



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 21, 2007

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

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

Absent: Council Members - Cortese, Pyle, Williams. (Excused)

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) Callaway v. City of San José, et al.; (2) Ibanez, et al. v. City of San José, et al.; (3) Agrama, et al. v. City, et al. (B) to confer with Legal Counsel pursuant to: Government Code Section 54956.9 with respect to anticipated litigation, (1) subsection (b), initiation of litigation in one (1) matter. (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 Supervisory Personnel Agreement (AMSP); (2) Association of Engineers and Architects (AEA), IFPTE, Local 21, Units 041 and 042; (3) Association of Engineers and Architects (AEA), Local 21, Unit 043; (4) Association of Building, Mechanical and Electrical Inspectors (ABMEI); (5) Confidential Employees' Organization (CEO), AFSCME, Local 101; (6) International Brotherhood of Electrical Workers (IBEW), Local 332; (7) International Union of Operating Engineers, Local No. 3 (OE#3); (8) Municipal Employees' Federation (MEF), AFSCME, Local 101; (9) International Association of Firefighters (IAFF); (10) San José Police Officers' Association; (11) City Association of Management Personnel Agreement (CAMP).

By unanimous consent, Council recessed from the Closed Session at 10:45 a.m. and reconvened at 1:31p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

San José Taiko presented the Invocation. (District 7)

Council Member Chu introduced Girl Scout Troop 772. Mayor Reed introduced Cub Scout Webelos Troup 334 from St. Francis Cabrini.

PLEDGE OF ALLEGIANCE

Mayor Reed and the Girl Scout Troup 772 led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved.

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Northside Community Center Team for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor/Liccardo)**

Action: Mayor Reed, City Manager Debra Figone and Council Member Liccardo recognized and commended the Northside Community Center Team for their excellent dedication and important contributions to the City of San José.

- 1.2 Presentation of a commendation to the Project Homeless Connect Team for their 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 the Project Homeless Connect Team for their excellent dedication and important contributions to the City of San José.

- 1.3 Presentation of a commendation to Steven Tedesco for his years of service, zeal and passion to the Boys and Girls Club of Silicon Valley. (Cortese/Campos) (Rules Committee referral 8/15/07)**

Action: Mayor Reed and Vice Mayor Cortese and Council Member Campos recognized and commended Mr. Steven Tedesco for his dedicated years of service to the Boys and Girls Club of Silicon Valley.

**1.4 Presentation of a commendation to the San José SaberCats for winning the 21st Arena Football League Championship on July 29, 2007. (Mayor)
(Rules Committee referral 8/15/07)**

Action: Mayor Reed recognized and commended the San José SaberCats for their achievements.

1.5 Presentation of a commendation to Dinyari Incorporated for its presence and operations in San José and commitment to grow the local economy. (Mayor)

Action: Mayor Reed recognized and commended Dinyari Incorporated for its continued presence and operations in the City of San José and for its commitment to the local economy.

CONSENT CALENDAR

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

2.1 Approval of Minutes.

- (a) **Regular Minutes of May 1, 2007**
- (b) **Council Study Session Minutes on the General Plan Update of May 3, 2007**
- (c) **Regular Minutes of May 8, 2007**
- (d) **Regular Minutes of May 15, 2007**
- (e) **Regular Minutes of May 22, 2007**
- (f) **2007-2008 Operating and Capital Budget; 2008-2012 Capital Improvement Program Study Session Minutes of May 7, 2007 through May 17, 2007**
- (g) **Minutes of the San José Financing Authority of May 22, 2007**
- (h) **Special Closed Session Minutes of May 29, 2007**
- (i) **Special Closed Session Minutes of May 30, 2007**

Documents Filed: (1) The Regular Minutes dated May 1, 2007, May 8, 2007, May 15, 2007 and May 22, 2007. (2) Council Study Session Minutes on the General Plan Update dated May 3, 2007. (3) Study Session Minutes of the 2007-2008 Operating and Capital Budget; 2008-2012 Capital Improvements Program dated May 7, 2007 through May 17, 2007. (4) Special Closed Session Minutes dated May 29, 2007 and May 30, 2007.

Council Member Chu indicated he would abstain because he was not yet on the City Council.

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

- 2.2 (a) **ORD. NO. 28088** – Amending Section 3.36.550 of Chapter 3.36 of Title 3 of the San José Municipal Code to authorize limited liability companies as a vehicle in which the Board of Administration for the Police and Fire Department Retirement Plan may invest in and take title to real estate investments.

