

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, OCTOBER 2, 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, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - Liccardo. (Excused)

Upon motion unanimously adopted, Council recessed at 9:02 a.m. to a Closed Session in Room W133, (A) Public Employee Performance Evaluation Pursuant to Government Code Section 54957: Title: City Clerk; Name: Lee Price. (B) 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) Morgan v. City of San José, et al. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Maintenance Advisory Personnel; (2) Association of Building, Mechanical and Electrical Inspectors; (3) International Association of Firefighters, Local 230.

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

Andrea Goeke, Cambrian Library Teen Idol Winner sang “Amazing Grace” and “The Star Spangled Banner”. (District 9)

Council Member Pyle introduced third grade students from schools located within the Oak Grove School District.

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/clerk/agenda.asp> or <http://www.sanjoseca.gov/clerk/MeetingArchive.asp>

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 8.1 dropped. (11-0.)

CEREMONIAL ITEMS

1.3 Presentation of Award from the Environmental Protection Agency to the City of San José for Buying Environmentally-friendly Computers. (Environmental Services)

Action: The Environmental Protection Agency recognized the City of San José for buying environmentally friendly computers. Mayor Reed accepted the award on behalf of the City.

**1.7 Presentation of a proclamation declaring October 2007 as Energy Awareness Month in the City of San José. (Mayor/Environmental Services)
(Rules Committee referral 9/26/07)**

Action: Mayor Reed and Council Member Williams recognized the month of October 2007 as “Energy Awareness Month” in the City of San José. Director of Environmental Services John Stufflebean accepted the commendation.

1.1 Presentation of a commendation to Rhonda Wright for her exemplary dedication and valuable contributions to the City organization. (City Manager’s Office/Mayor)

Action: Mayor Reed and City Manager Debra Figone recognized and commended Ms. Rhonda Wright for outstanding dedication and important contributions to the City of San José.

1.2 Presentation of a proclamation declaring October 3, 2007 as Walk to School Day in the City of San José. (Constant)

Action: Mayor Reed and Council Member Constant recognized October 3, 2007 as “Walk to School Day” in the City of San José.

**1.5 Presentation of a commendation to the Center for Employment Training on the celebration of its 40th anniversary and in recognition of the vital role it plays in the quality of life in San José. (Mayor/Redevelopment Agency)
(Rules Committee referral 9/19/07)**

1.5 (Cont'd.)

Action: Mayor Reed, Council Member Liccardo and Redevelopment Agency Executive Director Harry S. Mavrogenes recognized and commended the Center for Employment Training on the celebration of its 40th anniversary, including the dedication of service to the quality of life in the City of San José.

1.6 Presentation of a commendation to Isabelle Connell and Alexandra Diaz for proudly representing San José and winning gold medals in Hershey, Pennsylvania at the National Track Meet. (Parks, Recreation and Neighborhood Services)

Action: Mayor Reed and Deputy Director of Parks, Recreation and Neighborhood Services Cynthia Bojorquez recognized and commended Ms. Isabelle Connell and Ms. Alexandra Diaz for winning gold medals in Hershey, Pennsylvania at the National Track Meet.

1.4 Presentation of a proclamation recognizing the week of October 7-13, 2007 as Fire Prevention Week. (Fire)

Action: Mayor Reed and Vice Mayor Cortese recognized the week of October 7 through October 13, 2007 as “Fire Prevention Week” in the City of San José. Fire Chief Darryl Von Raesfeld accepted the commendation.

SPECIAL CEREMONIAL ITEM

Action: Mayor Reed, Council Member Pyle and City Clerk Lee Price recognized and commended Dan and Harriet Roy for their exemplary volunteer service as City Hall Docents.

CONSENT CALENDAR

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

2.1 Approval of Minutes.

(a) Special Meeting minutes of June 21, 2007 on Various Police Related Reports.

(b) Regular minutes of June 26, 2007.

[Deferred from 9/25/07 – Item 2.1(e) – (f)]

Documents Filed: (1) The Special Meeting Minutes on Various Police Related Reports dated June 21, 2007. (2) The Regular Minutes dated June 26, 2007.

Action: The Minutes were approved. (11-0.)

**2.3 Acceptance of the Office of the City Auditor's *Report of Activities for the Period July 16 through August 15, 2007.* (City Auditor)
(Rules Committee referral 9/19/07)**

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

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

**2.4 Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending March 31, 2007. (City Auditor)
(Rules Committee referral 9/19/07)**

Documents Filed: Memorandum from Interim City Auditor Steven Hendrickson, dated September 13, 2007, recommending acceptance of the reports.

Action: The finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending March 31, 2007 were accepted. (11-0.)

- 2.5 (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2007-2008:**
- (1) Increase the estimate for Earned Revenue by \$63,000.**
 - (2) Increase the appropriation to the Department of Planning, Building and Code Enforcement for the California Environmental Quality Act (CEQA) Clearance project (PSM 365, Amendment #2) in the amount of \$15,000.**
 - (3) Establish an appropriation to the Department of Public Works for the Roundtable Pedestrian Light project (PSM #500) in the amount of \$48,000.**
- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Roundtable Pedestrian Light project as more specifically described in the memorandum from the Redevelopment Agency, dated June 13, 2007.**

CEQA: Not a Project. (City Manager's Office/Planning, Building and Code Enforcement/ Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Planning, Building and Code Enforcement Joseph Horwedel and Budget Director Larry Lisenbee, dated September 10, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

2.5 (Cont'd.)

Action: [Ordinance No. 28136](#); [Resolution No. 74025](#) and [Resolution No. 74026](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Strong Neighborhoods Initiative Redevelopment Project Area", was adopted. (11-0.)

2.6 Report on bids and award of contract for Villa Vista Reservoir Rehabilitation to the low bidder, Olympus & Associates, Inc., for the estimated term of November 2007 to March 2008, in an amount not to exceed \$232,680 and approval of a contingency in the amount of \$25,000. CEQA: Exempt, File No. PP07-148. Council District 8. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated September 10, 2007, recommending award of the contract to the low bidder.

Action: The award of contract for Villa Vista Reservoir Rehabilitation to the low bidder, Olympus & Associates, Inc., for the estimated term of November 2007 to March 2008, in an amount not to exceed \$232,680, with related contingency was approved. (11-0.)

2.7 Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2007-2008 #2 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated September 10, 2007, recommending award of the open purchase orders.

Action: The award of open purchase orders for supplies, materials, equipment, and services for FY 2007-2008 #2 was approved and the Director of Finance was authorized to execute the purchase orders. (11-0.)

2.8 Approval for issuance of a Request for Proposal for debt collection services for a three-year term with three additional one-year option periods, as directed in the Mayor's June Budget Message. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated September 11, 2007, recommending a Request for Proposal for debt collection services for a three-year term.

Action: A Request for Proposal for debt collection services for a three-year term with three additional one-year option periods, as directed in the Mayor's June Budget Message was approved. (11-0.)

