

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, OCTOBER 16, 2007**

The Council of the City of San José convened in regular session at 9:00 a.m. in the City Hall Wing, Conference Room W133, at City Hall.

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

Absent: Council Members - Nguyen. (Excused)

Upon motion unanimously adopted, Council recessed at 9:01 a.m. to a Closed Session in Room W133, (A) Public Employee Performance Evaluation Pursuant to Government Code Section 54957: Title: Independent Police Auditor; Name: Barbara Attard. (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors.

By unanimous consent, Council recessed from the Closed Session at 10:50 a.m. and reconvened at 1:33 p.m. in the Council Chambers

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

Absent: Council Members - Nguyen. (Excused)

### INVOCATION

Mayra Tapia, Girls for a Change presented the Invocation. (District 9)

### PLEDGE OF ALLEGIANCE

Mayor Reed and Cub Scout Troop 328 led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved, Item 1.6 was deferred to November 6, 2007, Items 3.1 and 3.2 were deferred to October 23, 2007, Item 6.3 was deferred to November 6, 2007 in the evening, Items 7.1 and Joint/RDA Item 8.2 were deferred to October 30, 2007. (10-0-1. Absent: Nguyen.)

## CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Fiscal MIS Team (Work2future) for its exemplary dedication and valuable contributions to the City organization. (City Manager's Office/ Mayor)**  
(Deferred from 9/25/07 – Item 1.2)

Action: Mayor Reed and City Manager Debra Figone recognized and commended the Fiscal MIS Team for its outstanding dedication and important contributions to the City of San José.

- 1.3 Presentation of a commendation to Connie L. Lurie for her community work and dedication to San José State University. (Liccardo)**

Action: Mayor Reed and Council Member Liccardo recognized and commended Ms. Connie L. Lurie for her community work and dedication to San José State University.

- 1.4 Presentation of a commendation to the San José Giants organization for winning the California League Championship and for their continued commitment to the community. (Mayor/Cortese)**

Action: Deferred to October 30, 2007 per the Rules and Open Government Committee.

- 1.5 Presentation of a commendation to the Fairmont Hotel for 20 years of extraordinary service to the City of San José. (Mayor/Cortese/Liccardo)**

Action: Deferred to October 30, 2007 per the Rules and Open Government Committee.

- 1.6 Presentation of a commendation to Liliana Vera for her tireless dedication to the Tully/Senter community and for truly embodying the idea of community spirit. (Nguyen)**

Action: Deferred to October 30, 2007 per the Rules and Open Government Committee.

- 1.7 Presentation of a proclamation celebrating Entrepreneur & Small Business Week throughout the City of San José. (Pyle)**

Action: Mayor Reed and Council Member Pyle recognized “Entrepreneur & Small Business Week” in the City of San José.

**1.8 Presentation of a commendation to Gerald Greenleaf for his exemplary dedication and valuable contributions to the City organization. (Redevelopment Agency/Mayor)**

Action: Mayor Reed and Redevelopment Agency Executive Director Harry Mavrogenes recognized and commended Mr. Gerald Greenleaf for his outstanding dedication and important contributions to the City of San José.

**1.9 Presentation of a proclamation recognizing the week of October 15-21, 2007 as National Save for Retirement Week. (Human Resources)**

Action: Mayor Reed recognized the week of October 15 through October 21, 2007 as “National Save for Retirement Week”.

**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. (9-0-2. Absent: Campos, Nguyen.)

**2.2 (a) ORD. NO. 28125 – Rezoning certain real property situated at the southeast corner of East St. John Street and North 17<sup>th</sup> Street (838 East St. John Street) to R-1-8 Single-Family Residence. C07-045**

Documents Filed: Proof of Publication of the title of Ordinance No. 28125 executed on October 2, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28125](#) was adopted. (9-0-2. Absent: Campos, Nguyen.)

**(b) ORD. NO. 28126 – Rezoning certain real property situated northwest corner of Airport Parkway (on East Brokaw Road) and North First Street (2102 North First Street) from LI-Light Industrial Zoning District to CG-Commercial General Zoning District. C07-039**

Documents Filed: Proof of Publication of the title of Ordinance No. 28126 executed on October 2, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28126](#) was adopted. (9-0-2. Absent: Campos, Nguyen.)

**(c) ORD. NO. 28127 – Rezoning certain real property situated at the southeast corner of McKee Road and La Pala Drive (3754 McKee Road) to A(PD) Planned Development Zoning District. PDC06-060**

Documents Filed: Proof of Publication of the title of Ordinance No. 28127 executed on October 2, 2007, submitted by the City Clerk.

2.2 (c) (Cont'd.)

Vice Mayor Cortese abstained due to a conflict of interest.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, Ordinance No. 28125 was adopted. (9-0-1-1. Absent: Nguyen. Disqualified: Cortese.)

- (d) **ORD. NO. 28128 – Rezoning certain real property situated at the north side of University Avenue approximately 240 feet westerly of The Alameda (1871 The Alameda) from R-1-8 Single-Family Residence District to CO Commercial Office Zoning District. C07-032**

Documents Filed: Proof of Publication of the title of Ordinance No. 28128 executed on October 2, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28128](#) was adopted. (9-0-2. Absent: Campos, Nguyen.)

- (e) **ORD. NO. 28129 – Rezoning certain real property situated at the northwest corner of Lincoln Avenue and Pascoe Avenue (1114 Curtner Avenue) from R-2 Two-Family Residence Zoning District to CP Commercial Pedestrian Zoning District. C07-029**

Documents Filed: Proof of Publication of the title of Ordinance No. 28129 executed on October 2, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28129](#) was adopted. (9-0-2. Absent: Campos, Nguyen.)

- (f) **ORD. NO. 28130 – Rezoning certain real property situated at the southeast corner of Senter Road and Southside Drive (3060 and 3070 Senter Road) to CN – Commercial Neighborhood Zoning District. C07-059**

Documents Filed: Proof of Publication of the title of Ordinance No. 28130 executed on October 2, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28130](#) was adopted. (9-0-2. Absent: Campos, Nguyen.)

- (g) **ORD. NO. 28131 – Rezoning certain real property situated at the south side of Olga Drive approximately 200 feet easterly of Saratoga Avenue (4170 Olga Drive) to A(PD) Planned Development Zoning District. PDC06-112**

Documents Filed: Proof of Publication of the title of Ordinance No. 28131 executed on October 2, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28131](#) was adopted. (9-0-2. Absent: Campos, Nguyen.)

- 2.2 (h) **ORD. NO. 28132** – Rezoning certain real property situated at the east side of Monterey Highway, approximately 1,000 feet northerly of Skyway Drive (4280 Monterey Road) to A(PD) Planned Development Zoning District. PDC06-004

Documents Filed: Proof of Publication of the title of Ordinance No. 28132 executed on October 2, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28132](#) was adopted. (9-0-2. Absent: Campos, Nguyen.)

- (i) **ORD. NO. 28133** – Rezoning certain real property situated at the southwest corner of North First Street and Century Center Court (1733 North First Street), from CO (PD) Commercial Office Planned Development, LI Light Industrial, and CG Commercial General Zoning Districts to A(PD) Planned Development Zoning District. PDC05-114

Documents Filed: Proof of Publication of the title of Ordinance No. 28133 executed on October 2, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28133](#) was adopted. (9-0-2. Absent: Campos, Nguyen.)

- (j) **ORD. NO. 28134** – Rezoning certain real property situated at the northwest corner of Zanker Road and Tasman Drive (3811 Zanker Road) to A(PD) Planned Development Zoning District. PDC06-093

Documents Filed: Proof of Publication of the title of Ordinance No. 28134 executed on October 2, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28134](#) was adopted. (9-0-2. Absent: Campos, Nguyen.)

- (k) **ORD. NO. 28135** – Rezoning certain real property situated at the northwesterly side of Baypointe Parkway, approximately 370 feet northwesterly of Tasman Drive (163 Baypointe Parkway) to A(PD) Planned Development Zoning District. PDC06-061

Documents Filed: Proof of Publication of the title of Ordinance No. 28135 executed on October 2, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28135](#) was adopted. (9-0-2. Absent: Campos, Nguyen.)

