By Council 6/5/07 – Item 3.12.
- (2) Federal

3.10 Report of the Rules and Open Government Committee – May 30, 2007 (Cont'd.)
Mayor Reed, Chair

(d) Meeting Schedules
- (1) Council Meeting Schedule August 2007 – January 2008
- (2) (1) Review two proposed meeting formats as presented by the Independent Police Auditor and the Administration; (2) Approve one of the proposed formats, or a hybrid of the two proposals, for a Special Council Meeting scheduled on June 21, 2007, beginning at 6:00 p.m., in the City Council Chambers for consideration of various police related reports,

(e) The Public Record

(f) Appointments to Boards, Commissions and Committees
- (1) Amendment to the Residency Requirement of the News Media Member of the Sunshine Reform Task Force and Appointment of Bert Robinson to the Sunshine Task Force. (Mayor)
  Heard By Council 6/5/07 – Item 3.13.

(g) Rules Committee Reviews, Recommendations and Approvals
- (1) Approve Travel Request. (Mayor)
  Heard By Council 6/19/07 – Item 2.24.
- (2) Historic Freedom Shrine Display. (Mayor)
- (3) Approve the use of the District 4 Special Event Fund and to acknowledge the receipt of and use of various donations in support of the Community Resource Fair to be held on Sunday, June 3, 2007 in the City Hall Civic Plaza and Rotunda. (Mayor/City Clerk)

(h) Review of Council Committee Agendas
- (1) Community and Economic Development Committee
- (2) Neighborhood Services and Education Committee
- (3) Transportation and Environment Committee
- (4) Public Safety, Finance and Strategic Support Committee

(i) Open Government Initiatives
- (1) Reed Reforms
- (2) Sunshine Reform Task Force
  - (a) Phase I Report and Open Government Recommendations
- (3) Significant Public Records Act Requests
- (4) Council Policy Manual Update
  - (a) Approval to Validate Selected Policies Contained in the City Council Policy Manual. (City Manager)
    Heard By Council 6/19/07 – Item 2.6 (d)-(f).

(j) Open Forum

(k) Adjournment

(Deferred from 6/19/07 – Item 3.2)

Action: Deferred to August 7, 2007 per Mayor under Orders of the Day.

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Approval to initiate the Envision San José 2040 General Plan Update by approving the proposed Guiding Principles, Work Program, and Community Participation Program. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Mayor Reed, dated June 22, 2007, recommending acceptance of Staff recommendations with direction as outlined in "Action". (2) Memorandum from Council Member Williams, dated June 25, 2007, recommending acceptance of Staff recommendations with further considerations. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 4, 2007, recommending approval of the Envision San José 2040 General Plan Update by approving the proposed Guiding Principles, Work Program, and Community Participation Program. (4) Five correspondences from members of the public, dated June 26, 2007, regarding the Envision San José 2040 General Plan Update.

Director of Planning, Building and Code Enforcement Joseph Horwedel outlined the Envision San José 2040 General Plan Update

Public Comments: Speaking in favor of completing the Coyote Valley Specific Plan and Environmental Impact Report and to include the Plan in the General Plan Update: Mary Poffenroth, Dorothy Hinze, Henry Coletto, Diane Vogts, Craig Edgerton, Silicon Valley Land Conservatory, Kathleen Hoffman, Mark Anthony Medeiras, Megan Fluke, Save Coyote Valley, Melissa Hippard, Sierra Club, Brian Schmidt, Committee for Green Foothills, Michelle Beasley, Greenbelt Alliance, Kerry Williams, Coyote Housing Group, Harvey Darnell and Ed Rast.

Motion: Council Member Liccardo moved approval of memorandum from Mayor Reed, dated June 22, 2007, Items 1, 2, 4 and 5, and Item 3 after the first comment. Council Member Oliverio seconded the motion.

Council Member Williams objected to the motion because the Coyote Valley Specific Plan Task Force is nearing the completion of its work. He argued that the Task Force should be allowed to complete the Plan and included in the 2040 General Plan. Council Member Constant concurred and would not support the motion without that vision.

Extensive Council discussion followed. Staff responded to Council questions.

Amendment to the Motion: Council Member Constant moved to amend the motion by including all of Item (3) relating to the Coyote Valley Specific Plan in the memorandum from Mayor Reed. Council Member Williams seconded the motion. On a call for the question, the amendment to the motion carried. (7-4. Noes: Constant, Liccardo, Nguyen, Oliverio.)

Second Amendment to the Motion: Council Member Liccardo requested to add to Item (3) after the first comma, "reaffirm existing General Plan triggers". Vice Mayor Cortese seconded the motion. On a call for the question, the motion failed. (3-8. Noes: Campos, Chirco, Chu, Constant, Cortese, Pyle, Williams; Reed.)

4.3 (Cont'd.)