- 2.9 (a) **Adoption of a resolution authorizing the Director of Parks, Recreation and Neighborhood Services to:**
- (1) **Negotiate and execute all contracts and amendments in 2007-2008 related to the provision of after school programs funded with up to \$1,007,991 paid by Alum Rock Union, Berryessa Unified, San José Unified, and Santa Clara Unified School Districts.**
 - (2) **Negotiate and execute amendments to these agreements in excess of the amount identified in this memo if the Director determines that the City is able to provide the services and comply with any additional requirements associated with the increased grant funds.**
- (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**
- (1) **Increase the estimate for Revenue from Local Agencies by \$1,007,991; and**
 - (2) **Establish an appropriation to PRNS in City-Wide Expenses for San José After School – District Contracts in the amount of \$1,007,991.**

CEQA: Not a Project. Council Districts 3, 4, 5 and 7. SNI: Thirteenth Street, Five Wounds/Brookwood Terrace. (Parks, Recreation & Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated September 10, 2007, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: [Resolution No. 74027](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Parks, Recreation and Neighborhood Services to Negotiate and Execute Agreements and Amendments to the Agreements Related to the 2007-2008 After School Programs"; Ordinance No. 28137 and [Resolution No. 74028](#) were adopted. (11-0.)

- 2.10 **Adoption of a resolution pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to make an application to the Santa Clara County Local Agency Formation Commission to allow the reorganization of territory designated as Riverside No. 52, which involves the annexation to the City of San José of approximately 15 gross acres of land, located southeast corner of Piercy Road and Tennant Avenue, and the detachment of the same from the appropriate special districts including: Central Fire Protection District and the Santa Clara County Library Service Area. CEQA: Mitigated Negative Declaration, File Nos. GP05-02-04 and UGB05-001. Council District 2. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 10, 2007, recommending adoption of a resolution.

2.10 (Cont'd.)

Action: [Resolution No. 74029](#), entitled: "A Resolution of the Council of the City of San José Making Application to the Local Agency Formation Commission Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to Initiate Reorganization Proceedings for Annexation and Detachment of Certain Uninhabited Territory Designated as Riverside No. 52", was adopted. (11-0.)

2.11 Adoption of a resolution approving an exemption of the Airport Terminal Area Improvement Program from City Council Policy 4-3, Outdoor Lighting on Private Developments, which requires the use of low pressure sodium lighting in unroofed areas of private developments throughout San José. CEQA: Resolution Nos. 67280 and 71451, File No. PP07-163. (Public Works/Airport)

Action: Deferred to October 16, 2007 per Administration.

- 2.12 (a) Approval of Redevelopment Agency Executive Director's travel to Austin, TX on October 10-12, 2007 to participate in the San José Silicon Valley Chamber of Commerce "City-to-City Trip". Source of Funds: Redevelopment Agency.**
- (b) Approval of Redevelopment Agency Executive Director's travel to Las Vegas, NV on October 23-26, 2007 to participate in the 2007 ULI Fall Meeting & Urban Land Expo. Source of Funds: Redevelopment Agency.**
(Rules Committee referral 9/19/07)

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated September 18, 2007, requesting approval of travel.

Action: The travel requests were approved. (11-0.)

2.13 Request for excused absences for Council Member Constant.

- (a) Request for an excused absence from the Community and Economic Development Committee meeting of September 24, 2007 due to: Family Emergency.**
- (b) Request for an excused absence from the Executive and Afternoon Sessions of the City Council meeting of September 25, 2007 due to: Family Emergency.**

(Constant)

(Rules Committee referral 9/26/07)

Documents Filed: Memorandum from Council Member Constant, dated September 25, 2007, requesting an absence due to family emergency

Action: The absences were excused. (11-0.)

- 2.14 Request for an excused absence for Council Member Pyle from the Neighborhood Services and Education Committee meeting on October 11, 2007 due to Authorized City Business: to attend the City to City Conference with the San José/Silicon Valley Chamber of Commerce in Austin, TX. (Pyle)
(Rules Committee referral 9/26/07)**

Documents Filed: Memorandum from Council Member Pyle, dated October 11, 2007, requesting an absence due to authorized City business.

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

- 2.15 Approval of travel by Council Member Williams to Charlotte, NC on October 7-11, 2007 to attend the American Public Transportation Agency Conference. Source of Funds: Santa Clara Valley Transportation Authority. (Williams)
(Rules Committee referral 9/26/07)**

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

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

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.1 Report of the Rules and Open Government Committee – September 12, 2007
Mayor Reed, Chair**

Action: Deferred to October 16, 2007 per City Clerk.

- 3.2 Report of the Public Safety, Finance and Strategic Support Committee
September 20, 2007 - Council Member Nguyen, Chair**

Documents Filed: The Public Safety, Finance and Strategic Support Committee Report dated September 20, 2007.

- (a) Redevelopment Agency Monthly Financial Report. Attachment: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated September 11, 2007, recommending acceptance of the reports.
- (1) Financial Statements
 - (2) Capital Cost Report
 - (3) Cash Flow Projections

The Committee accepted the Staff reports.

- (b) Report on Communications Services - Deferred to October 2007.

**3.2 Report of the Public Safety, Finance and Strategic Support Committee (Cont'd.)
September 20, 2007 - Council Member Nguyen, Chair**

- (c) Initial Review of the Los Lagos Golf Course. Attachment: Memorandum from Interim City Auditor Steven Hendrickson, dated September 11, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (d) Update on Risk Management Reorganization - Deferred to October 2007.
- (e) Report on Resolution Amending Administrative Citation Schedule of Fines. Attachment: Memorandum from Fire Chief Darryl Von Raesfeld, dated September 11, 2007, recommending acceptance of the report.

The Committee accepted the Staff report. See Item 3.5 For Council Action Taken.

- (f) Report on Heart Safe City. Attachment: Memorandum from Fire Chief Darryl Von Raesfeld, dated September 6, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (g) Quarterly Update on Council Directives - Deferred.

- (h) Report on Public and Educational Cable Access Transition Planning. Attachment: Memorandum from Director of Communications Tom Manheim, dated September 12, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (i) Audit Recommendation Follow-up: San José Police Department's Staffing and Deployment.

Deferred to October 2007.

- (j) Report on the Process and Timeline Update for Adoption of the 2007 California Building Standards, CCR Title 24, Parts 2-6, 8-10, and 12. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel and Fire Chief Darryl Von Raesfeld, dated September 6, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

**3.2 Report of the Public Safety, Finance and Strategic Support Committee (Cont'd.)
September 20, 2007 - Council Member Nguyen, Chair**

- (k) Update on Finance Department Revenue Collections. Attachment: Memorandum from Director of Finance Scott Johnson, dated September 11, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (l) Oral Petitions - None were presented.
- (m) Adjournment - The meeting was adjourned at 3:33 p.m.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Public Safety, Finance and Strategic Support Committee Report and the actions of September 20, 2007 were accepted. (11-0.)