- 2.3 **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) (Deferred from 10/02/07 – Item 2.11)**

### 2.3 (Cont'd.)

Documents Filed: Replacement memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated October 10, 2007, recommending adoption of a resolution and providing additional analysis information.

Action: [Resolution No. 74048](#), entitled: "A Resolution of the Council of the City of San José Approving an Exemption to the Airport Terminal Area Improvement Program form City Council Policy 4-3, Outdoor Lighting on Private Developments, Which Require the Use of Low Pressure Sodium Lighting in Unroofed Areas of Private Developments Throughout San José", was adopted. (9-0-2. Absent: Campos, Nguyen.)

### 2.4 **Approval of a second amendment to the concession agreement with Project Horizon Inc. dba In Motion Pictures, for DVD and DVD Player Rental/Sales Services to extend the term of the agreement from October 31, 2007 through October 31, 2009 and to provide a minimum annual revenue to the City in the amount of \$35,203. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-195. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated September 24, 2007, recommending approval of a second amendment.

Action: The second amendment to the concession agreement with Project Horizon Inc. dba In Motion Pictures, for DVD and DVD Player Rental/Sales Services to extend the term of the agreement from October 31, 2007 through October 31, 2009 and to provide a minimum annual revenue to the City in the amount of \$35,203 was approved. (9-0-2. Absent: Campos, Nguyen.)

### 2.5 **Adoption of a resolution granting conditional consent to an assignment from ACM Aviation, LLC to ACM Property Services, LLC of the following agreements:**

- (1) **FBO Lease Agreement of Parcel 9C located at 1475 Airport Boulevard.**
- (2) **Lease of Airport Premises for hangar space located at 1455 Airport Boulevard.**
- (3) **Lease of Airport Premises for employee vehicle parking located at 1455 Airport Boulevard.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP04-322. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated September 24, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74049](#), entitled: "A Resolution of the Council of the City of San José Granting Consent to an Assignment from ACM Aviation, LLC to ACM Property Services, LLC", was adopted. (9-0-2. Absent: Campos, Nguyen.)

### 2.6 **Request for excused absences for Vice Mayor Cortese.**

- (a) **Request for an excused absence from the regular meeting of the Rules and Open Government Committee of October 3, 2007 due to Authorized City Business: Participation in the ABAG Regional Planning Board Meeting at the Bort Metrocenter in Oakland, CA.**

- 2.6 (b) **Request for an excused absence from the regular meeting of the Rules and Open Government Committee of October 10, 2007 due to Authorized City Business: Participation in the annual San José/Silicon Valley Chamber of Commerce trip to Austin, TX.**

(Cortese)

(Rules Committee referral 10/3/07)

Documents Filed: Memoranda from Vice Mayor Cortese, both dated October 3, 2007, requesting absences due to authorized City business.

Action: The absences were excused. (9-0-2. Absent: Campos, Nguyen.)

- 2.7 **Report on bids and award of construction contract for the project entitled, “San José/Santa Clara Water Pollution Control Plant, FY 2007/2008 Capital Improvement Program, East Primary Influent Channel Repair Project,” to the low bidder, Anderson Pacific Engineering Construction, Inc. in the amount of \$699,000, and approval of a contingency in the amount of \$70,000. CEQA: Exempt, File No. PP07-141. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated September 24, 2007, recommending award of the construction contract to the low bidder. (2) Letter from the Treatment Plant Advisory Committee, dated October 11, 2007, stating concurrence with the Staff recommendation.

Action: The award of construction contract for the project entitled, “San José/Santa Clara Water Pollution Control Plant, FY 2007/2008 Capital Improvement Program, East Primary Influent Channel Repair Project,” to the low bidder, Anderson Pacific Engineering Construction, Inc. in the amount of \$699,000, with related contingency was approved. (9-0-2. Absent: Campos, Nguyen.)

- 2.8 **Approval of a change order to the contract with Kiewit Pacific Company for the project entitled, “San José/Santa Clara Water Pollution Control Plant Reliability Improvements Project,” for a total negotiated amount of \$339,469 and with no change to the term of contract. CEQA: Exempt, File Nos. PP 03-05-183 and PP 04-07-217. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated September 24, 2007, recommending approval of the change order. (2) Letter from the Treatment Plant Advisory Committee, dated October 11, 2007, stating concurrence with the Staff recommendation.

Action: The change order to the contract with Kiewit Pacific Company for the project entitled, “San José/Santa Clara Water Pollution Control Plant Reliability Improvements Project,” for a total negotiated amount of \$339,469 and with no change to the term of contract was approved. (9-0-2. Absent: Campos, Nguyen.)

- 2.9 Approval of a third amendment to the agreement between the City and R3 Consulting to provide solid waste consulting and rate modeling services to the Environmental Services Department, extending the term from December 31, 2007 through December 31, 2008, and increasing the compensation by \$200,000 for a total agreement amount not to exceed \$600,000. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated September 24, 2007, recommending approval of a third amendment to the agreement.

Action: The third amendment to the agreement between the City and R3 Consulting to provide solid waste consulting and rate modeling services to the Environmental Services Department, extending the term from December 31, 2007 through December 31, 2008, and increasing the compensation by \$200,000 for a total agreement amount not to exceed \$600,000 was approved. (9-0-2. Absent: Campos, Nguyen.)

- 2.10 Report on Request for Proposals for the purchase of Traffic Signal Controller Firmware and adoption of a resolution authorizing the Director of Finance to:**

- (a) Execute an agreement with Tod Eidson doing business as Fourth Dimension Traffic for the purchase of transit signal priority firmware for standard, bus and light rail signal synchronization, including site licenses, related professional services, five years of warranty/maintenance, for a total amount not to exceed \$744,813 including sales tax; and**
- (b) Execute change orders not to exceed a 10% contingency in the amount of \$74,500 to cover supplemental services and any unanticipated changes or requirements.**

**CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated September 24, 2007, recommending adoption of a resolution.

Mayor Reed pulled Item 2.10 for clarification. Director of Transportation James Helmer responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74050](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Amendment with Tod Eidson Doing Business as Fourth Dimension Traffic for Traffic Signal Controller Firmware”, was adopted, with Staff requested to circulate an information memorandum providing the list of citywide priority corridors. (10-0-1. Absent: Nguyen.)

**2.11 Report on Request for Proposal for Multi-Function Copiers and adoption of a resolution authorizing the Director of Finance to:**

- (a) **Execute an equipment rental agreement with Ricoh Business Solutions, a division of Ricoh Americas Corporation, for copiers/multi-function devices including installation, maintenance, and consumables, and applicable sales taxes, for a three-year initial term, subject to annual appropriations, with a first year maximum compensation of \$837,061 including \$200,000 contingency for the renting of additional equipment, as required.**
- (b) **Exercise three one-year options to renew the agreement subject to annual appropriations.**

**CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated September 24, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74051](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Equipment Rental Agreement with Ricoh Americas Corporation, for Copiers/Multi Function Devices", was adopted. (9-0-2. Absent: Campos, Nguyen.)

**2.12 Report on bids for Library Books and Audio Visual Materials, including pre-processing and cataloging services, and authorize the Director of Finance to:**

- (a) **Execute a one-year open purchase order with:**
  - (1) **Baker and Taylor as the low bidder in the amount of \$1,335,000 to be used as the primary supplier of hardcover books and mass market paperbacks.**
  - (2) **Brodart Company as the second low bidder in the amount of \$200,000 to be used as the secondary supplier of hardcover books.**
  - (3) **Milligan News as the second low bidder in the amount of \$50,000 to be used as the secondary supplier for mass market paperbacks.**
- (b) **Adjust amounts of purchase orders among the three vendors to ensure adequate supplies within the first year for a cumulative total not to exceed \$1,585,000.**
- (c) **Execute two one-year options to renew each of the purchase orders at the same discount pricing, subject to annual appropriations.**

**CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated September 24, 2007, recommending authorization to the Finance Director as stated above.

Action: The Staff recommendations as stated above were approved. (9-0-2. Absent: Campos, Nguyen.)