Action: On a call for the question, the original motion with the first amendment carried, and the memorandum from Mayor Reed, dated June 22, 2007, was approved, with the following clarifications: (1) Adoption of the Guiding Principles, confirmed by the City Council on May 3, 2007 and outlined on Attachment A of the Staff report. (2) Approve the Staff proposed work program which outlines the tasks to be undertaken between July 2007 and February 2010. As discussed at the May 3, 2007 Study Session, manage the work schedule in a way that delivers good results from Phase I by August 2008. (3) Direct Staff to complete the work on the Coyote Valley Specific Plan and the EIR assuming existing Prerequisite Conditions, and acknowledge that the General Plan triggers for development in Coyote Valley shall only be considered for modification as part of the comprehensive General Plan Update. (4) Approve the Community Participation Program as described in the Staff report. (5) Create an Envision San José Task Force consisting of San José citizens, as outlined below, which reflects the diversity of the community, to prepare a document that will be used to guide the decisions for many years in the future. Recommend the Task Force consist of the following members: (a) 2 Co-Chairs; (b) 2 City Council Members; (c) 2 City Commissioners; (d) 10 City Council District Representatives, designated by Council Members. (e) 18 Community members representing neighborhoods, business, labor, land owners, developers, education, environment, ethnic and faith communities and other stakeholders. Council colleagues requested to help Mayor Reed gather the names of leaders in the Community to serve on the Task Force. Each Council Member requested to provide the name of their District Representative to the Mayor's Office by July 13, 2007, along with the names of candidates for any of the other categories of stakeholders listed previously. Mayor Reed will finalize the recommendations for the Task Force membership and submit the names to City Council for approval on August 7, 2007. The Task Force will be expected to begin work on the General Plan Update immediately afterwards. (10-1. Noes: Oliverio.)

4.2 Approval to take the following actions to continue funding for the preparation of the Coyote Valley Specific Plan, and its related environmental documents and regulatory permits:

(a) Approval of the third amendment to the Amended and Restated Funding and Reimbursement Agreement with Coyote Housing Group, LLC for the work associated with the preparation of the Coyote Valley Specific Plan, related environmental documents, and regulatory permits to extend the term from June 30, 2007 to December 31, 2007 including a provision for the Director of the Planning, Building and Code Enforcement to extend the term in writing by one additional six (6) month increment; and increase the amount of funding to cover staff and consultant costs through December 31, 2007 by approximately $1.25 million for a total of $17.20 million.

4.2 (b) Adoption of a resolution authorizing the Director of Planning, Building and Code Enforcement to negotiate and execute minor amendments to the agreements between the City and Dahlin Group, KenKay Associates, Economic and Planning Systems, Apex Strategies, David J. Powers and Associates, Wetland Research Associates, Schaaf and Wheeler, Hexagon Transportation Consultants, ENGEO, Basin Research Associates and Lowney Associates to extend the term of each of the agreements from June 30, 2007 to December 31, 2007 including a provision for the Director to extend the terms in writing by one additional six (6) month increment.

(c) Adoption of a resolution authorizing the Director of Planning, Building and Code Enforcement to negotiate and execute a Consultant Agreement between the City and HMH Engineers for $50,000 for consultant services for the CVSP for the term of December 31, 2007, including a provision for the Director of Planning, Building and Code Enforcement to extend the term in writing by one additional six (6) month increment.

(d) Authorize the Director of Planning, Building and Code enforcement to send out a Request for Qualifications for the development of form-based zoning to implement the CVSP for an amount not to exceed $85,648.

(e) Adoption of a resolution authorizing the City Attorney to negotiate and execute a Legal Services Agreement between the City and Cox, Castle and Nicholson LLP for legal services on the Coyote Valley Specific Plan for $270,000 for the term of January 1, 2007 through December 31, 2007, including a provision for the City Attorney to extend the term in writing by one additional six (6) month increment.

(f) Adoption of the following amendments to the 2007-2008 annual Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund as follows:

(1) Increase the City-Wide appropriation for the Coyote Valley Specific Plan by $1,250,000; and

(2) Increase earned revenue from Other Revenue by $1,250,000.

CEQA: Exempt, File No. PP03-06-211. Council District 2. (Planning, Building and Code Enforcement/City Manager's Office)
Heard immediately following Item 4.3.

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel and Assistant Budget Director Jennifer Maguire, dated June 6, 2007, recommending approval of the third amendment to the agreement and adoption of resolutions and appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried, the third amendment to the Amended and Restated Funding and Reimbursement Agreement with Coyote Housing Group, LLC for the work associated with the preparation of the Coyote Valley Specific Plan, related environmental documents, and regulatory permits to extend the term from June 30, 2007 to December 31, 2007 including a provision for the Director of the Planning, Building and Code Enforcement to extend the term in writing by one additional six (6) month increment was

4.2 (Cont'd.)

approved, as amended (funding amendment reduced to $1.21M) and the Director of Planning, Building and Code enforcement was authorized to send out a Request for Qualifications for the development of form-based zoning to implement the CVSP for an amount not to exceed $85,648; Resolution No. 73924, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Planning, Building and Code Enforcement to Negotiate and Execute Minor Amendments to Various Consultant Agreements for Services Relating to the Coyote Valley Specific Plan, and to Extend the Term of Each Agreement from June 30, 2007 to December 31, 2007"; Resolution No. 73925, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Planning, Building and Code Enforcement to Negotiate and Execute an Agreement with HMH Engineers Relating to the Coyote Valley Specific Plan"; Resolution No. 73926, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Agreement with Cox, Castle and Nicholson, LLP for Legal Services Related to the Coyote Valley Specific Plan"; Ordinance No. 28086, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund for the Coyote Valley Specific Plan"; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 73927, entitled: Resolution No. 73888, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the General Fund", were adopted. (8-3. Noes: Liccardo, Nguyen, Oliverio.)