- 3.3**
- (a) **Adoption of an ordinance ratifying the final 2006-2007 appropriation increases detailed in the report.**
 - (b) **Adoption of the following 2006-2007 appropriation ordinance and funding sources resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:**
 - (1) **Increase the Earned Revenue estimate by \$4,967,928;**
 - (2) **Increase the Transfer to Council District 1 by \$281,702;**
 - (3) **Increase the Transfer to Council District 2 by \$240,274;**
 - (4) **Increase the Transfer to Council District 3 by \$260,519;**
 - (5) **Increase the Transfer to Council District 4 by \$261,396;**
 - (6) **Increase the Transfer to Council District 5 by \$284,274;**
 - (7) **Increase the Transfer to Council District 6 by \$287,784;**
 - (8) **Increase the Transfer to Council District 7 by \$329,181;**
 - (9) **Increase the Transfer to Council District 8 by \$264,968;**
 - (10) **Increase the Transfer to Council District 9 by \$187,469;**
 - (11) **Increase the Transfer to Council District 10 by \$412,762;**
 - (12) **Increase the Transfer to City-Wide by \$1,408,661; and**
 - (13) **Increase the Transfer to the General Fund by \$748,938.**
 - (c) **Adoption of the following 2006-2007 appropriation ordinance and funding sources resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:**
 - (1) **Increase the Earned Revenue Estimate by \$14,244; and**
 - (2) **Increase the Transfer to the General Fund by \$14,244.**
 - (d) **Adoption of the following 2006-2007 appropriation ordinance and funding sources resolution amendments in the Construction Excise Tax Fund:**
 - (1) **Increase the Earned Revenue Estimate by \$64,148; and**
 - (2) **Increase the Fiber Optics Permit Engineering appropriation by \$64,148.**

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

3.3 (Cont'd.)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated September 12, 2007, recommending adoption of an ordinance and appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Nguyen, seconded by Vice Mayor Cortese and carried unanimously, [Ordinance No. 28139](#), entitled: “An Ordinance of the City of San José Authorizing and Ratifying Certain Encumbrances and/or Expenditures in Various Funds Made During City’s 2006-2007 Fiscal Year in Excess of Sums Appropriated Therefore”; [Ordinance No. 28138](#); [Resolution No. 74030](#); [Ordinance No. 28140](#); [Resolution No. 74031](#); [Ordinance No. 28141](#) and [Resolution No. 74032](#) were adopted. (11-0.)

3.5 **Adoption of a resolution amending the Administrative Citation Schedule of Fines to establish administrative fines for fire false alarms and other violations of the fire safety, fire protection, and hazardous materials storage or use provisions of the San José Municipal Code, with base fines ranging from \$100 to \$1000, with enhanced fines for repeat violations of the same provision, which occur within anyone year period, and repealing Resolution No. 73712, as amended on April 3, 2007. CEQA: Not a Project. (Fire)**

[Public Safety, Finance and Strategic Support Committee 9/20/07 – Item (e)]

Documents Filed: Memorandum from Agenda Services Manager Nadine Nader, dated September 24, 2007, transmitting the recommendations from the Public Safety, Finance and Strategic Support Committee.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74033](#), entitled: “A Resolution of the Council of the City of San José Amending the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code in Order to Establish Administrative Fines for Fire Alarms and Other Violations of the Fire Safety, Fire Protection and Hazardous Material Storage or Use Provisions of San José Municipal Code; To Conform New San José Municipal Code Section Numbers in Title 7 and To Increase the Administrative Fines Relating to Certain Animal Care and Control Provisions and Repealing Resolution No. 73712”, was adopted. (11-0.)

3.6 **Verbal status report on implementation of the Arbitration Award between the City and International Association of Fire Fighters (Local 230) and clarification, with possible Council action, of Council direction on implementation of Anti-Terrorism Training Pay. CEQA: Not a Project. (City Manager’s Office)** **(Referred from 9/18/07 – Item 3.3)**

Documents Filed: (1) Memorandum from Director of Employee Relations Alex Gurza, dated September 4, 2007, recommending acceptance of the report. (2) Letter from the San José Firefighters Local 230, dated September 27, 2007, regarding the arbitration award.

3.6 (Cont'd.)

Director of Employee Relations Alex Gurza presented the Staff Report on the implementation of the Arbitration Award between the City and International Association of Firefighters and responded to Council questions.

Public Comments: Randy Sekany (San José Firefighters Local 230) and Christopher Platten, Legal Counsel (IAFF Local 230), spoke in support to the Staff recommendations.

A short discussion followed.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Constant and carried unanimously, the staff report was accepted, as amended: (1) City Attorney directed to bring back ordinance changes for the anti-terrorism pay reflecting that the pay is pensionable at the November 6, 2007 City Council Meeting. (2) Directed that anti-terrorist pay is retroactive and without further training requirements. (3) Directed that personnel who have not completed past anti-terrorism training be given a time certain set by the Fire Chief to come into compliance. (4) Directed that anti-terrorism training be continued in the future consistent with what has been required in the past. (5) Directed that compliance issues be dealt with by the Fire Chief consistent with current disciplinary procedures for mandatory training. (6) Further, Council strongly requested that the parties concerned meet prior to the November 6, 2007 City Council Meeting to memorialize this direction. (11-0.)

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

Documents Filed: The Rules and Open Government Committee Report dated August 22, 2007.

(a) City Council

(1) Review August 28, 2007 City Council Agenda

The Committee approved the August 28, 2007 City Council Agenda with five additions.

(2) Review September 4, 2007 Draft City Council Agenda

None – Meeting Canceled.

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

**3.7 Report of the Rules and Open Government Committee – August 22, 2007 (Cont'd.)
Mayor Reed, Chair**

(c) Legislative Update

(1) State

- (a) SB 264 (Alquist) – Transaction and Use Taxes. Attachment: Memorandum from Director of Transportation James Helmer, dated August 16, 2007, recommending a support position.

The Committee approved a support position with a one week turnaround to Council for review. Heard By Council 8/28/07, Item 3.8.

AB 444 (Hancock) – Motor Vehicle Registration Fees

The Committee directed that AB444 return to the Rules & Open Government Committee for further discussion on August 29, 2007.

- (b) SB 375 (Steinberg) – Regional Preferred Growth Scenarios. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 17, 2007, recommending an oppose position.

The Committee approved the opposition position on SB375 and recommended that it be made a two year bill to allow the City and other affected agencies to continue to work toward resolving the serious problems associated with the current bill and one week turnaround for Council review. Heard By Council 8/28/07, Item 3.9.

- (c) 2007 League of California Cities Resolutions. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated August 16, 2007, recommending City positions.

The Committee approved the recommended City positions to be considered at the Annual League of California Cities with a one week turnaround for Council review. Heard By Council 8/28/07, Item 3.10.

(2) Federal -

None were presented.