**2.13 Adoption of a resolution:**

- (a) Approving the expansion of the San José State University (SJSU) Faculty Homebuyer Program to all permanent, full-time faculty and staff.**
- (b) Authorizing the Director of Housing to execute all necessary documents with SJSU, or its affiliate, related to the expansion of the Faculty Homebuyer Program.**

**CEQA: Not a Project. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated September 24, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74052](#), entitled: “A Resolution of the Council of the City of San José (1) Approving the Expansion of San José State University (SJSU) Faculty Homebuyer Program to all Permanent, Full Time Faculty and Staff, and (2) Authorizing the Director of Housing to Execute all Necessary Documents with SJSU, or Its Affiliate, Related to the Expansion of the Facility Homebuyer Program”, was adopted. (9-0-2. Absent: Campos, Nguyen.)

**2.14 Request for an excused absence for Council Member Liccardo from the Closed Session Meeting on October 2, 2007 due to Illness. (Liccardo)  
(Rules Committee referral 10/3/07)**

Documents Filed: Memorandum from Council Member Liccardo, dated October 2, 2007, requesting an absence due to an illness.

Action: The absence was excused. (9-0-2. Absent: Campos, Nguyen.)

**2.15 Request for an excused absence for Council Member Nguyen from the regular meeting of the Neighborhood Services and Education Committee on October 11, 2007 due to Illness. (Nguyen)  
(Rules Committee referral 10/3/07)**

Documents Filed: Memorandum from Council Member Council Member Nguyen, dated October 11, 2007, requesting an absence due to an illness.

Action: The absence was excused. (9-0-2. Absent: Campos, Nguyen.)

**2.16 Adoption of a resolution:**

- (a) Authorizing the City Manager to submit an application for grant funds up to \$700,000 from the State of California Resources Agency under the California River Parkway Grant Program to be used for the Guadalupe River Trail Reach 6 project.**
- (b) Authorizing the City Manager to accept any grant funds and to negotiate and execute all documents related to the grant funding agreements.**

**CEQA: Mitigated Negative Declaration, File No. PP04-03-102. Council District 3. SNI: Washington/Greater Gardner. (Parks, Recreation and Neighborhood Services)**

## 2.16 (Cont'd.)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated September 24, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74053](#), entitled: "A Resolution of the Council of the City of San José Approving the Application for Grant Funds for the California River Parkways Grant Program under the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 to be used for the Guadalupe River Trail Reach 6 Project (Proposition 50)", was adopted. (9-0-2. Absent: Campos, Nguyen.)

## 2.17 Adoption of a resolution:

- (a) **To initiate proceedings to consider the residential buildings located at 201 S. 13<sup>th</sup> Street, 295 Sequoia Avenue, 523 S. 6<sup>th</sup> Street and 470 S. 3<sup>rd</sup> Street, as landmarks of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.**
- (b) **To refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.**
- (c) **To set a public hearing on Tuesday, December 4, 2007, at 1:30 p.m. for Council consideration of City Landmark designation of the structures noted above.**

**CEQA: Exempt, File No. HL07-163, HL07-164, HL07-165 and HL07-166. Council Districts 3 and 6. SNI: University. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 21, 2007, recommending adoption of a resolution. (2) Affidavit of Routing executed on October 31, 2007, and distributed by the City Clerk.

Action: [Resolution No. 74054](#), entitled: "A Resolution of the Council of the City of San José Initiating Proceedings on Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, To Designate the Miller-Hubbard House, the Samuel and Lila Martin House, the Arthur and Sarah Field House and the Mojmir Apartments as City Landmarks of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature", was adopted. (9-0-2. Absent: Campos, Nguyen.)

## 2.18 Approval of a first amendment to the agreement with Central Coast Wilds extending the term of the agreement for the environmental monitoring program for the Story Rd. Mitigation Site Nos. 1 & 2, from December 31, 2007 through December 31, 2009 and increasing the amount of maximum fee compensation by \$127,000, for a total agreement amount of \$281,000. CEQA: Mitigated Negative Declaration, File Nos. PP96-123, PP97-150 and PP97-156. Council District 7. SNI: Spartan/Keyes. (Public Works)

**2.18 (Cont'd.)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated September 24, 2007, recommending approval of a first amendment.

Action: The first amendment to the agreement with Central Coast Wilds extending the term of the agreement for the environmental monitoring program for the Story Rd. Mitigation Site Nos. 1 & 2, from December 31, 2007 through December 31, 2009 and increasing the amount of maximum fee compensation by \$127,000, for a total agreement amount of \$281,000 was approved. (9-0-2. Absent: Cortese, Nguyen.)

- 2.19 (a) Approval of the report on the revised Fiscal Year 2006/07 - 2011/12 Rule 20A Utility Undergrounding Workplan.**
- (b) Acceptance of the report on the benchmarking study on the utility undergrounding program in seven major cities around the Bay Area.**
- (c) Direction to staff to submit, for the City Manager's consideration for inclusion in the 2008-2009 Proposed Budget, a proposal to fund the staffing needed to implement the 3-year workplan.**

**CEQA: Not a Project. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated September 24, 2007, recommending approval of the reports and direction to Staff. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated October 11, 2007, correcting an error in the original memorandum, the proposal is for the 2008-2009 Proposed Budget in lieu of the 2007-08 Proposed budget.

Council Member Liccardo pulled Item 2.19 for clarification.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Nguyen and carried unanimously, the report on the revised Fiscal Year 2006/07 - 2011/12 Rule 20A Utility Undergrounding Work Plan and the report on the benchmarking study on the utility undergrounding program in seven major cities around the Bay Area were accepted and staff was directed to submit, for the City Manager's consideration for inclusion in the 2008-2009 Proposed Budget, a proposal to fund the staffing needed to implement the 3-year work plan. (9-0-2. Absent: Campos, Nguyen.)

- 2.20 Adoption of a resolution authorizing the City Manager to negotiate and execute a Supplemental Agreement with Caltrans to increase and reconcile local matching street resurfacing grant funds in an amount not to exceed \$1,091,590 for a total amount of \$2,302,590 for Surface Transportation Program grant funding. CEQA: Not a Project. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated October 3, 2007, recommending adoption of a resolution.

**2.20 (Cont'd.)**

Action: [Resolution No. 74055](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Supplemental Agreement with Caltrans Relating to Surface Transportation Grant Funding, Which Will Increase and Reconcile Local Matching Street Refsurfacing Grant Funds by \$1,091,590, for a Total Amount of \$2,302,590 in Local Matching Funds", was adopted. (9-0-2. Absent: Campos, Nguyen.)

**2.21 Approval of the Development Plan and Schedule for a Sewer System Management Plan that is required by State Water Resources Control Board Order No. 2006-0003 - Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (Order). CEQA: Not a Project. (Transportation/Public Works/Environmental Services)**

Documents Filed: Memorandum from Director of Transportation James Helmer, Director of Public Works Katy Allen and Director of Environmental Services John Stufflebean, dated September 24, 2007, recommending approval of the development plan and schedule.

Action: The Development Plan and Schedule for a Sewer System Management Plan that is required by State Water Resources Control Board Order No. 2006-0003 - Statewide General Waste Discharge Requirements for Sanitary Sewer Systems were approved. (9-0-2. Absent: Campos, Nguyen.)

**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 23, 2007 per Orders of the Day.

**3.2 Report of the Rules and Open Government Committee – September 19, 2007  
Mayor Reed, Chair**

Action: Deferred to October 23, 2007 per Orders of the Day.