Documents Filed: Proof of Publication of the title of Ordinance No. 28088 executed on August 14, 2007, submitted by the City Clerk.

Action: Ordinance No. 28088 was adopted. (10-0-1. Absent: Constant.)

- 2.3 **Acceptance of the Office of the City Auditor’s Report of Activities for the Period May 16 Through June 15, 2007. (City Auditor)**
(Rules Committee referral 8/7/07)

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

Action: The Report of Activities for the Period May 16 through June 15, 2007 from the Office of the City Auditor was accepted. (10-0-1. Absent: Constant.)

- 2.4 **Acceptance of the findings report from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending December 31, 2006. (City Auditor)**
(Rules Committee referral 8/7/07)

Documents Filed: Memorandum from City Auditor Gerald Silva, dated June 20, 2007, transmitting and recommending acceptance of the findings report.

Action: The findings report from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending December 31, 2006 was accepted. (10-0-1. Absent: Constant.)

- 2.5 (a) **Approval of an agreement between Santa Clara Valley Transportation Authority, and the City of San José to provide up to \$180,000 to fund changing artwork in the Downtown Transit Corridor to match the City’s contribution with a total amount not to exceed \$360,000.**
- (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Establish an appropriation to the Office of Economic Development for the Changing Art in the Transit Corridor appropriation in the amount of \$180,000.**
- (2) **Increase the estimate for Other Revenue by \$180,000.**
- CEQA: Resolution No. 72767. (Economic Development/City Manager’s Office)**

2.5 (Cont'd.)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko and Acting Budget Director Jennifer Maguire, dated July 30, 2007, recommending approval of the agreement and adoption of appropriation ordinance and funding sources resolution amendments.

Council Member Liccardo pulled Item 2.5 for clarification.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, the agreement between Santa Clara Valley Transportation Authority, and the City of San José to provide up to \$180,000 to fund changing artwork in the Downtown Transit Corridor to match the City's contribution with a total amount not to exceed \$360,000 was approved and Ordinance No. 28102 and Resolution No. 73957 were adopted. (10-0-1. Absent: Constant.)

2.6 **Report on bids and award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, FY 2007/2008 Compressed Air Upgrade Project," to the low bidder, Air Perfection, Inc. in the amount of \$292,009; and approval of a contingency in the amount of \$27,000 for a total agreement amount not to exceed \$319,009. CEQA: Exempt, File No. PP07-169. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated July 30, 2007, recommending award of the contract to the low bidder. (2) Letter from the Treatment Plant Advisory Committee, dated August 9, 2007, stating concurrence with the Staff recommendation.

Action: the award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, FY 2007/2008 Compressed Air Upgrade Project," to the low bidder, Air Perfection, Inc. in the amount of \$292,009, with related contingency was approved. (10-0-1. Absent: Constant.)

2.7 **Approval of travel by Independent Police Auditor Barbara Attard to Chilpancingo, Guerrero, Mexico in August 2007 to participate in an upcoming Seminar to Launch the Guerrero Police Oversight Office at no cost to the City. (Independent Police Auditor) (Rules Committee referral 8/7/07)**

Documents Filed: Memorandum from Independent Police Auditor Barbara Attard, dated July 20, 2007, requesting approval of business travel to Chilpancingo, Guerrero, Mexico in August 2007.

Council Member Campos requested clarification from Independent Police Auditor Barbara Attard regarding the travel to Mexico.

2.7 (Cont'd.)

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously the travel request was approved. (10-0-1. Absent: Constant.)

2.8 Adoption of a resolution authorizing the reorganization of the territory designated as McKee No. 129 which involves the annexation to the City of San José of 0.82 acres more or less of land located at the southeast corner of North Capitol Avenue and Grandview Drive, and generally bounded by the City of San José Annexations McKee Nos. 9, 44 and 97, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459, File No. C06-106. Council District 4. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated July 30, 2007, recommending adoption of a resolution.

Action: Resolution No. 73958, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as McKee No. 129 Subject to Liability for General Indebtedness of the City", was adopted. (10-0-1. Absent: Constant.)