RECESS/RECONVENE

The City Council recessed at 6:02 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, Cortese, Liccardo, Nguyen, Pyle, Williams; Reed.

Absent: Council Members - None.

4.4 Approval of refunds and fee overpayments to Block 3 Development Partners ($1,030,212.51) and Wilcox LLC ($51,050.57) in a total amount of $1,081,263.08 for construction taxes erroneously collected pursuant to certain sections the San José Municipal Code. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Documents Filed: Replacement memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 11, 2007, recommending approval of refunds and fee overpayments to Block 3 Development Partners and transmitting additional information.

4.4 (Cont'd.)

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the refunds and fee overpayments to Block 3 Development Partners ($1,030,212.51) and Wilcox LLC ($51,050.57) in a total amount of $1,081,263.08 for construction taxes erroneously collected pursuant to certain sections the San José Municipal Code was approved (9-0-2. Absent: Campos, Williams.)

4.5 Acceptance of the proposed work plan to update the Evergreen Development Policy consistent with the Council's actions on May 15, 2007, and provide input on phasing/trigger options. CEQA: Not a Project. Council Districts 5, 7 and 8. SNI: West Evergreen/K.O.N.A/East Valley/680. (Planning, Building and Code Enforcement)
(Deferred from 6/19/07 – Item 4.8)

Documents Filed: (1) Memorandum from Mayor Reed, dated June 22, 2007, recommending guidance. (2) Memorandum from Vice Mayor Cortese, dated June 15, 2007, transmitting points of clarification. (3) Memorandum from Vice Mayor Cortese and Council Member Liccardo, dated June 22, 2007, recommending acceptance with direction. (4) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 1, 2007, recommending acceptance of the proposed work plan. (5) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 14, 2007, providing Council with the City Clerk's official record of the motions and actions taken by Council on May 15, 2007, regarding the Evergreen East Hills Vision Strategy. (6) Replacement supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 19, 2007, replacing the June 18, 2007 supplemental memorandum addressing issues raised in Vice Mayor Cortese's memorandum dated June 15, 2007. (7) Seven letters from the public, all dated June 26, 2007, regarding the Evergreen Development Policy.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti presented the Staff report and responded to Council questions.

Motion: Vice Mayor Cortese moved approval of the memorandum he cosigned with Council Member Liccardo, dated June 22, 2007, Items 1-5 and Item 2 of Mayor Reed's memorandum dated June 22, 2007 and including additional direction as described below in "Action". Council Member Nguyen seconded the motion.

Amendment to the Motion: Council Member Liccardo requested to add to the motion direction to Staff to analyze and make recommendations as to the circumstances under which the Council might exempt any project which offers unique opportunities to leverage developer resources to accomplish desirable historic preservation. Vice Mayor Cortese and Council Member Nguyen accepted the amendment.

Vice Mayor Cortese added that Staff could cap the units at 3,900 and return to Council with the increments they recommend. Council Member Nguyen accepted that amendment.

4.5 (Cont'd.)

Extensive Council discussion followed.

Amendment to the Motion: Vice Mayor Cortese requested to amend the motion to add to direct Staff to return to Council with policies that encourage development of employment producing lands and quality commercial/retail opportunities. Such opportunities are not restricted under the EDP and that should continue to be the case with the exception of future supermarket developments in Southeast Evergreen; and include a housing component as an incentive to retail development without impacting trips (i.e. commercial pedestrian/mixed use projects). The amendment was accepted by Council Member Nguyen.

Public Comments: Speaking to the various components of the Evergreen Development Policy: Ed Able, Canyon Creek Plaza, Kelly Eradi, Shapell Industries, Erik Schoennauer, representing the Applicant Trumark Companies, Mark Lazzarini, DAL Properties, Rhonda Garcia, Richard Lambie, Mirassou Trust, Rogelio Ruiz, East Side Union High School District, Carlos DaSilva, Robert Sandoval, Jose Aranda, West Evergreen NAC, Joe Head, Summerhill Homes, Drew Kusnick, KB Home, Ava Huff, Ellie Glass, Pala Rancho Neighborhood, Shawna Sanders, Pala Rancho Cabana Cluband Michael Hill.

Action: On a call for the question, the motion carried unanimously, the memorandums from Vice Mayor Cortese and Council Member Liccardo, and from Mayor Reed, both dated June 22, 2007 were approved, as amended: (1) Direct Staff to bring forward amendments to the Evergreen Development Policy (EDP) that establish a maximum allocation pool of 500 units allowing for: (a) Development of infill properties for up to35 units or less. Staff should provide policy language that will prohibit "clustering" and other attempts to transfer or exploit the allocation process while subdividing existing parcels. (b) Development of affordable housing projects. (c) Incorporation of the EEHVS Guiding Principles. (d) Incorporation of the EEHVS amenities list. (e) Direction to Staff to bring forth a proposed traffic impact fee for the pool units as described in (1)(a) and (b); and, (f) Direction to Staff to analyze and make recommendations as to the circumstances under which the Council might exempt any project which offers unique opportunities to leverage developer resources to accomplish desirable historic preservation. (2) Direct Staff to NOT bring back amendments to the EDP [beyond Recommendation (1)] until: (a) The employment capacity contemplated in the Evergreen Specific Plan to be provided by the industrial lands has been filled. As part of this trigger, a traffic study should verify that a recirculation of traffic patterns to foster a reverse commute is in fact occurring as prescribed in the current EDP; OR (2) (b) Staff has a bona fide plan prepared that can fully accomplish those requirements set forth in the Guiding Principles concurrent with development, including full funding for the entire 101 corridor project and all other traffic infrastructure requirements within the study area and "fair share" funding for those items recommended in the EEHVS amenities list. (3) Staff should continue to discourage residential development applications (a policy adopted by the City Council in January 2004) including general plan amendments which do not