- 3.4 (a) Acceptance of the 2006-2007 City Manager’s Annual Report of the Finances of the City of San José in compliance with City Charter Section 701 (F).**  
**(b) Adoption of Appropriation Ordinance and Funding Sources Resolution amendments in various operating and capital funds to implement the 2006-2007 Annual Report recommendations, including appropriate technical adjustments, as detailed in Section III (Appropriation/Clean-Up Adjustment Actions).**

- 3.4 (c) **Adoption of a resolution to amend the 2007-2008 Schedule of Fees and Charges to standardize the photocopying fee at \$0.20 per page for standard copies (8 1/2"x11" and 11"x17") for each department within the City of San José. This does not apply to fees set by State or federal law or specialized services, such as blueprints and optical imaging reproduction.**
- (d) **Approval of the addition of 1.5 positions in the Parks, Recreation and Neighborhood Services Department to support grant-funded augmentations to the Senior Nutrition Program, including a 0.5 Food Services Coordinator position and two 0.5 Cook positions.**

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

Documents Filed: (1) Memorandum from Mayor Reed, dated October 12, 2007, recommending approval of the annual report with amendments to the General Fund. (2) Supplemental memorandum from Budget Director Larry Lisenbee, dated October 1, 2007, transmitting the 200-2007 Annual Report dated September 2007 and recommending appropriation actions related to the actions approved by the Council on September 25, 2007 regarding the rebuild of Fire Station 2; and adoption of appropriation ordinance and funding sources resolution amendments.

Budget Director Larry Lisenbee presented the 2006-2007 City Manager's Annual Report and responded to Council questions.

Mayor Reed summarized General Fund amendments outlined in his memorandum dated October 12, 2007.

Action: Council Member Pyle moved approval of the memorandum from Mayor Reed. Seconded by Council Member Liccardo and carried unanimously the 2006-2007 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter Section 701 (F) Report was accepted, as amended: In the General Fund eliminate \$870,000 of the \$1,045,000 City Hall Build-Out Earmarked Reserve as recommended to be established in the Annual Report. This \$870,000 should be split per the City Council Ending Fund Balance Budget Policy: 50% to the 2008-2009 Future Deficit Earmarked Reserve and 50% to the street maintenance and repair appropriation. The remaining \$175,000 should still be allocated for the employee garage project as recommended by the City Manager; [Ordinance No. 28143](#); [Resolution No. 74046](#) and [Resolution No. 74047](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72737 as Previously Amended by Resolutions Nos. 73242 and 73831 to Standardize Fees for Photocopying", were adopted; and the addition of 1.5 positions in the Parks, Recreation and Neighborhood Services Department to support grant-funded augmentations to the Senior Nutrition Program, including a 0.5 Food Services Coordinator position and two 0.5 Cook positions were approved. (10-0-1. Absent: Nguyen.)

**3.5 Adoption of a resolution approving the Council Expenditure and Reimbursement Policy. CEQA: Not a Project. (City Clerk/City Attorney)**

Documents Filed: Memorandum from City Attorney Richard Doyle and City Clerk Lee Price, dated October 4, 2007, recommending adoption of a resolution.

City Clerk Lee Price and Chief Deputy Counsel Patricia Deignan provided an overview of the revised Council Expenditure and Reimbursement Policy.

Motion: Council Member Liccardo moved approved of the Staff recommendations including: (1) Revise the policy to clarify “mini-grants” are those in the amount of \$500 or less and that grants greater than \$500 require a written grant agreement. (2) Modify the “mini-grant” form to ensure consistency, make additional modifications to streamline the form and submit the amended form to the Rules and Open Government Committee for final approval. Council Member Constant seconded the motion.

Council Member Constant requested to amend the motion to revise the policy to allow for placement of ads in event programs. Council Member Liccardo accepted the amendment.

Extensive Council discussion followed.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 74056](#), entitled: “A Resolution of the Council of the City of San José Approving the Council Expenditure and Reimbursement Policy”, was adopted, as amended, with Staff directed to: (1) Revise the policy to clarify “mini-grants” are those in the amount of \$500 or less and that grants greater than \$500 require a written grant agreement. (2) Modify the “mini-grant” form to ensure consistency, make additional modifications to streamline the form and submit the amended form to the Rules and Open Government Committee for final approval. (3) Revise the policy to allow for placement of ads in event programs. (10-0-1. Absent: Nguyen.)

- 3.7**
- (a) Approval of the conversion of the City Hall retail space to municipal use for the Office of Cultural Affairs and training/community meeting rooms, and to convert the current Office of Cultural Affairs space in the San José McEnery Convention Center to other uses.**
  - (b) Approval of the conversion of the Fourth and St. John (Employee) garage retail space to municipal use for the Transportation Incident Management Center and a technology training center.**
  - (c) Adoption of the following 2007-2008 Appropriation Ordinance amendments in the General Fund:**
    - (1) Eliminate the City Hall Retail Space appropriation of \$800,000.**
    - (2) Decrease the Reserve for City Hall Build-Out, which is proposed for establishment earlier on the October 16 Council agenda, by \$1,045,000.**
    - (3) Establish an appropriation for City Hall Build-Out in the amount of \$1,845,000.**

- 3.7 (d) **Adoption of the following 2007-2008 Appropriation Ordinance amendments in the Convention and Cultural Affairs Fund (Cont'd.)**
- (1) **Establish an appropriation for Convention Center Retail Space Conversion in the amount of \$380,000.**
  - (2) **Reduce the Ending Fund Balance by \$380,000.**
- (e) **Direction to staff to work with the City Attorney's Office to return with a report on potential retail or government uses of the Convention Center space recommended to be vacated by the Office of Cultural Affairs, in light of IRS restrictions on the amount of space allowed to be used for private uses.**
- CEQA: Resolution Nos. 68905 and 72230. Council District 3. (General Services/Economic Development/City Manager's Office)**

Action: Deferred to October 30, 2007 per District 3.

## **COMMUNITY & ECONOMIC DEVELOPMENT**

### **4.1 Report of the Community and Economic Development Committee September 24, 2007 - Council Member Pyle, Chair**

Documents Filed: The Community and Economic Development Committee Report dated September 24, 2007.

- (a) Review of Committee Work Plan

The Committee accepted the Staff report.

- (b) Local/Small Business Contracting. Attachment: Memorandum from Director of Public Works Katy Allen and Director of Finance Scott Johnson, dated September 12, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (c) San José Bioscience and Emerging Technologies Initiative. Attachment: Memorandum from Deputy Executive Director Redevelopment Agency John Weis and Chief Development Officer Paul Krutko, dated September 10, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (d) Convention Center Deferred Maintenance and Expansion. Attachment: Memorandum from Deputy Executive Director Redevelopment Agency John Weis, Chief Development Officer Paul Krutko and Dan Fenton, San José Convention Center, Team San José, dated September 12, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

**4.1 Report of the Community and Economic Development Committee (Cont'd.)  
September 24, 2007 - Council Member Pyle, Chair**

- (e) San José Retail Strategy. Attachment: Memorandum from Chief Development Officer Paul Krutko, dated September 6, 2007, recommending acceptance of the report.

The Committee accepted the Staff report. See Item 4.2 For Council Action taken.

- (f) North San José Vision 2030 Update. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 6, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (g) Quarterly Update on Performance Measurements

Deferred to November 26, 2007.

- (h) Quarterly Update on Council Directives. Attachment: Memorandum from Chief Development Officer Paul Krutko, daed September 6, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (i) Process Report and Timeline update for Adoption of the 2007 California Building Standards, CCR Title 24, Parts 26,810, 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.

- (j) Status Report on Secondary Units Pilot Program. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel and Director of Housing Leslye Krutko, dated September 13, 2007, recommending acceptance of the report.

The Committee accepted the Staff report. See Item 11.2 for Council Action Taken.

- (k) Oral Petitions - There were none presented.

- (l) Adjournment - The meeting was adjourned at 4:00 p.m.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the Community and Economic Development Committee Report and the actions of September 24, 2007 were accepted. (10-0-1. Absent: Nguyen.)

- 4.2 (a) **Acceptance of the list of recommended sites as potentially suitable for retail development;**
- (b) **Direction to staff to initiate General Plan, related environmental work, and other entitlement efforts to prepare the sites for consideration of retail development.**
- (c) **Direction to staff to bring forward funding proposals for Council consideration for activities identified in recommendation (b).**

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

**[Community and Economic Development Committee referral 9/24/07 – Item (e)]**

Documents Filed: Memorandum from Agenda Services Manager Nadine Nader, dated September 24, 2007, transmitting the recommendation of the Community and Economic Committee.

Chief Development Officer Paul Krutko highlighted components of the San José Retail Strategy and responded to Council questions.

Vice Mayor Cortese requested Staff distribute a breakdown by Council District where the City's sales tax is being generated, including areas of growth and decline, as well as a rule-of-thumb for industry (square footage to number of employees).