- 2.9**
- (a) Approval of an agreement with Fernanda D'Agostino to fabricate and install artwork for the Mayfair Community Center in a total amount not to exceed \$195,400.**
 - (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Parks and Recreation Bond Projects Fund (Fund 471):**
 - (1) Increase appropriation to the Office of Economic Development for the Public Art-Park and Recreation Bond Projects by \$141,000.**
 - (2) Increase the Beginning Fund Balance estimate by \$141,000.**
 - (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (Fund 450):**
 - (1) Increase the appropriation to the Department of Public Works for the Mayfair Community Center Project by \$64,000;**
 - (2) Increase the Beginning Fund Balance estimate by \$64,000.**
 - (d) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):**
 - (1) Establish an appropriation to the Office of Economic Development in the amount of \$10,000 for the Mayfair Community Center Public Art Project;**

- 2.9 (d) (2) **Decrease the appropriation to the Office of Economic Development for the Plata Arroyo Skate Park Development Public Art Project by \$8,000; and**
- (3) **Decrease the appropriation to the Office of Economic Development for the Children of the Rainbow Park Renovation Public Art Project by \$2,000.**

CEQA: Exempt, File No. PP05-184. (City Manager's Office/Economic Development)

(Deferred from 8/7/07 – Item 2.4 and 8/14/07 – Item 2.3)

Documents Filed: (1) Memorandum from Council Member Campos, dated August 13, 2007, recommending approval of a modified agreement with conditions. (2) Memorandum from Chief Development Officer Paul Krutko and Acting Budget Director Jennifer Maguire, dated July 16, 2007, recommending approval of an agreement and adoption of appropriation ordinances and funding sources resolution.

Action: Dropped per Council District 5.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.4 Adoption of a resolution:

- (a) **Authorizing the City Manager to negotiate and execute a master agreement with the San Jose Conservation Corps, Inc. (SJCC) to provide services for community improvement activities for the period of July 1, 2007 to June 30, 2008, with four (4) annual options to extend the agreement by one year.**
- (b) **Finding that the SJCC provides programs to at-risk youth with essential job training and development opportunities and that this unique service presents an unusual or unique situation that make applying the requirements for competitive procurement of a services agreement contrary to the public interest.**
- (c) **Finding that the City's prevailing wage policy does not include services provided by the SJCC.**

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

Documents Filed: Memorandum from Deputy City Manager Mark Linder, dated August 8, 2007, recommending adoption of a resolution.

Motion: Council Member Nguyen moved approval of the Staff recommendations. Council Member Liccardo seconded the motion.

Public Comments: Robert Hennessy, San José Conservation Corps and Charter School, expressed support for the Staff recommendations.

Deputy City Managers Mark Linder and Ed Shikada responded to Council questions.

3.4 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 73959, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the San José Conservation Corps for Community Improvement Activities for the Period of July 1, 2007 to June 30, 2008, in an Amount Not To Exceed \$250,000; Finding that the San José Conservation Corps Provides an Unique Service that makes Application of Requirements for Competitive Procurement Contrary to the Public Interest; and Finding that the City's Prevailing Wage Policy Does Not Include Services Provided by the San José Conservation Corps", was adopted. (11-0.)

3.5 Report on Request for Proposal for on-site reprographic services at City Hall and adoption of a resolution authorizing the Director of Finance to:

- (a) Execute a three year agreement with Newcal Industries, Inc. to operate a copying and printing facility in City Hall for the period September 1, 2007 through August 31, 2010, for a total three year compensation not to exceed \$3,000,000.
- (b) Execute two one-year options to renew the agreement subject to annual Consumer Price Index adjustments and annual appropriation of funds.

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated July 30, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, Resolution No. 73960, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Newcal Industries, Inc. for On-Site Reprographic Services at City Hall", was adopted. (11-0.)

3.6 As recommended by the Rules and Open Government Committee on August 15, 2007 adopt an oppose position for Senate Bill 2 (Cedillo) – By-Right Housing. (Housing)

[Rules Committee referral 8/15/07 – Item C(1)(b)]

Documents Filed: Memorandum from City Clerk Lee Price, dated August 17, 2007, transmitting the recommendation from the Rules and Open Government Committee on August 15, 2007.

Director of Housing Leslye Krutko provided an update on the SB2 By-Right Housing.

Action: Upon motion by Council Member Williams, seconded by Council Member Liccardo and carried unanimously, the oppose position was adopted, unless amended, with Staff requested to report back on any amendments to the bill in the City Manager's Weekly Report. (11-0.)

- 3.7 As recommended by the Rules and Open Government Committee on August 15, 2007, adopt an oppose position for Assembly Bill 1430, Political Reform Act: Contributions: Member Communications. (City Attorney)
[Rules and Open Government Committee referral 8/15/07 – Item (C)(1)(c)]**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated August 16, 2007, presenting an analysis of AB1430 and transmitting the oppose position as recommended by the Rules and Open Government Committee meeting.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Chirco and carried unanimously, the oppose position was adopted. (11-0.)