4.5 (Cont'd.)

conform to the EDP and the direction noted above on Page 31. (4) Staff is directed to return to Council with policies that encourage development of employment producing lands and quality commercial/retail opportunities. Such opportunities are not restricted under the EDP and that should continue to be the case with the exception of future supermarket developments in Southeast Evergreen; and include a housing component as an incentive to retail development without impacting trips (i.e. commercial pedestrian/mixed use projects). (5) Staff should return to Council prior to the Fall General Plan Hearings with a policy (or amendment to the EDP) that addresses future supermarket development (over 20,000 square feet) in Southeast Evergreen that should take into account the use of market studies, potential growth and the possibility of loss of existing supermarket square footage. (6) Projects that pay a fair price traffic mitigation impact fee based on an updated nexus study and drawn from a pool generated by job creation in Evergreen at the rate of 1 housing unit per 2 new jobs (similar to North San José and Coyote Valley) and that Staff could cap the units at 3,900 and return to Council with the increments they recommend. (7) Projects which voluntarily pay a pro rata share of the cost of the infrastructure and amenities package, "as part of a bona fide plan as presented by Staff". (8) Staff to return with a deeper analysis of small projects that have less than a 1% impact of the traffic on any intersection (similar to the rest of the City) and how that would stack up with limitations as previously outlined. (11-0.)

NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – June 14, 2007
Council Member Chirco, Chair

Documents Filed: The Neighborhood Services and Education Committee Report dated June 14, 2007.

(a) Review of Performance Measure Reporting. Attachment: Memorandum from Chief Deputy City Manager Kay Winer, dated June 5, 2007, recommending acceptance of the report.

The Committee accepted the report.

(b) Evaluation of Second Unit Pilot Program

Deferred to August 2007.

(c) Report of Parks and Affordable Housing. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Director of Housing Leslye Krutko, dated June 1, 2007, recommending acceptance of the report.

The Committee accepted the report.

5.1 Report of the Neighborhood Services and Education Committee – June 14, 2007 Council Member Chirco, Chair (Cont'd.)

(d) Report on Proposition 1C. Attachment: Memorandum from Director of Housing Leslye Krutko, dated June 4, 2007, recommending acceptance of the report.

The Committee accepted the report.

(e) Strong Neighborhoods Monthly Update. Attachment: Memorandum from Deputy City Manager Mark Linder, dated May 31, 2007, recommending acceptance of the report.

(1) Update on Pilot Projects

The Committee accepted the report.

(f) Animal Care and Services Bi-annual Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 29, 2007, recommending acceptance of the report.

The Committee accepted the report.

(g) Report on San José Bringing Everyone's Strength Together Resource Allocation Strategy for FY 2007-08. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 24, 2007, recommending acceptance of the report.

The Committee accepted the report.

(h) Schools/City Collaborative Monthly Update.

(1) Proposed Structure and Priorities

The Committee accepted the report.

(i) Update on Council Directives - There were none.

(j) Oral Petitions - None were presented.

(k) Adjournment - The meeting was adjourned at 2:38 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 June 14, 2007, were accepted. (11-0.)

5.2 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Los Lagos Golf Course, LLC, for the construction of the Safety Improvement Project at Los Lagos Golf Course in the amount not to exceed $1,958,125. CEQA: Resolution No. 69623, File No. PP06-102. Council District 7. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 29, 2007, recommending adoption of a resolution.

Motion: Council Member Nguyen moved approval of the Staff recommendation. Council Member Campos seconded the motion. Council Member Oliverio objected as Los Lagos Golf Course is still operating at a loss.

Action: On a call for the question, the motion carried, Resolution No. 73928, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Los Lagos Golf Course, LLC for the Construction of the Safety Improvement Project at Los Lagos Golf Course in an Amount Not To Exceed $1,958,125", was adopted. (10-1. Noes: Oliverio.)

5.3 As recommended by the Parks and Recreation Commission, name a new park located on Communications Hill at the intersection of Senhorina Street and Adeline Avenue as "Vieira Park". (City Clerk)
(Rules Committee referral 6/20/07)

Documents Filed: Memorandum from City Clerk Lee Price, dated June 12, 2007, transmitting as recommended by the Parks and Recreation Commission, to name the new park "Vieira Park".

Public Comments: Mark Trout spoke off topic.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Chirco and carried unanimously, the new name for the park Vieira Park was approved. (11-0.)