Extensive Council discussion followed.

Public Comments: Ross Signorino expressed interest in City subsidies.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, the list of recommended sites as potentially suitable for retail development were approved, with Staff requested to distribute a breakdown by Council District where the City's sales tax is being generated, including areas of growth and decline, as well as a rule-of-thumb for industry (square footage to number of employees); and Staff was directed to initiate General Plan, related environmental work, and other entitlement efforts to prepare the sites for consideration of retail development and to bring forward funding proposals for Council consideration for activities identified in recommendation (b). (10-0-1. Absent: Nguyen.)

- 4.4 **Approval of an ordinance amending Title 23 of the San José Municipal Code, the Sign Code, to add Section 23.02.255 to define a historic sign; to add Section 23.02.417 to define a projected light sign; to modify Section 23.02.1010 (b) to stipulate displays that are prohibited unless otherwise expressly allowed; to modify Section 23.02.1090 (a) to make clarifying changes; to add Section 23.02.1090 (b) to allow relocation of historic signs; and to modify Section 23.04.120 to add a new subsection to allow the display of projected light signs in the Downtown Sign Zone subject to specific parameters. CEQA: Exempt, File No. PP07-190. (Planning, Building and Code Enforcement).**

#### 4.4 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 24, 2007, recommending approval of an ordinance. (2) Proof of Publication of Notice of Public Hearing, executed on October 5, 2007, submitted by the City Clerk.

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

Public Comments: Ross Signorino suggested that the City should number street signs by block increments.

Action: Upon motion by Council Member Williams, seconded by Council Member Liccardo and carried unanimously, [Ordinance No. 28144](#), entitled: “An Ordinance of the City of San José Amending Title 23 of the San José Municipal Code, the Sign Code, to Add New Sections to Chapter 23.02 to Define a Historic Sign and a Projected Light Sign, to Amend Section 23.02.1010 of Chapter 23.02 to Clarify Displays that are Prohibited Unless Otherwise Allowed, to Amend Section 23.02.1090 of Chapter 23.02 of Chapter 23.02 to Allow for Relocation of Historic Signs and Make Other Clarifying Changes and to Amend Section 23.04.120 of Chapter 23.04 to Allow for the Display of Projected Light Signs within the Downtown Sign Zone Under Specified Parameters and Making Clarifying Changes”, was passed for publication. (10-0-1. Absent: Nguyen.)

## TRANSPORTATION & AVIATION SERVICES

### 6.1 Report of the Transportation and Environment Committee – October 1, 2007 Council Member Williams, Chair

Documents Filed: The Transportation and Environment Committee Report dated October 1, 2007.

- (a) Report on Draft Water Conservation Plan for the City. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated September 17, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (b) Report on Recommendations to Adopt a Zero Waste Goal as Specified in the Urban Environmental Accords. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated September 20, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, with the recommendation that the City Council adopt a resolution establishing a goal of 75% waste diversion by 2013 and a goal of Zero Waste by 2022. Council will hear this item on 10/23/07.

**6.1 Report of the Transportation and Environment Committee – October 1, 2007  
Council Member Williams, Chair (Cont'd.)**

- (c) Report on PG&E Service Coordination - Dropped by the Administration.
- (d) Report on Green Building Implementation Guidelines. Attachment: Memorandum from Deputy City Manager Ed Shikada, Director of Public Works Katy Allen and Redevelopment Agency Director Bill Ekern, dated September 18, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (e) Update Report on Private Development Incentives for Green Building. Attachment: Memorandum from Chief Development Officer Paul Krutko and Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 20, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, with Staff directed to formalize the Private Sector Green Building Program with input from the members of this Committee's discussion for consideration by the City Council.

- (f) Report on Strategies to Reduce Deferred Maintenance and Infrastructure Backlog. Attachment: Memorandum from Deputy City Manager Ed Shikada, September 18, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, with the background information to be presented to the full Council at the October 25, 2007 Study Session.

- (g) Review of Relevant Legislative Guiding Principles for 2008. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated September 19, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (h) Report on Airport Parking Facilities Programs and Rates. Attachment: Memorandum from Director of Aviation William Sherry, September 17, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

**6.1 Report of the Transportation and Environment Committee – October 1, 2007  
Council Member Williams, Chair (Cont'd.)**

- (i) Status Report on Implementation of the Taxicab Service Model. Attachment: (1) Memorandum from Council Member Williams and Vice Mayor Cortese, dated September 28, 2007, recommending acceptance of the staff report with direction. (2) Supplemental memorandum from Director of Transportation James Helmer and Director of Aviation William Sherry, dated September 21, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, but will take no action until several issues are discussed by the full Council on October 16, 2007. See Item 6.3 for Council action taken.

- (j) Report on the Transportation Maintenance Master Plan - Deferred to November.
- (k) Report on Sewer Service & Use Charge Fund Financing Alternatives to Address Critical Infrastructure Needs

Deferred to November.

- (l) Update on the City's Plan to Achieve the actions Stated in the Environmental Accords

Deferred to November.

- (m) Quarterly Update on Council Directives - Deferred to November.
- (n) Oral Petitions - There were none presented.
- (o) Adjournment - the meeting was adjourned at 6:20 p.m.

Action: Upon motion by Council Member Williams, seconded by Council Member Oliverio and carried unanimously, the Transportation and Environment Committee Report and the actions of October 1, 2007 were accepted. (10-0-1. Absent: Nguyen.)

**6.2 Adoption of a resolution:**

- (a) **Authorizing the City Manager to negotiate and execute Project Funding Agreements with Airport tenants for the purpose of providing them with the option of incorporating improvements above and beyond the current scope of work and budgeted costs of the Airport Terminal Area Improvement Program, in an amount to be paid by the tenant not to exceed \$2,000,000 for any one agreement.**
- (b) **Authorizing the City Manager to negotiate and execute Change Orders to the Design-Build Contract with Hensel Phelps Construction Co. to incorporate the cost of the improvements outlined in the Project Funding Agreements, in an amount not to exceed \$2,000,000 for any one Change Order.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP 07-182. (Airport)**

## 6.2 (Cont'd.)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated September 24, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 74057](#), entitled: “A Resolution of the Council of the City of San José Authorizing Tenant Requested Reimbursable Modifications and Related Construction Change Orders to the Terminal Area Improvement Program Design Build Contract”, was adopted (10-0-1. Absent: Nguyen.)

- 6.3 (a) **Recommendations of the T&E Committee to direct staff to bring forward to the City Council a report on the development of a Taxicab Commission.**  
(b) **Discussion and possible action regarding airport company taxicab permit allocations**

**CEQA: Not a Project. (Airport/Transportation/Police)**

**[Transportation and Environment Committee referral 10/01/07 – Item (j)]**

Action: Deferred to November 6, 2007 per Orders of the Day.

- 6.4 **Approval of the preferred design recommendations to the Santa Clara Valley Transportation Authority regarding the BART Extension to San José/Silicon Valley as follows:**

- (a) **Select the “Historic Bank of America Building Lobby” as the Downtown San José BART station portal in the Transit Mall area.**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated October 3, 2007, recommending approval of the Staff recommendations.

Deputy Director of Transportation Hans Larsen presented the design. Council discussion followed.

Public Comments: Scott Knies (San José Downtown Association) and Ross Signorino spoke in support of the Staff recommendation.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Campos and carried unanimously, the selection of the Historic Bank of America Building Lobby as the Downtown San José BART station portal in the Transit Mall area was approved. (10-0-1. Absent: Nguyen.)

- (b) **Select the “Southern Offset” for the BART tunnel alignment in the vicinity of Santa Clara Street and Coyote Creek.**

**CEQA: Not a Project. Council District 3. (Transportation)**

Action: Upon motion by Council Member Liccardo, seconded by Council Member Campos and carried unanimously, Item 6.4(b) was deferred four weeks (10-0-1. Absent: Nguyen.)