- 3.8 As recommended by the Rules and Open Government Committee on August 15, 2007, accept the August 8, 2007 State Legislative Bill Matrix. CEQA: Not a Project. (City Manager)
[Rules and Open Government Committee referral 8/15/07 – Item (C)(1)(c)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated August 17, 2007, transmitting the recommendation from the Rules and Open Government Committee on August 15, 2007.

Director Intergovernmental Relations Betsy Shotwell responded to Council questions.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously the August 8, 2007 State Legislative Bill Matrix was accepted, with Staff requested to provide to the Council a copy of AB117. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 Adoption of a resolution approving the City Hall Exhibits Policy. CEQA: Not a Project. (Economic Development)
[Community and Economic Development Committee Referral 6/25/07 – Item (f)]
(Deferred from 8/7/07 – Item 4.5 and 8/14/07 – Item 3.8)**

Documents Filed: (1) Memorandum from Chief Development Officer Paul Krutko, dated July 23, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Chief Development Officer Paul Krutko, dated August 14, 2007, correcting an administrative error in the proposed City Hall Exhibits Policy and Procedures documents.

Chief Development Officer Paul Krutko responded to Council questions.

Public Comments: Ross Signorino spoke in favor of the Staff recommendations.

4.2 (Cont'd.)

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, Resolution No. 73961, entitled: "A Resolution of the Council of the City of San José Approving a New City Council Policy entitled City Hall Exhibits Policy", was adopted, as amended, by adding guidelines for exhibits on the 18th Floor of City Hall. (11-0.)

4.3 **Administrative Hearing on appeal and adoption of a resolution denying the appeal and approving staff's recommendation to reduce the required reimbursement in Condition No. 15.f of Planned Development Permit No. PD05-069 which requires reimbursement to the City of its costs of traffic improvements for the construction of six single-family detached units on an 0.83 gross acre site at the SE corner of Hostetter Road and Sierra Creek Way, from \$548,268 to \$341,349 (a reduction of \$206,919). CEQA: Mitigated Negative Declaration. Council District 4. (Public Works/ Planning, Building and Code Enforcement)**

Action: Deferred to September 18, 2007 per Administration.

NEIGHBORHOOD SERVICES

5.1 **Report of the Neighborhood Services and Education Committee – August 9, 2007 Council Member Chirco, Chair**

Documents Filed: The Neighborhood Services and Education Committee Report dated August 9, 2007.

- (a) Report on ABAG Regional Needs Program. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated July 25, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (b) Evaluation of Second Unit Pilot Program

Deferred to October 2007.

- (c) Report on Annual Adjustment to PDO/PIO Fees Following Land Survey. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated July 23, 2007, recommending acceptance of the report.

The Committee approved the recommendation that this report be brought before the full Council for review and approval of fees. See Item 5.5 for Council Action taken.

**5.1 Report of the Neighborhood Services and Education Committee – August 9, 2007
Council Member Chirco, Chair (Cont'd.)**

- (d) Sports Field Study Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated July 23, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (e) Strong Neighborhoods Monthly Update. Attachment: Deputy City Manager Mark Linder, dated July 23, 2007, recommending acceptance of the recommendations.

The Committee approved the Staff recommendation with the following amendments: (1) The Neighborhoods Commission annual work plan will be developed in coordination with and approved by the Neighborhood Services and Education Committee (NSE). (2) The Neighborhoods Commission to be instituted as a pilot from April 1, 2008 to March 31, 2010. (3) The Neighborhoods Commission to provide quarterly updates to the NSE Committee throughout the two year pilot period.

- (f) Schools/City Collaborative Monthly Update
 - (1) Reports from School Safety, Joint Use and Teacher Recruitment/Retention Sub-committees

The Committee approved the update.

- (g) Status Report on Tree Preservation Services. Attachment: Memorandum from Deputy City Manager Ed Shikada, Director of Transportation James Helmer and Director of Planning, Building and Code Enforcement Joseph Horwedel, dated July 23, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (h) Report on Sidewalk Repair Notice and Permit Letter. Attachment: Memorandum from Director of Transportation James Helmer, dated July 27, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (i) Report on Key Legislative Items. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated July 23, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

**5.1 Report of the Neighborhood Services and Education Committee – August 9, 2007
Council Member Chirco, Chair (Cont'd.)**

(j) Oral Petitions

None were presented.