TRANSPORTATION & AVIATION SERVICES

6.2 Report on bids and award for the purchase of twenty-three (23) Passenger Boarding Bridges to the low bidder, FMC Technologies (Ogden, UT), for a total amount not to exceed $11,057,724 including tax and authorizing the Director of Finance to:

(a) Execute the purchase order for the initial purchase of 23 bridges;

(b) Amend the initial purchase order or execute additional purchase orders to purchase additional quantities of Passenger Boarding Bridges and/or Passenger Boarding Bridge components on an as-required basis subject to appropriation of funding.

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated June 4, 2007, recommending award of the purchase to the low bidder.

6.2 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the award for the purchase of twenty-three (23) Passenger Boarding Bridges to the low bidder, FMC Technologies (Ogden, UT), for a total amount not to exceed $11,057,724 including tax was approved and the Director of Finance was authorized to execute the purchase order for the initial purchase of 23 bridges and amend the initial purchase order or execute additional purchase orders to purchase additional quantities of Passenger Boarding Bridges and/or Passenger Boarding Bridge components on an as-required basis subject to appropriation of funding. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

7.1 Acceptance of Status Report on the Recycle Plus Transition. CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated June 4, 2007, recommending acceptance of the report.

Director of Environmental Services John Stuffebean presented an update on the Recycle Plus Transition.

Council Member Campos requested that Staff note the names of the newspapers used for outreach in the future.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously the Status Report on the Recycle Plus Transition was accepted, with Staff requested to note in the future the names of newspapers used for outreach. (10-0-1. Absent: Cortese.)

7.2 Approval of a contingency budget increase for the project entitled, "San José/Santa Clara Water Pollution Control Plant Reliability Improvements Project," by $2,000,000 from $6,952,200, to a total contingency budget of $8,952,200, with no change to the term of contract with Kiewit Pacific Company. CEQA: Exempt, File Nos. PP03-05-183 and PP04-07-217. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated June 4, 2007, recommending approval of the contingency budget increase. (2) Supplemental memorandum from Director of Environmental Services John Stufflebean, dated June 20, 2007, providing additional analysis. (3) Letter from the Treatment Plant Advisory Committee, dated June 13, 2007, stating concurrence with the Staff recommendation.

7.2 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the contingency budget increase for the project entitled, "San José/Santa Clara Water Pollution Control Plant Reliability Improvements Project," by $2,000,000 from $6,952,200, to a total contingency budget of $8,952,200, with no change to the term of contract with Kiewit Pacific Company was approved. (10-0-1. Absent: Cortese.)

7.3 (a) Administrative Hearing on an appeal of the Planning Commission's certification of a Final Environmental Impact Report prepared for the San José Household Hazardous Waste Collection Facility involving relocation of the household hazardous waste drop off facility previously located at the City of San José's Central Service Yard (1661 Senter Road). Proposed on-site activities consist of collection of household hazardous wastes such as paint, solvents, and motor oil from members of the public approximately eight days per month and temporary storage of the collected materials in prefabricated storage containers. Proposed site changes include new and relocated storage containers and creation of a driveway. The project site is a currently vacant, 1.8-acre portion of a 4.2-acre City-owned parcel located at the corner of Las Plumas Avenue and Nipper Avenue (1608 Las Plumas Avenue). Director of Planning, Building and Code Enforcement and Planning Commission (by a 5-2-0 vote, Campos and Platten opposed) recommend certification of the FEIR.

(b) Adoption of the following amendments to the 2007-2008 Annual Appropriation Ordinance in the Integrated Waste Management Fund in order to relocate the San José Household Hazardous Waste Collection Facility to 1608 Las Plumas Avenue:

(1) Increase the Environmental Services Non-Personal/Equipment appropriation by $1,350,000.00.

(2) Decrease the Unrestricted Fund Balance by $1,350,000.00.

CEQA: File No. PP06-100; CEQA Resolution to be Adopted. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Environmental Services/City Manager's Office)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated June 12, 2007, recommending adoption of a resolution and appropriation ordinance. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 18, 2007, recommending adoption of a resolution. (3) Proof of Publication of Notice of Public Hearing, executed on May 27, 2007, submitted by the City Clerk. (4) Letter from the Silicon Valley Leadership Group, dated June 12, 2007, expressing support for the Las Plumas Hazardous Waste Facility. (5) Letter from David Weinstein, PS Business Parks, dated June 24, 2007, commenting that Las Plumas Hazardous Waste Facility is not a compatible fit with the surround community. (6) Petition signed by one hundred residents in opposition to the Las Plumas Hazardous Waste Facility.

7.3 (Cont'd.)

As part of the Administrative Hearing, Council disclosures were made by Mayor Reed and Council Members Pyle, Oliverio, Nguyen, Liccardo, Chirco, Chu, Campos and Williams.

Director of Environmental Services John Stuffebean presented the household hazardous water program.

Mayor Reed opened the public hearing.

William Stauble, the Appellant presented the appeal of the Planning Commission's certification of a Final Environmental Impact Report prepared for the San José Household Hazardous Waste Collection Facility. He stated there is no disclosure of the storage capacity or accumulated volumes of waste stored at the original facility.

City Attorney Richard Doyle noted that he has worked with Staff which addressed the issues raised by the Appellant, and added it was important to note there are no significant impacts identified in the report.