## ENVIRONMENTAL & UTILITY SERVICES

### 7.1 As recommended by the Rules and Open Government Committee on September 19, 2007:

- (a) Direct staff to expand the Clean Air Vehicle Program to include all zero emission vehicles registered in the City of San José. (Constant)
- (b) Accept the staff report on the workload assessment of making Zero Emissions Vehicles (ZEV) registered in the City of San José eligible to participate in the Clean Air Vehicle Parking Validation Program allowing free parking at specified City parking facilities and parking meters. (Transportation)

[Rules and Open Government Committee referral 9/19/07 – Item (g)(1)]

Action: Deferred to October 30, 2007 per Orders of the Day.

- ### 7.2
- (a) Report on bids and award of two contracts for the project entitled, “Fuel Cell System,” to the sole responsive bidder, Manuel Bros., Inc.
    - (1) A design-build contract in the amount of \$7,724,100 and approval of budget contingency of 10% at \$772, 400.
    - (2) A service contract with a five year term and an annual cost of \$203,932.80 commencing upon acceptance of the Fuel Cell System.
  - (b) Adoption of a resolution authorizing the Director of Environmental Services to execute an option to replace the Fuel Cell System Module in the amount of \$1,200,000, subject to future appropriation of funds by the Council.
  - (c) Adoption of a resolution authorizing the Director of Environmental Services to negotiate and execute a Self-Generation Incentive Program contract with Pacific Gas and Electric, to receive a rebate of up to \$4.5 million upon certification of the fuel cell system by Pacific Gas and Electric.
  - (d) Adoption of the following Appropriation Ordinance amendments in the San José/Santa Clara Treatment Plant Capital Fund:
    - (1) Increase the Fuel Cell System appropriation by \$4,917,000.
    - (2) Decrease the Ending Fund Balance by \$4,917,000.

**CEQA: Exempt, PP07-007. (City Manager’s Office/Environmental Services)**

Documents Filed: (1) Memorandum from Budget Director Larry Lisenbee and Director of Environmental Services John Stufflebean, dated September 24, 2007, recommending approval of the two contracts, adoption of resolutions and appropriation amendments. (2) Letter from the Treatment Plant Advisory Committee, dated October 11, 2007, stating concurrence with the Staff recommendation.

Director of Environmental Services John Stufflebean provided the Staff report.

**7.2 (Cont'd.)**

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the two contracts for the project entitled, “Fuel Cell System,” to the sole responsive bidder, Manuel Bros., Inc. was approved; [Resolution No. 74058](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Environmental Services to Execute an Option for Replacement of Fuel Cell at San José/Santa Clara Water Pollution Control Plant at a Cost to the City Not to Exceed \$1,200,000 Upon Appropriation of Funds by the City Council; [Resolution No. 74059](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Environmental Services to Negotiate and Execute a Self Generation Incentive Program Agreement with Pacific Gas and Electric Company to Install and Operate a Fuel Cell System at San José/Santa Clara Water Pollution Control Plant and to Receive a Rebate of up to \$4.5 Million from Pacific Gas and Electric Company”; [Ordinance No. 28145](#), entitled: “An Ordinance of the City of San José amending Ordinance No. 28071 to Appropriate Moneys in the San José – Santa Clara Treatment Plant Capital Fund for the Fuel Cell System; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” were adopted. Note: [Resolution No. 74060](#) was reserved for this action but was not used. (10-0-1. Absent: Nguyen.)

**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>
9926	North side of Rock Avenue, 450 feet west of Oakland Road	4	Rock Avenue LLC	1 Lot/ 18 Units	Single Family Attached	Approve

**NOTICE OF CITY ENGINEER’S AWARD OF CONSTRUCTION PROJECTS**

In accordance with Council Resolution No. 73532, the construction Contract Process Streamlining Policy approved on December 5, 2006, the following is a list of projects that were awarded or rejected by the Director of Public Works in September 2007:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Overfelt Gardens Irrigation Renovation	5	Lone Star Landscape, Inc.	\$553,000	9/5/07
University Pedestrian Street Lighting Improvements – Phase 2	3	Pacific Electric Company	\$473,190	9/21/07

Camden Avenue Sanitary Sewer I & Reduction	10	J.F. Pacific Liners, Inc.	\$452,365	9/28/07
Downer Canoas Injections Station	10	Anderson Pacific Engineering Construction, Inc.	\$416,850	9/28/07

## **OPEN FORUM**

- (1) Tim Fitzgerald voiced observations about democracy.
- (2) Ross Signorino spoke regarding October 2, 2007 Council actions related to the Arbitration Award between the City and International Association of Fire Fighters (Local 230).
- (3) Mark Trout expressed religious viewpoints.
- (4) Robert Apgar shared personal observations.

## **ADJOURNMENT**

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

## RECESS/RECONVENE

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

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

Absent: Council Members - Nguyen. (Excused)

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

## CEREMONIAL ITEMS

### 1.2 Presentation of a commendation in recognition of the Branham Hills Little League Senior All Star Team. (Chirco)

Action: Mayor Reed and Council Member Chirco recognized and commended the Branham Hills Little League Senior All Star Team for their outstanding achievements.

## PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Constant, seconded by Council Member Chirco and carried unanimously, the Public Hearings on Consent Calendar were approved without any public testimony, and the below listed actions were taken as indicated. (10-0-1. Absent: Nguyen.)

### 11.1 (a) Consideration of an ordinance rezoning the real property located on the south side of Blossom Hill Road, approximately 70 feet westerly of Hoffman Court (1250 Blossom Hill Rd) from R-1-8 Single-Family Residence Zoning District to R-M Multiple Residence District on a 0.26 gross acre site. SNI: Hoffman/Via Monte. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). C07-027 - District 10 [Continued from 9/25/07 – Item 11.1(h)]

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-027, dated August 29, 2007, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 27, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on August 31, 2007, submitted by the City Clerk.

11.1 (a) (Cont'd.)

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28146](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the South Side of Blossom Hill Road, Approximately 70 Feet Westerly of Hoffman Court (1250 Blossom Hill Road) to RM Multiple Residence Zoning District”, was passed for publication. (10-0-1. Absent: Nguyen.)

- (b) **Consideration of an ordinance rezoning the real property located at/on the north side of Bark Lane approximately 150 feet west of Weyburn Lane (7201 Bark Lane) from RM Residential District to A(PD) Residential District to allow 45 attached single-family residential units, four stories tall over a podium garage on a 0.90 gross acre site (Lee Lily Fu and Jason C, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). PDC06-005 - District 1**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-005, dated August 29, 2007, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 27, 2007, transmitting the Planning Commission recommendation of approval. (3) Proofs of Publications of Notices of Public Hearings, executed on September 14, 2007 and October 5, 2007, submitted by the City Clerk.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28147](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the North Side of Bark Lane Approximately 150 Feet West of Weyburn Lane (7201 Bark Lane) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Nguyen.)

- (c) **Consideration of an ordinance rezoning the real property located at/on the east side of South 3<sup>rd</sup> Street approximately 500 feet north of Keyes Street (1010 S 3<sup>rd</sup> Street) from the HI Heavy Industrial Zoning District to the A(PD) Planned Development Zoning District to allow up to 37 residential multiple dwelling units on a 0.713 gross acre site (Fernando C. Guevarra and Maria Guevarra, Owner; Long Nguyen, Developer). SNI: Spartan/Keyes. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). PDC07-002 – District 3**

**11.1 (c) (Cont'd.)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-002, dated November 18, 2006, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 27, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on September 14, 2007, submitted by the City Clerk.

Council Member Liccardo pulled this item from Consent.

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

Motion: Council Member Liccardo moved approval of the Staff recommendations with the condition that there be additional mitigations directed by the Director of Planning prior to any site development permit that sufficiently accounts for whatever long term use may occur on the adjacent property. Vice Mayor Cortese seconded the motion.