(k) Adjournment

The meeting was adjourned at 3:37 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos and carried unanimously, the Neighborhood Services and Education Committee Report and the actions of August 9, 2007 were accepted. (11-0.)

5.2 Approval of the Master Plan for the Alma Community Center Site Renovation. CEQA: Exempt, File No. PP07-049. Council District 7. SNI: Washington. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated July 30, 2007, recommending approval and transmitting the master plan.

Public Comments: Harvey Darnell spoke in favor of the Staff recommendations and suggested building a park across the street from the site.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Liccardo and carried unanimously, the Master Plan for the Alma Community Center Site Renovation was approved, with Staff directed to provide additional information about the budget and artificial turf to the Council. (10-0-1. Absent: Chirco.)

5.3 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with KaBOOM! for planning, design, and project management services for the installation of playground equipment in City parks by volunteers which will include a waiver of the City's standard contractual requirements for indemnification, insurance and record keeping. CEQA: Exempt, File No. PP07-116. Council District 8. SNI: K.O.N.A. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Deputy City Manager Mark Linder, dated July 31, 2007, recommending adoption of a resolution. (2) A list of KaBOOM! projects from October 2005-February 2007, dated August 21, 2007, submitted by Randi Kinman.

Director of Parks, Recreation and Neighborhood Services Albert Balagso provided a brief Staff report and responded to Council questions.

Public Comments: Randi Kinman, Ed Rast and Harvey Darnell spoke in support of the agreement with KaBOOM!

5.3 (Cont'd.)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Williams and carried unanimously, Resolution No. 73962, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with KaBOOM! for the Planning, Design and Oversight of Volunteer Installation of Playground Equipment in City Parks", was adopted, as amended, with Staff directed to: (1) Work out a mutually agreed upon alternative with KaBOOM! to address recordkeeping issues (i.e. product warranties). (2) Return to Council with information about other similar projects and an evaluation of this pilot project. (11-0.)

STRATEGIC SUPPORT SERVICES

3.3 Approval of the Sunshine Reform Task Force Phase I Report and Recommendations for Closed Session and Public Information, as amended by the Rules and Open Government Committee, and direction to staff to proceed with implementation on a pilot basis. CEQA: Not a Project. (City Manager's Office) (Deferred from 8/7/07 – Item 3.12)

Documents Filed: (1) Memorandum from Director of Communications Tom Manheim, dated July 20, 2007, recommending suspending action on the public meetings provision and approval of the reports and recommendations. (2) Staff presentation on the Sunshine Reform Task Force, dated August 21, 2007.

Director of Communications Tom Manheim provided an overview of the Sunshine Reform Task Force Phase I Report and Recommendations and responded to Council questions.

Extensive Council discussion ensued.

Public Comments: Ross Signorino spoke in support of the Staff recommendations. Mark Trout spoke off topic.

Motion: Vice Mayor Cortese moved to defer action to record Closed Sessions unless and until a process for certification and appeal has been established. Council Member Liccardo seconded the motion.

Substitute Motion: Council Member Constant moved to amend the motion to state the intent of the Council is to record Closed Sessions. Council Member Liccardo seconded the motion. The Substitute motion failed. (3-8. (Noes: Campos, Chirco, Cortese, Chu, Nguyen, Oliverio, Pyle, Williams.)

3.3 (Cont'd.)

Action: On a call for the question, the motion carried, the following was approved: (1) Approved the Public Information provisions of the Sunshine Reform Task Force (SRTF) Phase 1 Report and directed Staff to proceed with implementation on a pilot basis. (2) Approved the Closed Session provisions of the SRTF Phase 1 report for the City Council and the Redevelopment Agency's conduct of closed sessions, with the exception of audio recording closed session, and directed Staff to proceed with implementation on a pilot basis. (3) Deferred audio recording of Closed Session until Staff returns, with input from the SRTF, with a process of certification and appeal to be approved by the Council. (4) Directed Staff to continue outreach and gather feedback from other bodies that hold Closed Session and other potentially affected entities and report back to the Rules and Open Government Committee in September 2007. (11-0.)

NEIGHBORHOOD SERVICES

5.4 **Approval of the 2007 City-Wide Aquatics Master Plan. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated July 27, 2007, recommending approval and transmitting the master plan.