**3.7 Report of the Rules and Open Government Committee – August 22, 2007 (Cont'd.)
Mayor Reed, Chair**

(d) Meeting Schedules

- (1) Scheduling of Council Appointee Reviews. Attachment: Memorandum from Mayor Reed, dated August 16, 2007, directing the addition of performance reviews.

The Committee approved the addition of performance reviews on the Council Closed Session meeting agendas.

- (2) Approve Redevelopment Agency Board Budget Study Sessions. Attachment: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated August 16, 2007, recommending approval of the study sessions.

(a) Redevelopment Agency Study Session on the FY 2007-08 Redevelopment Agency Capital Improvement Budget on September 6, 2007 from 9:00 a.m. – Noon;

(b) Redevelopment Agency Study Session on San José McEnery Convention Center Expansion on Nov. 3, 2007 from 8:00 a.m. – Noon.

The Committee approved the proposed meeting schedules

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated August 16, 2007, transmitting items for the Public Record for the period of August 3-15, 2007.

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

- (1) Arts Commission Appointment

There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Proposal for a citywide inclusionary transit-oriented housing policy

Deferred to 9/5/07.

- (2) Discussion of the decision to join the City of San Francisco in the Amicus Brief regarding California Supreme Court Case No. S147999 regarding the constitutionality of same sex marriages

Dropped.

**3.7 Report of the Rules and Open Government Committee – August 22, 2007 (Cont'd.)
Mayor Reed, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
 - (3) Referral of an Audit of the Emergency Communications Center. Attachment: Memorandum from City Auditor Gerald Silva, dated August 13, 2007, recommending approval of the referral.

The Committee approved the referral.

- (4) Discussion of audit and follow up alternatives for maintaining service levels of History Park in compliance with Mayor's Budget Addendum #4. Attachment: Memorandum from Chief Deputy City Manager Kay Winer, dated August 20, 2007, recommending acceptance of the report.

The Committee directed Staff to prepare Alternative 1 for Council consideration on 9/11/07.

- (h) Review of Additions to Council Committee Agendas
 - (2) Neighborhood Services and Education Committee
 - (a) Add item entitled, "Grants Policy and an Emergency Grants Policy and Procedure" to the September 13, 2007 agenda.

The Committee approved the addition.

- (i) Open Government Initiatives - There were none.
- (j) Open Forum - None were presented.
- (k) Adjournment - The meeting was adjourned at 3:53 p.m. (Deferred from 9/18/07 – Item 3.1 and 9/25/07 – Item 3.5)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of August 22, 2007 were accepted. (11-0.)

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

Documents Filed: The Rules and Open Government Committee Report dated August 29, 2007.

- (a) City Council
 - (1) Review September 4, 2007 City Council Agenda

None – Meeting Canceled.

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

- (a) City Council (Cont'd.)
 - (2) Review September 11, 2007 Draft City Council Agenda

The Committee approved the September 11, 2007 Draft City Council Agenda with one addition.

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

- (c) Legislative Update

- (1) State

- (a) AB 444 (Hancock) – Motor Vehicle Registration Fees

Dropped.

- (b) SB 275 (Cedillo) – Health Care Facilities: Patient Transport – Supplemental Memorandum. Attachment: Memorandum from Director of Housing Leslye Krutko, dated August 24, 2007, recommending approval of the support position, if amended.

The Committee approved the support position, if amended, with a one week turnaround to Council. Heard By Council 9/11/07, Item 3.7.

- (c) SB 184 (Alquist and Correa) – Transportation Projects. Attachment: Memorandum from Director of Transportation James Helmer, dated August 22, 2007, recommending a support position.

The Committee approved the support position with a one week turnaround to Council. Heard By Council 9/11/07, Item 3.8.

- (2) Federal

- (a) Federal Relations Update – August Recess 2007. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated August 24, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (d) Meeting Schedules - There were none.

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

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated August 23, 2007, transmitting items for the Public Record for the period of August 16-22, 2007.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals - There were none.
- (h) Review of Additions to Council Committee Agendas - There were none.
- (i) Open Government Initiatives
 - (2) Sunshine Reform Task Force
 - (a) Discussion of Council Referral to Staff and the SRTF regarding the certification and appeal process relative to the release of closed session recordings.

The City Attorney agreed to return to the Committee with a matrix of the categories of items permitted to be discussed in closed session.

- (j) Open Forum

Bill Chew requested that agendas be available to view online while watching the live videostreaming of the meeting.

- (k) Adjournment - The meeting was adjourned at 3:04 p.m.
(Deferred from 9/25/07 – Item 3.1)

Action: Upon motion by Council Member Williams, seconded by Council Member Nguyen and carried unanimously, the Rules and Open Government Committee Report and the actions of August 29, 2007 were accepted. (11-0.)

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

Documents Filed: The Rules and Open Government Committee Report dated September 5, 2007.

- (a) City Council
 - (1) Review September 11, 2007 City Council Agenda

The Committee approved the September 11, 2007 City Council Agenda with six additions.

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

- (a) City Council (Cont'd.)
 - (2) Review September 18, 2007 Draft City Council Agenda

The Committee approved the September 18, 2007 Draft City Council Agenda with four additions.

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

- (c) Legislative Update

- (1) State

- (a) SB 732 (Steinberg) – Safe Drinking Water, Water Quality and Supply, Flood control, River and Coastal Protection Bond Act of 2006. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 29, 2007, recommending an oppose position.

The Committee approved the recommendation with a one week turnaround for Council review. Heard By Council 9/11/07, Item 3.14.

- (2) Federal - There were none.

- (d) Meeting Schedules - There were none.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated August 30, 2007, transmitting items for the Public Record for the period of August 23-30, 2007.

The Committee noted and filed the Public Record.

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

- (g) Rules Committee Reviews, Recommendations and Approvals

- (1) Proposal for a citywide inclusionary transit-oriented housing policy. Attachment: Memorandum from Council Members Liccardo, Campos, Chirco and Nguyen, dated August 23, 2007, recommending a work plan assessment.

Staff to return to the Committee in two weeks with a work plan assessment relating to the three options proposed in the joint memorandum.

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

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
(2) Authorization to Travel. Attachment: Memorandum from Council Member Chirco, dated August 27, 2007, requesting authorization to travel.

The Committee approved the travel request for Council Member Chirco.

- (3) Urgency Ordinance regarding dead or dying tree replacements. Attachment: Memorandum from Director of Transportation James Helmer, dated August 30, 2007, recommending an urgency ordinance.

(1) Staff agreed to meet with Council Member Constant regarding the Tulip tree issue in District 1. (2) Staff will report out after the community meetings to receive public input on the City's tree policies and procedures by presenting information first to the Transportation and Environment Committee and then the full Council in November.

- (4) City Auditor's 2007-08 Work Plan. Attachment: Memorandum from City Auditor Gerald Silva, dated August 23, 2007, requesting approval of the work plan.

The Work Plan was approved.