A short discussion followed.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28148](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the East Side of South Third Street Approximately 500 Feet North of Keyes Street (1010 South Third Street) to A(PD) Planned Development Zoning District", was passed for publication, as amended, with the condition that there be additional mitigations directed by the Director of Planning prior to any Site Development Permit, that sufficiently accounts for whatever long term use may occur on the adjacent property. (10-0-1. Absent: Nguyen.)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

**11.2 Consideration of an ordinance of the City of San José amending Ordinance No. 28055 adopted by the City Council of the City of San José on June 5, 2007 extending a limited pilot program to allow certain secondary residential units and set to expire by its own terms on October 31, 2007, in order to further extend the pilot program until April 30, 2008 or until 100 secondary units under the pilot program have been considered, whichever date first occurs; to further suspend the Park in Lieu requirements of Chapter 14.25 of Title 14 during the term of the pilot program; and to revise the pilot program development parameters. CEQA: Exempt, File No. PP07-184. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). (Planning, Building and Code Enforcement)**

**[Community and Economic Development Committee referral 9/24/07 – Item (j)]**

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 27, 2007, transmitting the Planning Commission recommendation of approval. (2) Proof of Publication of Notice of Public Hearing, executed on September 14, 2007, submitted by the City Clerk.

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

Motion: Council Member Chirco moved approval of the Staff recommendations. Council Member Pyle seconded the motion.

Council Member Campos requested to amend the motion by adding direction that the Planning Director return with a status report on the pilot program before it is expanded. Council Members Chirco and Pyle accepted the amendment.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28149](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28055 to Extend the Entire Period of the Limited Pilot Program to Allow Certain Second Residential Units from January 1, 2006 to April 30, 2008, which Program Automatically Terminates if 100 Permits are Issued, and to Modify Certain Parameters of the Pilot Program Related to Size, Setbacks, Height and Windows; and Amending Ordinance No. 27675 to Extend Until April 30, 2008 the Temporary Suspension of chapter 14.25 of Title 14 of the San José Municipal Code Pertaining to Park Impact Requirements Otherwise Applicable to Second Units”, was passed for publication, with the Planning Director requested to return with a status report on the pilot program in March or April of 2008. (10-0-1. Absent: Nguyen.)

**11.3 Consideration of an ordinance rezoning the real property located at/on the southwest corner of Zanker Road and Devcon Drive (1821 Zanker Road) from HI Heavy Industrial Zoning District to IP Industrial Park Zoning District to allow office uses on a 11.57 gross acre site (Amb Property, LP Tony P. Lin, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C07-062 - District 4**

### 11.3 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-062, dated September 24, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on October 5, 2007, submitted by the City Clerk.

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

Action: Upon motion by Council Member Chu, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 28150](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Zanker Road and Devon Drive (1821 Zanker Road) to IP Industrial Park Zoning District", was passed for publication. (10-0-1. Absent: Nguyen.)

- 11.4 (a) **Consideration of an ordinance rezoning the real property located at/on the corner of Vista Montana and the west side of North First Street (APN NOS.: 097-52-013 and 097-53-015) from the IP Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 444 attached residential units on a 12.1 gross acre site (Novellus Systems, Inc., Owner).  
PDC07-054 - District 4**
- (b) **Consideration of an ordinance rezoning the real property located on the northwesterly corner of Vista Montana and West Tasman Drive (APN NOS.: 097-52-028 and 097-52-029) from the IP Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 554 attached residential units and a 1-acre park on a 8.7 gross acre site (Sobrato Development Co. and Novellus Systems Inc., Owners).  
PDC07-055 - District 4**
- (c) **Consideration of a Master Site Development Permit for development of up to 870,000 additional square feet of Industrial Park uses, including transfer of 290,000 square feet of floor area credits, on a 27 gross acre site, located at the southeast corner of North First Street and Headquarters Drive (APN NOS.: 097-79-001, 097-79-002, 097-79-003, 097-79-009, 097-79-011, and 097-79-012) (Novellus Systems Inc., Owner).  
H07-035 - District 4**

- 11.4 (d) **Consideration of approval of an ordinance approving a Development Agreement with Novellus for the area within the boundaries of applications PDC07-054, PDC07-055, and H07-035, to vest for 20 years Site Development Permit, H07-035, for development of up to 870,000 square feet of Industrial Park uses, including transfer of 290,000 square feet of floor area credits; to vest for 5 years Planned Development Zonings, PDC07-054 and PDC07-055, for development of up to 998 residential units and 6 acres of parkland; and to provide maintenance, for the duration of the Development Agreement, of 5 acres of the 6 acres of parkland to be provided.**

**DA-Novellus - District 4**

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

Documents Filed: (1) Memorandum from Mayor Reed and Council Members Chu and Pyle, dated October 12, 2007, recommending approval of the Staff recommendations and additional conditions as depicted below in "Action". (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-054, PDC07-055, H07-035 and DA-Novellus, dated September 20, 2007, recommending approval of the subject rezonings. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 28, 2007, transmitting the Planning Commission recommendation of approval. (4) Two Proof of Publication of Notice of Public Hearing, both executed on September 14, 2007, submitted by the City Clerk.

Project Planner Andrew Crabtree provided the Staff report on the proposed rezoning.

Public Comment: Mayor Reed opened the public hearing. Erik Schoennauer, representing the Applicant, described the Novellus Development in North San José. Mayor Reed closed the public hearing.

Motion: Council Member Chu moved approval of the Staff recommendations and the memorandum he consigned with Mayor Reed and Council Member Pyle. Council Member Pyle seconded the motion.

Council Member Constant objected to the requirement of Leadership in Energy and Environmental Design (LEED) Silver Certification and stated that a fair and consistent policy is needed. City Attorney Rick Doyle responded to questions. He agreed to prepare an informational memo to the Council providing additional information and model ordinances from other cities.

Extensive Council discussion followed.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, [Ordinance No. 28151](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwest Corner of North First Street and Vista Montana to A(PD) Planned Development Zoning District"; [Ordinance No. 28152](#), entitled: "An Ordinance

#### 11.4 (Cont'd.)

of the City of San José Rezoning Certain Real Property Situated at the Northwesterly Corner of West Tasman Drive and Vista Montana to A(PD) Planned Development Zoning District”; [Ordinance No. 28154](#), entitled: “An Ordinance of the City of San José Approving a Development Agreement Between the City of San José and Novellus Systems Inc., Relative to the Development of Certain Property Located Within the City of San José, California”, were passed for publication and [Resolution No. 74063](#), entitled: “A Resolution of the Council of the City of San José Granting, Subject to Conditions, a Site Development Permit to Use Certain Real Property Described Herein to Allow Development of up to 870,000 Square Feet of New Additional Industrial Park Uses, Including Transfer of 270,251 Square Feet of Floor Area Credits, on a 26.99 Gross Acre Site”, was adopted and the memorandum from Mayor Reed and Council Members Chu and Pyle, was approved, including the following conditions: (1) Parkland: Accept the developer’s proposal to dedicate 6 acres of parkland for neighborhood and community parks and to contribute \$3 million towards the construction of park improvement and \$1.5 million towards park maintenance. (a) Require the developer to dedicate a 1 acre fully improved, turnkey neighborhood park on the site shown on Page 3 of the Staff report. (1) (b) Direct Staff to explore opportunities to fund the construction of the 5 acre community park at North First Street and Vista Montana in a manner consistent with the timeline of the Development Agreement and using the remainder of the developer contribution after Item (a) above (Page 26) is completed and other sources of funds generated from projects in North San José area. (2) Require the use of Leadership in Energy and Environmental Design (LEED) practices to achieve credits sufficient for LEED Silver Certification or equivalent standards to the satisfaction of the Director of Planning, Building and Code Enforcement. (3) Provide regular updates on the progress of the project during construction to adjacent property owners and corporations within close proximity of the project site. (10-0-1. Absent: Nguyen.)

#### 11.5 **Consideration of an ordinance rezoning the real property located in the area generally bounded by Blossom Hill Road on the north, Gallup Drive to the west, Mesa Drive to the south, and Almaden Expressway to the east (1110 Blossom Hill Rd.) from the CP-Commercial Pedestrian Zoning District to the CG-Commercial General Zoning District to allow commercial uses on a 10.2 gross acres site (Pueblo Plaza Partnership, Owner). SNI: Hoffman/Via Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.** **C07-069 - District 10**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-069, dated September 26, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on September 28, 2007, submitted by the City Clerk.

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

## 11.5 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 28155](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated in the Area Generally Bound by Blossom Hill Road on the North, Gallup Drive to the West, Mesa Drive to the South and Almaden Expressway to the East (1110, 1150 and 1156 Blossom Hill Road) to CG Commercial General Zoning District”, was passed for publication. (10-0-1. Absent: Nguyen.)