Director of Parks, Recreation and Neighborhood Services Albert Balagso presented the Citywide Aquatics Master Plan.

Extensive Council discussion followed.

Public Comments: Mark Trout spoke off topic. Ross Signorino, Frank Hernandez, Harvey Darnell and Ed Rast spoke in favor of the Staff recommendations.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, the 2007 City-Wide Aquatics Master Plan was approved. (11-0.)

5.5 **Acceptance of the report regarding the Parkland In-Lieu Fees associated with the Parkland Dedication Ordinance (PDO) and the Park Impact Ordinance (PIO) and direction to staff to prepare for City Council consideration a resolution to establish the revised Parkland In-Lieu Fees Schedule to go into effect on February 1, 2008, to reflect the 2006 Residential Land Value Study. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

[Neighborhood Services and Education Committee – 8/9/07 – Item 5.1(c)]

Documents Filed: Memorandum from Agenda Services Manager Nadine Nader, dated August 15, 2007, recommending acceptance of the report.

5.5 (Cont'd.)

Public Comments: William Garbett spoke in favor of parks but objected to the higher fees. Harvey Darnell and Ed Rast spoke in favor of the Staff recommendations.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the report regarding the Parkland In-Lieu Fees associated with the Parkland Dedication Ordinance (PDO) and the Park Impact Ordinance (PIO) and direction to staff to prepare for City Council consideration a resolution to establish the revised Parkland In-Lieu Fees Schedule to go into effect on February 1, 2008, to reflect the 2006 Residential Land Value Study was accepted. (11-0.)

OPEN FORUM

- (1) Mark Trout expressed religious viewpoints.
- (2) Robert Apgar shared personal observations.
- (3) William Garrett stated that the car theft rate in San José is accelerating per the San José Mercury.
- (4) Stephen Hazel voiced personal points of view.
- (5) Ross Signorino complimented Mayor Reed on how he presides over the meeting.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:21 p.m. in memory of Michael O’Kane, a retired school administrator and community volunteer, who passed away recently; In memory of Bill Williams, a community activist who served as a founding member of the San Jose Branch of the NAACP.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/8-21-07MIN

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 6:22 p.m. to consider Items 8.1 in a Joint Session.

- 8.1 (a) **Public Hearing of the City Council pursuant to Federal Tax Equity Fiscal Responsibility Act for the issuance of up to \$38,000,000 in tax-exempt public activity bonds for the refunding of the Agency's \$38,000,000 in Variable Rate Demand Multifamily Housing Revenue Bonds (101 San Fernando Apartments), Series 1998A and adoption of a resolution by the City Council approving the issuance of the 2007 Bonds described below.**
- (b) **Approval by the Agency Board of an agreement with FC Third Street Associates regarding the terms of the Agency's issuance of the 2007 Bonds, including an Issuers fee of at least \$120,000 and the resolution of prior disputes between the parties.**
- (c) **Adoption of a resolution by the Redevelopment Agency Board:**
- (1) **Authorizing the issuance of Multifamily Housing Revenue Refunding Bonds, Series 2007A in the amount not to exceed \$38,000,000; and approving in substantially final form a Trust Indenture with Wells Fargo Bank, National Association, a Loan Agreement with the Borrower, and a First Amendment to the Regulatory Agreement with the Trustee and Borrower.**
 - (2) **Approving the private placement of the 2007 Bonds with Merrill Lynch, Pierce, Fenner & Smith Incorporated or a related entity.**
 - (3) **Authorizing all officers, agents and employees to take such actions and execute such documents necessary and desirable to accomplish the issuance of the 2007 Bonds.**

[CENTURY CENTER]

Documents Filed: (1) Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated August 9, 2007, recommending holding a public hearing, approval of an agreement and adoption of resolutions. (2) Proof of Publication of Notice of Public Hearing, executed on August 7, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. Reed William Garbett objected to the Staff recommendations. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Williams, seconded by Council Member Constant and carried unanimously, Resolution No. 73963, entitled: "A Resolution of the Council of the City of San José Approving the Issuance of Multi Family Housing Revenue Refunding Bonds by the Redevelopment Agency of the City of San José" and Redevelopment Agency Resolution No. 5776 were adopted; and an agreement with FC Third Street Associates regarding the terms of the Agency's issuance of the 2007 Bonds, including an Issuers fee of at least \$120,000 and the resolution of prior disputes between the parties was approved. (11-0.)

The Council of the City of San José and Redevelopment Agency Board adjourned at 6:26 p.m.