Public Comments: Speaking in favor of the Staff recommendations: Jo Ann Harrington, Greg Van Wassenhove, County of Santa Clara, Frank Teng, Silicon Valley Leadership Group, Joel Corona, Bruce Olszewski, Ted Smith, Silicon Valley Toxics Coalition, Steve Jones, Garden City Sanitation, Hilary Nixon, Jeff Donlevy, Robb Cutler, Harker School, Gregg Updegraff, Neil Struthers, Building Trades Council and Erik Larsen, AFSCME Local 101.

Objecting to the Staff recommendations: Madison Nguyen, Joe Parisi, Therma Corporation, Paul Oller, Plumbers and Fitters Local 393, Dr. David Lopez, The National Hispanic University, Larry Gates, Santa Clara Valley Contractors Association, Arlene Inch, AB Investments, Bert Inch, Transpak, Erica Eng, Elizabeth Alvarez, People Acting in Community Together, Jason Clark, Gil Hernandez and Rolston Johnson, Butler-Johnson Corporation.

William Stauble, the Appellant, presented a rebuttal presentation and responded to the comments by the speakers.

Mayor Reed closed the public hearing.

Extensive Council discussion followed.

Council Member Campos expressed concern that other sites were not considered and that not enough outreach had been done. Council Member Pyle expressed concern that the facility is in close proximity to young children and mothers.

7.3 (Cont'd.)

Additional Council disclosures were provided by Vice Mayor Cortese.

Council Member Williams requested that Staff check with the neighborhood regarding their concerns and return with a Status Report to Council.

Action on 7.3(a): Upon motion by Council Member Liccardo, seconded by Council Member Chirco and carried, Resolution No. 73929, entitled: "A Resolution of the Council of the City of San José Finding that a Final Environmental Impact Report for a Project Described in City Application File No. PP06-100 Has Been Completed in Compliance with the California Environmental Quality Act of 1970", was adopted. (9-2. Noes: Campos, Pyle.)

Action on 7.3(b): Upon motion by Council Member Liccardo, seconded by Council Member Chirco and carried, CEQA Resolution No. 73929.1, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Concerning Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program and Making Findings Concerning Alternatives in Accordance with the California Environmental Quality Act of 1970 for the Household Hazardous Waste Collection Facility Project (File No. PP06-100) Which an Environmental Impact Report has been Prepared in Accordance with the California Environmental Quality Act of 1970" and Ordinance No. 28087, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Integrated Waste Management Fund for Environmental Services Non-Personal/Equipment; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted, with Staff directed to concurrently conduct additional outreach over the next 60 days, as follows: (1) Contact personally residents in apartment buildings located along 590 King Road (1,400 feet from site), and at 33rd and Mabury Way. (2) Notify all individuals who signed the petition submitted by PACT. (3) Prepare outreach information in multiple languages. (4) Collaborate with Trish Shelton to develop an ongoing plan to inform parents of children at the shelter about how to take necessary precautions. (5) Apply SNI "best practices" for door to door outreach. (10-1. Noes: Campos.)

7.4 (a) Adoption of a resolution increasing the San José Municipal Water System (SJMWS) potable water rates and charges by 7.3% effective July 1, 2007. CEQA: Not a Project. Council Districts 2, 4, 7 and 8. (Environmental Services)

(b) Direction to staff to include options for elimination or multi-year phase out of the Enterprise In-Lieu and Rate of Return transfers from the Water Utility Fund to the General Fund, during the 2008-2009 budget process.

CEQA: Not a Project. Council Districts 2, 4, 7 and 8. (City Manager's Office)
(Deferred from 6/19/07 – Item 7.6)

7.4 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, dated June 22, 2007, recommending approval of the Staff recommendations with additional direction. (2) Replacement memorandum from Vice Mayor Cortese, dated June 19, 2007, recommending denial of the request of the City Manager to proceed with a 7/3% rate increase for MWS with direction to the City Manager and City Attorney. (3) Memorandum from Director of Environmental Services John Stufflebean, dated May 29, 2007, recommending adoption of a resolution. (4) Supplemental memorandum from City Manager Les White, dated June 20, 2007, responding to the administration recommendations to increase the potable water rates and to the memorandum from Vice Mayor Cortese. (5) Thirty nine emails from the pubic all dated June 25, 2007, objecting to the water rate increase.

Motion: Council Member Chirco moved approval of the memorandum from Mayor Reed with additional direction as indicated in "Action" below and the Staff recommendations. Council Member Williams seconded the motion.

Vice Mayor Cortese and Council Members Chu and Liccardo objected to the Staff recommendations.