- (h) Review of Additions to Council Committee Agendas - There were none.
(i) Open Government Initiatives - There were none.
(j) Open Forum - None were presented.
(k) Adjournment - The meeting was adjourned at 3:36 p.m.
(Deferred from 9/25/07 – Item 3.2)

Action: Upon motion by Council Member Williams, seconded by Council Member Nguyen and carried unanimously, the Rules and Open Government Committee Report and the actions of September 5, 2007 were accepted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 (a) Approval of the Arts Commission's recommended Arts Stabilization Loan Fund Guidelines, with a modification to Section 2.i. as follows, "If, after considering the analyses, assessments and staff recommendations, the Arts Commission should reach a different conclusion than staff, it may choose to make alternative recommendations, which will also be presented to City Council with the staff's recommendation."**

- 4.2 (b) **Approval of the staff recommendation that the Flexible Fund be established with \$200,000 of the uncommitted portion of the \$4,000,000 Arts Stabilization Loan Fund, in addition to the incoming line of credit interest payments and general investment earnings.**
- (c) **Direction to the City Manager to implement the Arts Stabilization Loan Fund Guidelines, as revised.**

CEQA: Not a Project. (Economic Development)

[Community and Economic Development Committee referral 8/27/07 – Item (h)]

(Deferred from 9/11/07 – Item 4.2 and 9/18/07 – Item 4.6)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated September 18, 2007, recommending acceptance of the Staff recommendations.

Public Comments: Sharon Gustafson, representing the Arts Commission, and Ross Signorino spoke in support to the Staff recommendations.

A short discussion followed.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Arts Stabilization Loan Fund Guidelines, with a modification to Section 2.i. and the Flexible Fund be established with \$200,000 of the uncommitted portion of the \$4,000,000 Arts Stabilization Loan Fund, in addition to the incoming line of credit interest payments and general investment earnings were approved. (11-0.)

- 4.3 (a) **Approval of the approach to be used by staff when a request is made that the City provide indemnity to the other contracting party, including requests for mutual indemnification requirements for contracts, where the contract involves services donated at no cost, or services provided with a substantial donation (donated services agreement);**
- (b) **Adoption of a resolution authorizing the City Manager to negotiate and execute indemnity provisions in donated service agreements, including mutual indemnification provisions, where the City Manager concludes that the benefit received by the City outweighs the risk by the City under the negotiated indemnity provision, and where the contracts are otherwise within the City Manager’s authority to execute; and,**
- (c) **Where donated services agreements involve City Council approval, direct staff to present a risk analysis in conjunction with any recommended indemnity provision.**

CEQA: Not a Project. (City Manager’s Office/Human Resources)

[Rules Committee referral 9/12/07 – Item G(2)]

Documents Filed: Memorandum from Deputy City Manager Ed Shikada and Director of Human Resources Mark Danaj, dated September 17, 2007, recommending approval of the approach and adoption of a resolution.

4.3 (Cont'd.)

Deputy City Manager Ed Shikada presented the Staff report.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, Resolution No. 74034, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Modified Indemnity Provisions in Donated Service Agreements Under Specified Circumstances”, were adopted. (11-0.)

NEIGHBORHOOD SERVICES

- 5.2 (a) **Adoption of a resolution amending the administrative citation schedule of fines for certain violations of Title 7 of the San José Municipal Code to conform new San José Municipal Code section numbers and to increase the administrative fines for certain animal care and control provisions and repealing Resolution No. 73712.**
- (b) **Adoption of a resolution amending Part 4 of the Schedule of Fees regarding animal care and control services to conform new San José Municipal Code section numbers and to add an administrative late fee for individuals who license only after being issued an administrative citation for not licensing and amending Resolution No. 72737 as amended.**

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

Documents Filed: Memoranda from Director of Parks, Recreation and Neighborhood Services Albert Balagso, both dated September 10, 2007, recommending adoption of resolutions.

Action: Upon motion by Council Member Williams, seconded by Council Member Constant and carried unanimously, [Resolution No. 74033](#), entitled: “A Resolution of the Council of the City of San José Amending the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code in Order to Establish Administrative Fines for Fire Alarms and Other Violations of the Fire Safety, Fire Protection and Hazardous Material Storage or Use Provisions of San José Municipal Code; To Conform New San José Municipal Code Section Numbers in Title 7 and To Increase the Administrative Fines Relating to Certain Animal Care and Control Provisions and Repealing Resolution No. 73712”, and [Resolution No. 74035](#), entitled: “A Resolution of the Council of the City of San José Amending the Schedule of Fees and Charges to Conform New San José Municipal Code Section Numbers in Title 7 and to Establish Administrative Late Fee for Licensing After Issuance of an Administrative Citation”, were adopted. (11-0.)

- 5.3 (a) **Acceptance of the Strong Neighborhoods Initiative (SNI) Delmas Park Neighborhood Improvement Plan Amendment as the renewed community vision for the future of the Delmas Park SNI Planning Area; and**
- (b) **Encourage the Delmas Park area residents, property owners, and community members to continue to dedicate their time, energy, and resources towards the Plan, as amended, continuing with their community-building activities.**

CEQA: Resolution No. 71045. The Planning Commission recommends approval (7-0-0). Council District 3. SNI: Delmas Park. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 13, 2007, transmitting the recommendation of the Planning Commission.

Public Comments: Speaking in support to the Staff recommendations were Jodene Perill, Carolyn Downey and Elizabeth Ortiz (on behalf of Catherine Lavin).

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, the SNI Delmas park Neighborhood Improvement Plan Amendment was approved. (11-0.)

TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – September 17, 2007 Council Member Williams, Chair

Documents Filed: The Transportation and Environment Committee Report dated September 17, 2007.

- (a) Report on Sewer Service & Use Charge Fund Financing Alternatives to Address Critical Infrastructure Needs

Deferred to November 2007.

- (b) Report on Sewer Use Ordinance Revisions for Pretreatment Program. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated August 31, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, directed the City Attorney to make the changes to Chapter 15.14 of the Municipal Code and forward the recommendation to the full Council for approval. See Item 7.1 For Council Action Taken.

**6.1 Report of the Transportation and Environment Committee – September 17, 2007
Council Member Williams, Chair (Cont'd.)**

- (c) Report on Responsible Fleet Management Policy. Attachment: Memorandum from Director of General Services Peter Jensen and Director of Environmental Services John Stufflebean, dated August 31, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (d) Terminal Area Improvement Program Progress Report. Attachment: Memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated August 31, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (e) Proposed Amendment to the Airport Design Build Contract for the Consolidated Rental Garage (ConRAC) and Other Adjustments. Attachment: Memorandum from Director of Public Works Katy Allen, Director of Aviation William Sherry and Budget Director Larry Lisenbee, dated August 31, 2007, recommending acceptance of the report.

The Committee accepted the Staff report and to forward to the full Council for approval. See Item 6.2 For Council Action Taken.