## COMMUNITY AND ECONOMIC DEVELOPMENT

### 4.3 (a) Adoption of the following Appropriation Ordinance amendments in the General Fund:

(1) Establish a city-wide appropriation to Planning, Building and Code Enforcement for the Evergreen-East Hills Development Policy Update in the amount of \$150,000.

(2) Decrease the Contingency Reserve by \$150,000.

(b) Acceptance of the status report which is attached to the Council Memorandum as Attachment 1.

**CEQA: Not a Project. Council Districts 5, 7 and 8. (Planning Building and Code Enforcement/City Manager's Office)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel and Budget Director Larry Lisenbee, dated September 24, 2007, recommending adoption of appropriation ordinance amendments and acceptance of the report. (2) Letter from DAL Properties LLC, dated October 12, 2007, regarding the Evergreen East Hill Development Policy.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti presented an update on the Evergreen East Hills Development Policy.

Motion: Vice Mayor Cortese moved approval of the Staff recommendations, and report with clarifications: (1) The Alternative 2:1 Job/Housing Ratio approach should be a third alternative for the circumstances under which an amendment to the Evergreen-East Hills Development Policy could be considered. Specifically, once the 2:1 Jobs/Housing ratio has begun to be achieved according to Staff's proposed schedule and there is a voluntary development agreement offering the completion of significant transportation improvements and amenities for that phase, then Staff should prepare to bring forward that amendment to Council for consideration, and (2) For the purposes of scoping the EIR, Staff should include an option for “Green” projects to exceed the 35 unit cap. Council Member Campos seconded the motion.

Assistant Director of Planning, Building, and Code Enforcement Laurel Prevetti responded to Council questions. Discussion ensued.

### 4.3 (Cont'd.)

Public Comments: Speaking in support of the Staff recommendations and the motion on the floor were Ed Abelite, Mark Lazzarini (DAL Properties), Bonnie Mace, Richard Lambie (Mirassou Trust), Erik Schoennauer (Trumark Companies) and Joseph Head (Summerhill Homes).

Action: On a call for the question, the motion carried unanimously, [Ordinance No. 28156](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund for the Evergreen-East Hills Development Policy Update; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” was adopted and the Staff Report was accepted with the following clarifications: (1) The Alternative 2:1 Job/Housing Ratio approach should be a third alternative for the circumstances under which an amendment to the Evergreen-East Hills Development Policy could be considered. Specifically, once the 2:1 Jobs/Housing ratio has begun to be achieved according to Staff’s proposed schedule and there is a voluntary development agreement offering the completion of significant transportation improvements and amenities for that phase, then Staff should prepare to bring forward that amendment to Council for consideration. (2) For the purposes of scoping the EIR, Staff should include an option for “Green” projects to exceed the 35 unit cap. (10-0-1. Absent: Nguyen.)

## STRATEGIC SUPPORT SERVICES

- 3.6 (a) **Acceptance of receipt of the History San José (HSJ) Audit completed by Macias Consulting Group, Inc that recommends a baseline annual budget of \$1.6 million with a four-year financing strategy for a City subsidy of \$840,377 in year 1, \$743,796 in year 2, \$456,009 in year 3 and \$257,009 in year 4. At the end of year 4, subsidy may continue at \$257,009, revert to \$335,000 as contained in current Agreement, or City may re-evaluate to determine future funding levels through the end of the Agreement in FY 2017-18.**
- (b) **Direction to staff to work with HSJ to determine the rationale for their proposal for a \$1.2 million annual subsidy with an annual cost of living increase HSJ to provide details on the level of service to be and compare this with the level of service that would be provided under the financing strategy recommended in the Macias audit. Staff to bring results of discussions with HSJ by December 2007.**
- (c) **Adoption of a resolution authorizing the City Manager to negotiate and execute the Fourth Amendment of the Operations Agreement between the City of San José and the History Museums of San José (now History San José) to advance the third quarter payment for the period of January through March 2008 in the amount of \$143,705.75**

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

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Nguyen, dated October 11, 2007, recommending approval of Staff recommendations with

direction as depicted in “Action”. (2) Memorandum from Chief Deputy City Manager Kay Winer, dated October 2, 2007, recommending actions as stated previously. (3) Institutional Report from History San José, dated July 1 2005 through June 30, 2007.

### 3.6 (Cont'd.)

Denise Callahan, Macias Consulting Group, presented an overview of the performance audit of History San José. Chief Deputy City Manager Kay Winer responded to Council questions. Discussion ensued.

Public Comments: Speaking in support of History San José were Margie Matthews, Alida Bray, Thomas Scott, Jennifer McCann, Melissa Johnson, Monica Tucker, Jim Reen, Mertze Dahlin Marilyn Quentin, George Quentin (History San José), April Halberstadt, Don Gagliardi, Sylvia Carroll, Steve Cox, Liz Clevenger, Joe Machado (Portuguese Heritage Society), Marina Moustakas (Hellenic Heritage Museman), Anne Louise Heigho, Julie Pifer, Martha Champion (Portraits of the Past), Gerry de Young, Dan Orloft (San José Rocks), John Davis, Salle Hayden (Museum of Boat People & Vietnamese), Bonnie Bamburg, Joseph Head and Bryn Williams.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the History San José (HSJ) Audit completed by Macias Consulting Group was approved and [Resolution No. 74062](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Fourth Amendment to the Agreement with History San José to Advance the Third Quarter Payment for the Period of January to March 2008 in the Amount of \$143,705.75”, was adopted; the memorandum from Mayor Reed and Council Member Nguyen, dated October 11, 2007 to approve the Staff recommendations was accepted and the Council adopted the following principle to guide Staff in working with History San José’s proposal: Until the structural budget deficit has been eliminated, the General Fund subsidy should not exceed the total cost of maintenance, security and utilities such that the facility is available for public use. Funding for programming should be generated from operating revenues or from other sources. (10-0-1. Absent: Nguyen.)

## ADJOURNMENT

The Council of the City of San José adjourned at 10:19 p.m. in memory of Carlos Gil Orozco, a brave Marine who was killed in the line of duty in Iraq.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

smd/10-16-07MIN

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

The Joint Redevelopment Agency Board convened at 4:53 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

- 8.1 (a) Adoption of a resolution by the Redevelopment Agency Board:**
- (1) Authorizing the issuance of Merged Area Redevelopment Project Tax Allocation Bonds, in two or more series (tax-exempt and taxable), in an aggregate principal amount not to exceed \$225,000,000 (the 2007 Bonds); and approving in substantially final form the Eleventh Supplemental Indenture of Trust with Union Bank, as Trustee; and,**
  - (2) Authorizing the competitive sale of the 2007 Bonds; and,**
  - (3) Approving in substantially final form the Preliminary Official Statement (POS), Notice of Intention to Sell Bonds and Official Notices Inviting Bids and authorizing Agency staff to distribute the POS; and,**
  - (4) Authorizing all officers, agents and employees to take such actions and execute such documents necessary and desirable to accomplish issuance of the 2007 Bonds; and,**
  - (5) Authorizing the Executive Director to purchase municipal bond insurance and surety bonds for the 2007 Bonds, and to purchase a surety bond to replace the funded reserve for outstanding Series 2003.**
- (b) Adoption of a resolution by the City Council approving the issuance of Merged Area Redevelopment Project Tax Allocation Bonds, in two or more series (tax-exempt and taxable), in an aggregate principal amount not to exceed \$225,000,000.**

**CEQA: Not a Project.**

Documents Filed: (1) Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated October 4, 2007, recommending adoption of resolutions. (2) Supplemental memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated October 12, 2007, transmitting the Preliminary Official Statement for the 2007 Bonds Report.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, Redevelopment Agency Resolution No. 5793 and Resolution No. 74061 were adopted. (10-0-1. Absent: Nguyen.)

- 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: Downtown Strategy 2000 EIR, Resolution No. 72767. [MERGED] (Deferred from 10/2/07- Item 8.2)**

Action: Deferred to November 6, 2007.

The Council of the City of San José and Redevelopment Agency Board adjourned at 4:54 p.m.