Action: On a call for the question, the motion carried, Resolution No. 73930, entitled: "A Resolution of the Council of the City of San José to Establish New Quantity Charges for Potable Water Service Effective July 1, 2007", was adopted, as amended, Staff was directed to include options for elimination or multi-year phase out of the Enterprise In-Lieu and Rate of Return transfers from the Water Utility Fund to the General Fund, during the 2008-2009 budget process and the memorandum from Mayor Reed, dated June 22, 2007, was approved as follows: (1) Approve the Staff recommendation to increase the San José Municipal Water System (SJMWS) potable water rates and charges by 7.3% effective July 2007. (2) Direct Staff to complete a cost study to validate transfers from SJMWS to the General Fund. (3) Upon completion of the cost study, direct Staff to review all assumptions, financial and non-financial, made when the City Council declined to sell or lease SJMWS and report back to the City Council on the impacts of the cost study on those assumptions. (4) Direct Staff to analyze and report what effect the absence of "rate on return" and "in-lieu fee" transfers from the Water Utility Fund to the General Fund would have on the balance of the General Fund. (5) Direct Staff to analyze and report on the consequences to the General Fund and the Water Utility Fund if SJMWS potable water rates and charges are not increased. (8-3. Noes: Chu, Cortese, Liccardo.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 10:51 p.m. to consider Items 9.1, 9.2 and 9.3 in a Joint Session.

9.1 (a) Adoption of a resolution of the City Council authorizing the Director of Finance and other authorized officers of the City, who routinely conduct investment management activity on behalf of the city, to order the deposit or withdrawal of monies in the Local Agency Investment Fund on behalf of the City.

(b) Adoption of a resolution by the Redevelopment Agency Board authorizing the Director of Finance and other authorized officers of the City, who routinely conduct investment management activity on behalf of the Agency, to order the deposit or withdrawal of monies in the Local Agency Investment Fund on behalf of the Redevelopment Agency.

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

Documents Filed: Memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 4, 2007, recommending adoption of resolutions.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, Resolution No. 73931, entitled: "A Resolution of the Council of the City of San José Authorizing Officers of the City of San José to Invest Monies in the Local Agency Investment Fund on Behalf of the City", and Redevelopment Agency Resolution No. 5765, entitled: "A Resolution of Board of Directors of the Redevelopment Agency of the City of San José Authorizing Officers of the Board of Directors and the City of San José to Invest Monies in the Local Agency Investment Fund on Behalf of the City", were adopted. (11-0.)

9.2 City Council and Redevelopment Agency approval of the Fiscal Year 2007-2008 Cooperation Agreements between the City of San José and the Redevelopment Agency for (1) Capital Improvement Projects in the Merged Redevelopment Area; and (2) the operating expenses. CEQA: Not a Project. (City Manager's Office/ Redevelopment Agency)

Documents Filed: Memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 14, 2007, recommending approval of the Cooperation Agreement.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the Fiscal Year 2007-2008 Cooperation Agreements between the City of San José and the Redevelopment Agency for Capital Improvement Projects in the Merged Redevelopment Area and the operating expenses were approved. (11-0.)

9.3 Adoption of Redevelopment Agency Board resolutions:

(a) Approving amendments to the FY 2006-07 Adopted Budget to reflect various modifications to the FY 2006-07 revenue resolution, Operating and Capital Budgets, and amending the FY 2006-07 Agency appropriation resolution; and,

(b) Approving amendments to the FY 2007-08 Proposed Budget; and,

(c) Adopting the FY 2007-08 Revenue and Appropriations Resolutions for the Operating and Capital Budgets, and authorizing the Executive Director to rebudget FY 2006-07 remaining project appropriation balances for on-going projects/programs previously approved by the Agency Board; and,

(d) Making certain determinations regarding the expenditure of Agency funds to eradicate graffiti.

CEQA: Not a Project. (Redevelopment Agency)

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 14, 2007, recommending adoption of resolutions.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Williams and carried unanimously, Redevelopment Agency Resolution Number 5766, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving Amendments to the Adopted Fiscal Year 2006-2007 Revenue Resolution and Fiscal Year 2006-2007 Agency Appropriations Resolution", Redevelopment Agency Resolution Number 5767, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving Amendments to the Fiscal Year 2007-2008 Revenue Resolution, Fiscal Year 2007-2008 Capital Budget and Fiscal Year 2007-2008 Agency Appropriations Resolution in Connection with the Japantown Corporation Yard Planning and Development, Downtown Ice Rink and the Public Space Program"; Redevelopment Agency Resolution Number 5768, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Adopting the Revenue Resolution for Fiscal year 2007-2008"; Redevelopment Agency Resolution Number 5769, entitled: "Annual Appropriation Resolution of the Board of Directors of the Redevelopment Agency of the City of San José for Fiscal Year Beginning July 1, 20007 and ending June 30, 2008, Appropriating and Authorizing the Expenditure of Monies During Said Fiscal Year" and Redevelopment Agency Resolution Number 5770, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Making Certain Determinations Regarding the Expenditure of Agency Funds to Eradicate Graffiti", were adopted. (11-0.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

Tract	Location	Council District	Developer	Lots/ Units	Type	Proposed Decision
9531	SW corner Rue Mirassou/Mosher Dr	8	Pinn Bros Const	56 Lots / 51 Units	SFD	Approve
9861	E/S Cross Wy, 150' N Willow Glen Way	6	Shwe Groups LLC	1 Lot / 10 Units	MFA	Approve
9913	SW corner Flanigan Dr & Fontaine Rd	7	H & L Invest, LLC	1 Lot / 16 Units	Convt Apts to Condos	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:

Tract	Location	Council District	Developer	Lots/Units	Type
9926	N/S Rock Ave, 450' W of Oakland Road	4	DeMattei Development Inc.	1 Lot / 18 Units	SFA

OPEN FORUM

(1) Mark Trout expressed religious viewpoints.
(2) Robert Apgar shared personal observations.