- (f) Report on Greenhouse Gas Reduction Goals Community Discussions

Dropped.

- (g) BART/VTA Coordination Issues Progress Report. Attachment: Memorandum from Director of Transportation James Helmer, dated September 4, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (h) Report on Tree Preservation Services Recommendations. Attachment: Memorandum from Deputy City Manager Ed Shikada, Director of Transportation James Helmer and Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 10, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

**6.1 Report of the Transportation and Environment Committee – September 17, 2007
Council Member Williams, Chair (Cont'd.)**

- (i) Recycled Water and City of San José/Santa Clara County Water District Collaboration and Funding for Infrastructure. Attachments: Memoranda from Director of Environmental Services John Stufflebean, both dated August 31, 2007, recommending acceptance of the reports.
 - (1) Status Report on South Bay Water Recycling
 - (2) Development of a Long-Term Cooperative Agreement with the Santa Clara Valley Water District for the South Bay Water Recycling Program.
 - (3) Negotiate and execute Reimbursement Agreement for Development and Utilization of Recycled Water between the Santa Clara Valley Water District and the City of San José.

The Committee accepted the Staff reports and to forward to the full Council for consideration. See Item 7.3 For Council Action Taken.

- (j) Report on Trail Development and Grant Priorities. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated August 28, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (k) Quarterly Update on Performance Measurements - Deferred to November 2007.
- (l) Quarterly Update on Council Directives - Deferred to November 2007.
- (m) Oral Petitions - None were presented.
- (n) Adjournment - The meeting was adjourned at 12:05 p.m.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Cortese and carried unanimously, the Transportation and Environmental Committee Report and the actions of September 17, 2007 were accepted. (11-0.)

- 6.2 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a First Amendment to the Contract with Hensel Phelps Construction Co. for design and construction of the Airport Terminal Area Improvement Program to increase maximum compensation by \$105,274,000 for the design and construction of a larger Consolidated Rental Car Garage, increasing maximum compensation from \$512,771,000 to a total Contract amount not to exceed \$618,045,000; to extend the Project Element Acceptance deadline for the Consolidated Rental Car Garage up to 18 months; to redistribute the fixed fee payable under the Contract to Hensel Phelps to account for revisions to the scope of project elements subsequent to approval of the Contract, and to provide for the reallocation of unexpended compensation between project elements.**

- 6.2 (b) Adoption of a resolution authorizing the City Manager to negotiate and execute new On-Airport Rental Car Operations and Lease Agreements with the current On-Airport Rental Car Companies, Avis, Budget, Dollar, Enterprise, Fox, Hertz, Thrifty, and Vanguard, for On-Airport Rental Car operations at the Consolidated Rental Car Garage for a maximum term of ten (10) years from commencement of On-Airport Rental Car operations at the Consolidated Rental Car Garage, and a 15 year renewal period, subject to mutual agreement of the City and the rental car companies;
- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute new On-Airport Rental Car Operations and Lease Agreements with companies not currently operating at the Airport, but commencing operations at the Airport at any time during or after the negotiation and execution of the new On-Airport Rental Car Operations and Lease Agreements, for On-Airport Rental Car operations at the Consolidated Rental Car Garage for the then remaining portion of the term of ten (10) years from commencement of On-Airport Rental Car operations at the Consolidated Rental Car Garage, and a 15 year renewal period, subject to mutual agreement of the City and the rental car companies.
- (d) Adoption of a resolution imposing a customer facilities and transportation fee (CFC) of \$10.00 per rental car contract effective January 1, 2008, for customers renting vehicles from On-Airport Rental Car Companies, for the purpose of paying the costs of the financing, design, construction and operation of the new Consolidated Rental Car Garage and the costs of an Airport-mandated common use transportation system operated for the movement of passengers between the terminals and the existing rental car center, and repealing Resolution No. 69512, effective January 1, 2008.
- (e) Adoption of a resolution imposing a customer facilities and transportation fee (CFC) of \$5.00 per rental car contract for rental car customers renting vehicles from off-Airport rental car companies at the Norman Y. Mineta San José International Airport effective January 1, 2008 until the opening of the Consolidated Rental Car Garage, for the purpose of paying the costs of an Airport-mandated common use transportation system operated for the movement of passengers between the terminals and the existing rental car center.
- (f) Adoption of the following Appropriation Ordinance Amendments in the Airport Revenue Bond Improvement Fund:
- (1) Increase the Consolidated Rental Car Facility appropriation by \$109,000,000;
 - (2) Increase the Public Parking Garage appropriation by \$2,442,000;
 - (3) Decrease the Terminal Area Development, Phase I appropriation by \$2,442,000;
 - (4) Decrease the Ending Fund Balance by \$109,000,000.

CEQA: Resolution Nos. 67380 and 71451, PP 06-137. (Airport/City Manager's Office/ Public Works)

[Transportation and Environment Committee referral 9/17/07 – Item (e)]

6.2 (Cont'd.)

Documents Filed: (1) Replacement memorandum from Agenda Services Manager Nadine Nader, dated September 20, 2007, transmitting the recommendation of the Transportation and Environment Committee. (2) Supplemental memorandum from Director of Human Resources Mark Danaj, dated September 26, 2007, providing additional information related to the proposed contract with Hensel Phelps and the Owner Controlled Insurance Program.

Director of Aviation William Sherry and Director of Public Works Katy Allen provided the Staff Report.

Public Comments: Lorraine Tallarico, Avis Budget Rent a Car, expressed support for the Staff recommendations. William Garbett objected to the Staff recommendations. Robert Apgar voiced concern about the costs.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, [Resolution No. 74036](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Contract with Hensel Phelps Construction Company for the Design and Construction of the Terminal Area Improvement Program, Increasing Maximum Compensation by \$105,274,000 for the Design and Construction of a Larger Consolidated Rental Car Garage to a Total Contract Amount Not To Exceed \$618,045,000”; [Resolution No. 74037](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute New On Airport Rental Car Operations and Lease Agreements with the Current On Airport Rental Car Companies for a Maximum Term of Ten Years from Commencement of On Airport Rental Car Operations at the Consolidated Rental Car Garage and a Fifteen Year Renewal Period, Subject to Mutual Agreement of the City and the Rental Car Companies; [Resolution No. 74038](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute New On Airport Rental Car Operations and Lease Agreements with Companies Not Currently Operating at the Airport”; [Resolution No. 74039](#), entitled: “A Resolution of the Council of the City of San José Imposing a Customer Facilities and Transportation Fee of \$10.00 per Rental Car Contract Effective January 1, 2008 for Customers Renting Vehicles from On Airport Car Rental Agencies and Repealing Resolution No. 69512 Effective January 1, 2008”; [Resolution No. 74040](#), entitled: “A Resolution of the Council of the City of San José Imposing a Customer Transportation Fee of \$5.00 per Rental Car Contracts for Rental Car Customers Renting Vehicles from Off Airport Car Rental Agencies Effective January 1, 2008” and Ordinance No. 28142 were adopted. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Approval of the status report on the industrial local discharge limits review and sewer use ordinance update.**
- (b) **Direction to the City Attorney's Office to prepare an ordinance amending Chapter 15.14 of the San José Municipal Code to modify the local discharge limits for copper, nickel, selenium, and total phenol; to eliminate limits for manganese, total toxic organics and xylene; to conform Municipal Code requirements to federal pretreatment program regulations; to add new definitions; to expand reporting, record keeping, and sampling requirements; and to require industrial pretreatment permit applications 90 days prior to discharge or expiration of existing permit.**

CEQA: Not a Project. (Environmental Services)

[Transportation and Environment Committee referral 9/17/07 – Item (b)]

Documents Filed: Replacement memorandum from Agenda Services Manager Nadine Nader, dated September 25, 2007, transmitting the recommendation of the Transportation and Environment Committee.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the report was accepted and the City Attorney was directed to prepare an ordinance amending Chapter 15.14 of the San José Municipal Code. (10-0-1. Absent: Chirco.)

- 7.2 (a) **Approval of consultant master agreements with the following firms for various City projects:**
- (1) **David J. Powers & Associates, Inc. for a variety of environmental support services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.**
 - (2) **Denise Duffy & Associates, Inc. for a variety of environmental support services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.**
 - (3) **URS Corporation Americas for a variety of environmental support services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.**
- (b) **Adoption of a resolution giving the Director of Public Works authorization to amend the scope of services for any of the above master agreements to add additional standard services.**

CEQA: Not a Project. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated September 10, 2007, recommending approval of the three consultant master agreements and adoption of a resolution.

7.2 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, Resolution No. 74041, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Amend the Scope of Services for Master Consultant Agreements for Environmental Support Services for Various City Projects with David J. Powers & Associates, Inc., Denise Duffy & Associates, Inc., and URS Corporation Americas", was adopted. 10-0-1. Absent: Chirco.)

- 7.3 (a) **Adoption of the following principles as the basis for developing a long-term cooperative agreement on the South Bay Water Recycling program with the Santa Clara Valley Water District:**
- (1) **Principle 1: The Agreement should reflect the mutual interest of the City and the District in expanding the use of recycled water.**
 - (2) **Principle 2: The Recycled Water Cooperative Agreement should support and enhance each agency's ability to carry out its mission.**
 - (3) **Principle 3: In order to fully integrate recycled water into the countywide water supply portfolio, the Agreement should establish a framework for both agencies to meet regularly to discuss and participate in planning for development of new recycled water treatment and major distribution facilities and the future allocation and use of recycled water.**
 - (4) **Principle 4: The Agreement should provide for equal cost sharing by both agencies in the cost of operating and maintaining the South Bay Water Recycling Program.**
 - (5) **Principle 5: Cost sharing on future capital expansion will be negotiated on a project by project basis.**
 - (6) **Principle 6: The Agreement should reflect the City and District interest in a long-term, stable, cooperative relationship.**
 - (7) **Principle 7: The preferred location for environmental review and engineering design of an advanced water treatment facility should be Treatment Plant lands located near the South Bay Water Recycling Transmission Pumping, and the review and design should be for an advanced water treatment facility that is sized to provide treatment sufficient to meet future water quality goals and to support flexible operation of treatment plant processes.**
- (b) **Direction to staff to negotiate a draft Recycled Water Cooperative Agreement based on the principles set forth herewith and agendize for approval by Council.**

Action: Dropped per Administration.

- 7.3 (c) **Adoption of a resolution authorizing the City Manager to negotiate and execute a new “South Bay Water Recycling Reimbursement Agreement for Development and Utilization of Recycled Water Between the Santa Clara Valley Water District and the City of San José”, under which the District pays the City \$115 per acre foot of recycled water used, for a term of July 1, 2007 through July 15 2008 or until the Recycled Water Cooperative Agreement is approved by Council and the Board, whichever comes first.**

CEQA: Not a Project. (Environmental Services)

[Transportation and Environment Committee referral 9/17/07 – Item (i)]

Documents Filed: (1) Memorandum from Agenda Services Manager Nadine Nader, dated September 25, 2007, transmitting the recommendation of the Transportation and Environmental Committee. (2) Supplemental memorandum from Director of Environmental Services John Stufflebean, dated September 27, 2007, recommending deferral of items 1 and 2.

Director of Environmental Services John Stufflebean presented the Staff Report.

Public Comments: William Garbett objected to the Staff recommendations.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 74042](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Santa Clara Water District for the Payment to the City of \$115 per Acre Foot of Recycled Water Used Within Areas Served by the South Bay Water Recycling System, for a Term of July 1, 2007 through July 15, 2008, or Until Superseded by a Long Term Agreement Approved by the Parties on Operation and Expansion of the South Bay Water Recycling System Whichever Comes First”, was adopted. 10-0-1. Absent: Chirco.)

PUBLIC SAFETY SERVICES

- 8.1 **Administrative Hearing on the request of D.L. Falk Construction Company, the general contractor on the new Fire Station Nos. 12 and 17, to substitute Value Engineering for Wright Environmental Services, Inc., the listed subcontractor for the above ground fuel storage tank system work and staff's recommendation to grant the request by D.L. Falk Construction Company. CEQA: Mitigated Negative Declaration, File No. PP05-071 and Exempt, File No. PP05-275. Council Districts 9 and 10. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated September 10, 2007, recommending an administrative hearing.

Action: Dropped per Orders of the Day.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:14 p.m. to consider Items 9.1 and 9.2 in a Joint Session.

**9.1 Acceptance of the attached Report on Investment in the Strong Neighborhoods Initiative Area by Seifel Consulting. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)
[Neighborhood Services and Education Committee referral 9/13/07 – Item (e)]**

Documents Filed: Memorandum from Agenda Services Manager Nadine Nader, dated September 20, 2007, transmitting the recommendation of the Neighborhood Services and Education Committee.

Richard Keith, Seifel Consulting, and Strong Neighborhoods Manager Laura Lam presented the report.

A short discussion followed.

Council Member Williams requested a breakdown of tax increments dollars contributions and the period of time of the various individual SNI neighborhood groups in order to give a view of how long they have been there and how much they have contributed.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Report on Investment in the Strong Neighborhoods Initiative Area by Seifel Consulting was accepted, with Staff requested to provide a breakdown of tax increment dollar contributions, including time periods of contributions made by various individual Strong Neighborhoods Initiative area groups. (11-0.)

**9.2 Approval of the "Small Wonders" work plan to enhance the public realm and pedestrian experience downtown, and advance the 1st ACT Vision consistent with the Downtown 2000 Strategy Plan and Economic Development Strategy. CEQA: Not a Project. Council District 3. (Economic Development/Redevelopment Agency)
[Community and Economic Development Committee referral 8/27/07 – Item (c)]**

Documents Filed: Memorandum from Agenda Services Manager Nadine Nader, dated September 14, 2007, transmitting the recommendations of the Community and Economic Development Committee.