ADJOURNMENT

The Council of the City of San Jose was adjourned at 10:57 p.m. in memory of Bernice Gourd, a very active and compassionate resident of the West Evergreen Strong Neighborhoods Initiative area who was relentless in advocating for safe neighborhoods for our youth; In memory of the nine fallen firefighters in South Carolina who sacrificed their lives for the safety of others.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk
smd/6-26-07MIN

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

The Joint Redevelopment Agency Board convened at 11:00 p.m. to consider Items 8.1, 8.2 and 8.3 in a Joint Session.

8.1 Redevelopment Agency Board and City Council approval of the Amended and Restated Cooperation Agreement with the Mexican Heritage Corporation, related to a $1,000,000 grant from the State of California Historical and Cultural Resources Preservation Opportunity Grant Program, clarifying the roles and responsibilities of each party in bidding and awarding contracts and for distribution of funds from the State grant program. CEQA: Not a Project. [ALUM ROCK]

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Les White, dated June 14, 2007, recommending approval of the Amended and Restated Cooperation Agreement.

Action: Upon motion by Council Member Chu, seconded by Council Member Chirco and carried unanimously, the Amended and Restated Cooperation Agreement with the Mexican Heritage Corporation, related to a $1,000,000 grant from the State of California Historical and Cultural Resources Preservation Opportunity Grant Program, clarifying the roles and responsibilities of each party in bidding and awarding contracts and for distribution of funds from the State grant program was approved. (11-0.)

8.2 City Council and Redevelopment Agency Board approval of an Exclusive Negotiations Agreement with First Community Housing and Williams & Dame, for the development of the Japantown Corporation Yard and Parking Lot project generally located at Sixth and Taylor Streets, with a term through December 26, 2008. CEQA: Exempt. File No. PP-07-086. [JAPANTOWN]

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Les White, dated June 14, 2007, recommending approval of an Exclusive Negotiations Agreement.

Public Comments: Speaking in favor of the Staff recommendations were Jerry Hiura, Roy Hirabayashi, Don Gagliardi and William Lambson.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos and carried unanimously, the Exclusive Negotiations Agreement with First Community Housing and Williams & Dame, for the development of the Japantown Corporation Yard and Parking Lot project generally located at Sixth and Taylor Streets, with a term through December 26, 2008 was approved, with Staff directed, when negotiating the Disposition and Development Agreement, undertake to incorporate those elements of the previously established community amenities priorities that apply with respect to the Japantown

8.2 (Cont'd.)

Corporation Yard and Parking Lot project, which priorities are summarized as: (1) Develop the Corporation Yard as a catalyst to revitalize Japantown. (2) Find a permanent location for San Jose Taiko. (3) Establish a senior wellness and youth center. (4) Implement a comprehensive Japantown retail strategy. (5) Implement a parking strategy. (6) Ensure historical and cultural preservation (7) Revisit the Jackson Taylor strategy. (11-0.)

8.3 (a) City Council and Redevelopment Agency Board approval of an agreement with Charities Housing for child care, providing for an Agency contribution of $500,000 toward Charities Housing's renovation of a portion of the Paseo Senter Plaza housing development and for Charities Housing's covenants to operate the renovated portions with Smart Start operating standards; and,

Action: Deferred per Orders of the Day.

(b) City Council and Redevelopment Agency Board approval of an agreement with MACSA for child care, providing an Agency contribution of $500,000 towards MACSA's renovation of a portion of the MACSA Youth Center and for MACSA's covenants to operate the renovated portions with Smart Start operating standards; and,

(c) City Council and Redevelopment Agency Board approval of an amendment to the terms of the agreement with SJB (formerly San Juan Bautista) Child Care Development pertaining to the Child Development Center at Terrylin Avenue at no additional cost; and,

(d) City Council and Redevelopment Agency Board approval to terminate the agreement with Kidango, in the amount of $410,670, pertaining to child development services at Arbuckle Elementary; and,

(e) City Council and Redevelopment Agency Board approval to terminate the agreement with SJB (formerly San Juan Bautista) Child Care Development, in the amount of $150,000, for the Child Development Center located at Cassel Elementary School.

CEQA: Charities Housing Childcare Agreement: Addendum to a Negative Declaration for Paseo Senter at Coyote Creek File No. PDC03-057 & PP07-138. MACSA Childcare Agreement: Exempt. File No. PP07-140. San Juan Bautista Childcare at Terrilyn Agreement Amendment: Not a Project. Kidango Childcare Agreement Termination: Not a Project. San Juan Bautista Childcare at Cassel Elementary Agreement Termination: Not a Project. [MERGED]

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Les White, dated June 14, 2007, recommending approval agreements and termination of the agreements.

8.3 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously, the Agency contribution of $500,000 towards MACSA's renovation of a portion of the MACSA Youth Center and for MACSA's covenants to operate the renovated portions with Smart Start operating standards was approved; the agreement with SJB (formerly San Juan Bautista) Child Care Development pertaining to the Child Development Center at Terrylin Avenue at no additional cost was approved and the agreements with Kidango and SJB were terminated. (11-0.)

The Council of the City of San José, and Redevelopment Agency Board adjourned at 11:10 p.m.