Chief Development Officer Paul Krutko and 1stACT Managing Director, Connie Martinez, presented the Small Wonders Work Plan and responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, the Small Wonders Work Plan was approved. (10-0-1. Absent: Chu.)

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9908	W/S of S 10 th St, 550’ N of Burke St	7	Provident Holdings & Investments LLC	1 Lot/ 12 Units	Industrial Condos	Approve

OPEN FORUM

- (1) Mark Trout expressed religious points of view.
- (2) Robert Apgar shared personal observations.
- (3) Stephen Hazel presented personal viewpoints.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 5:01 p.m.

RECESS/RECONVENE

The City Council recessed at 5:01 p.m. from the afternoon Council Session and reconvened at 7:00 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

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

STRATEGIC SUPPORT SERVICES

- 3.4 (a) **Public Hearing regarding a proposal to amend Maintenance District 18 to increase assessments to replace aging facilities and expand services, and at the close of the public hearing direct the City Clerk to tabulate the property owner ballots and report the results of the election.**
- (b) **If the majority of the votes tabulated are weighted in favor of the amendment, adoption of a resolution:**
- (1) **Declaring the ballot tabulation results;**
 - (2) **Approving the Engineer's Report, base assessment and annual adjustments and amending Maintenance District 18; and**
 - (3) **Imposing the assessments on those properties within the district as proposed in the Engineer's Report.**
- (c) **If the majority of the votes are weighted in opposition to the amendment, the Council may not take any further action with regard to the imposition of increases in assessments.**

CEQA: Exempt, File No. PP07-020. Council District 8. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated September 10, 2007, recommending holding a public hearing and adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 17, 2007, submitted by the City Clerk.

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

City Clerk Lee Price provided the results of the tabulation of the property owner ballots for Maintenance District 18: Property owners with votes totaling \$21,062.00 which represent 75.6% of the ballots cast, support the amendment of Maintenance District 18, including the increase in annual assessments; Property owners with votes totaling \$6,804.48 which represent 24.4% of ballots cast, oppose the amendment of Maintenance District 18, including the increase in annual assessments. City Clerk Lee Price stated that the City Council may proceed to vote on the imposition of the amendment.

3.4 (Cont'd.)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, Resolution No. 74043, entitled: "A Resolution of the Council of the City of San José Adopting the Engineer's Report for a Change to Maintenance District 18 (The Meadowlands) and Setting the Assessment as Detailed Therein", was adopted. (11-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) **Consideration of an ordinance rezoning the real property located on the north side of Bark Lane approximately 150 feet west of Weyburn Lane (7201 Bark Lane) from RM Multiple Residence Zoning District Multiple Residence Zoning District Residential District to A(PD) Residential District to demolish the existing residential project and to allow 45 attached single family units (four stories over a podium garage) on a 0.90 gross acre site (Lee Lily Fu and Jason C, Owner). CEQA: Mitigated Negative Declaration. PDC06-005 - District 1**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 31, 2007, submitted by the City Clerk.

Action: Dropped to be renoticed.

OPEN FORUM

- (1) Stephen Hazel voiced personal points of view.
- (2) Berardo Retamoso complained about a property citation he received. The City Manager referred his situation to Planning, Building and Code Enforcement.

ADJOURNMENT

The Council of the City of San José adjourned at 7:24 p.m. in memory of Al Barber, a founding member of the San José Downtown Association and strong advocate for small businesses in the community.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/10-2-07MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/clerk/agenda.asp> or <http://www.sanjoseca.gov/clerk/MeetingArchive.asp>

JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 5:03 p.m. to consider Items 8.1, 8.2 and 8.3 in a Joint Session.

- 8.1 Adoption of resolutions by the City Council and Agency Board pertaining to the Agency's annual budgets and public improvements as follows:**
- (a) Adoption of resolutions by the Redevelopment Agency Board:**
 - (1) Amending the FY 2007-2008 Capital Budget; and,**
 - (2) Adopting the FY 2008-2012 Capital Improvement Program; and,**
 - (3) Amending the FY 2007-08 Appropriations Resolution and Revenue Resolution to reflect various modifications to the FY 2007-08 Revenue, Capital Budget.**
 - (b) Adoption of a resolution by the City Council making certain determinations regarding the expenditure of Agency funds on public improvements in the FY 2007-08 Capital Budget.**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated September 20, 2007, recommending adoption of resolutions.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, Redevelopment Agency Resolution No. 5788, 5789, 5790 and Resolution No. 74044, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds on Public Improvements Specified in the Agency's FY 2007-2008 Capital Budget", was adopted. (11-0.)

- 8.2 (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Agency funding of improvements for public and service access and parking for the Guadalupe River Park.**
- (b) Adoption of a resolution by the Redevelopment Agency Board approving the award of a construction contract to Joseph J. Albanese Inc., the low bidder, in the amount of \$789,963; and authorizing a construction contingency in the amount of \$118,494, for construction of a parking lot for the GRP with access from Santa Clara and St. John Streets.**

CEQA: To be determined. [MERGED]

Action: Deferred to October 16, 2007.

- 8.3 (a) Adoption of a resolution by the Redevelopment Agency Board approving the First Amendment to the Disposition and Development Agreement (Amendment) with City Front Square, LLC and Casa Del Pueblo, LP. (Collectively "Developer") and authorizing the Executive Director to execute ancillary documents as contemplated by the Amendment.**

- 8.3 (b) **Adoption of a resolution by the City Council accepting the summary of costs and findings of the Summary 33433 Report pursuant to the California Health and Safety Code Section 33433 for the sale and development of Block 8, located at 281 South First Street under the terms and conditions of the First Amendment to the Disposition and Development Agreement.**
- (c) **Rescission by the City Council of the current executed Public Art Agreement between the Developer and the City of San Jose and authorizing the payment of Public Art fees directly to the Office of Cultural Affairs by the Developer per the terms of the Amendment.**

CEQA: San Jose Downtown Strategy 2000 EIR, Resolution 72767. [SAN ANTONIO PLAZA]

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated September 20, 2007, recommending adoption of resolutions and rescission of current Public Art Agreement.

Deputy Executive Director Redevelopment Agency John Weis responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, Redevelopment Agency Resolution No. 5791 and Resolution No. 74045, entitled: "A Resolution of the Council of the City of San José Accepting Summary of Costs and Findings of the 33433 Report Pursuant to the California Health and Safety Code Section 33433 for the Sale and Development of Block 8, Located at 281 South First Street, Under the Terms and Conditions of the First Amendment to the Disposition and Development Agreement with City Front Square, LLC and Casa Del Pueblo, LP", were adopted; and the recession of the current executed Public Art Agreement between the Developer and the City of San Jose was approved and payment was authorized. (11-0.)

The Council of the City of San José and Redevelopment Agency Board adjourned at 5:06 p.m.