

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, DECEMBER 4, 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, Cortese, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - Liccardo, Nguyen. (Excused)

Upon motion unanimously adopted, Council recessed at 9:30 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 cases of: (1) Calpine Corporation, et al.: U.S. Bankruptcy Court, So. District, New York Case No. 05-60200 (BFL); City claim in bankruptcy; (2) Mao v. Meyer, et al.: Superior Court, Santa Clara County Case No. 1-06-CV-075249; Damages sought: in excess of \$25,000 according to proof; (3) Calderon, et al. v. City of San José, et al.: Superior Court, County of Santa Clara Case No. 1-07-CV-088285; Damages sought: in excess of \$25,000 according to proof; (4) Fisher, et al. v. City of San José, et al.: U.S. Court of Appeals, 9th Circuit, Case No. 04-16095; Damages sought: injunctive relief and damages according to proof; (5) Anderson, et al. v. City, et al.: Superior Court, Santa Clara County Case No. 1-07-CV-079223; Damages sought: in excess of \$25,000 according to proof. (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; Nature of negotiation to be discussed: wages/salaries, working conditions and benefits.

By unanimous consent, Council recessed from the Closed Session at 11:05 a.m. and reconvened at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - Liccardo, Nguyen. (Excused)

INVOCATION

David Bird, Trinity Cathedral presented a poem by Robert Frost. (Mayor)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved, Items 3.1(d) and (e) were deferred to December 11, 2007. (9-0-2. Absent: Liccardo, Nguyen.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of December 4, 2007:

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

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

Adverse Party or parties: Ascension Calderon and Samuel Santana

Substance of Litigation: Plaintiffs filed a civil lawsuit in State court that alleges false arrest, assault and battery, intentional infliction of emotional distress and violation of civil rights.

Council Vote: Ayes: Campos, Chirco, Chu, Constant, Cortese, Oliverio, Pyle, Williams; Reed.

Noes: None.

Disqualified: None.

Absent: Liccardo, Nguyen. (Excused)

CEREMONIAL ITEMS

1.4 Presentation of a commendation recognizing the Rotary Club of San José for its commitment to the community by creating a place for children to congregate, learn and play together. (Parks, Recreation and Neighborhood Services)

Action: Mayor Reed and Director of Parks, Recreation and Neighborhood Services Albert Balagso recognized and commended the Rotary Club of San José for its commitment to the City of San José.

**1.5 Presentation of the 2007 Playful City USA award. (Mayor/Chu/Parks, Recreation and Neighborhood Services)
(Rules Committee referral 11/28/07)**

Action: Mayor Reed and Council Member Chu recognized and commended the Department of Parks, Recreation and Neighborhood Services for their dedication and hard work. KABOOM! recently presented the “2007 Playful City USA” award to the City of San José. Council Member Chu presented a “Mini Dodge Ball” to Director of Parks, Recreation and Neighborhood Services Albert Balagso.

**1.7 Presentation of a commendation to A1 Jays Machining for their contributions to the economic vitality of the City of San José. (Mayor/Chu)
(Orders of the Day)**

Action: Mayor Reed and Council Member Chu recognized and commended A1 Jays Machining for their contributions to the economic vitality of the City of San José.

**1.6 Presentation of a proclamation declaring December 1, 2007 as World AIDS Day. (Pyle)
(Rules Committee referral 11/28/07)**

Action: Mayor Reed and Council Member Pyle recognized December 1, 2007 as “World AIDS Day” in the City of San José.

CONSENT CALENDAR

Upon motion by Vice Mayor Cortese, 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: Liccardo, Nguyen.)

2.1 Approval of minutes.
**(a) Regular minutes of September 25, 2007
[Deferred from 11/20/07 – Item 2.1(c)]**

Documents Filed: The Regular Minutes dated September 25, 2007.

Action: The minutes were approved. (9-0-2. Absent: Liccardo, Nguyen.)

2.2 Final adoption of ordinances.
(a) ORD. NO. 28175 – Repealing Ordinance No. 27751 to terminate the Commercial Solid Waste and Recyclables Collection Franchise previously granted to Waste Management of California, Inc. dba Waste Management of Santa Clara County.

Documents Filed: Proof of Publication of the title of Ordinance No. 28175 executed on November 27, 2007, submitted by the City Clerk.

2.2 (a) (Cont'd.)

Action: [Ordinance No. 28175](#) was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

- (b) **ORD. NO. 28176 – Repealing Ordinance No. 27749 to terminate the Commercial Solid Waste and Recyclables Collection Franchise previously granted to USA Waste of California, Inc. dba Green Valley Disposal Company, Inc.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28176 executed on November 27, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28176](#) was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

- (c) **ORD. NO. 28178 – Establishing a Neighborhoods Commission for the period from April 1, 2008 through March 31, 2010.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28178 executed on November 27, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28178](#) was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

- (d) **ORD. NO. 28179 – Amending Chapter 15.14 of the San José Municipal Code to modify local discharge limits for copper, nickel, selenium and total phenol, to eliminate limits for manganese, total toxic organics and xyelene; to add definitions, to conform Municipal Code requirements to Federal Pretreatment Program requirements, to expand reporting, record keeping and sampling requirements and to require Industrial Pretreatment Applications to be filed at least ninety days prior to discharge or the expiration of an existing permit.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28179 executed on November 27, 2007 and December 14, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28179](#) was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

2.3 (a) **Approval of the Lower Silver Creek Trail Master Plan.**

- (b) **Adoption of a resolution incorporating the environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project.**

CEQA: Mitigated Negative Declaration, File No. PP07-106. Council Districts 3, 5 and 8. SNI: Five Wounds/Brookwood Terrace, Mayfair, East Valley/680 Communities. (Parks, Recreation and Neighborhood Services)

(Deferred from 10/23/07 – Item 2.12, 10/30/07 – Item 2.3 and 11/20/07 – Item 2.3)

2.3 (Cont'd.)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated October 29, 2007, recommending approval of the master plan and adoption of a resolution.

Action: The Lower Silver Creek Trail Master Plan was approved and [Resolution No. 74120](#), entitled: "A Resolution of the Council of the City of San José Approving the Lower Silver Creek Trail Project, for Which an Initial Study/Mitigated Negative Declaration was Prepared in Accordance with the California Environmental Quality Act and Adopting a Mitigation and Monitoring and Reporting Program", was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

2.4 **As recommended by the Parks and Recreation Commission, name a new park located at the northerly side of Samaritan Drive opposite Cooper Avenue as "Carolyn Norris Park". (City Clerk)**

Documents Filed: Memorandum from City Clerk Lee Price, dated November 20, 2007, transmitting the recommendation of the Parks and Recreation Commission.

Action: The name "Carolyn Norris Park" was approved for the new park located at the northerly side of Samaritan Drive . (9-0-2. Absent: Liccardo, Nguyen.)

2.5 **Request for an excused absence for Council Member Chirco from the Regular Meeting of the Rules and Open Government Committee on November 28, 2007 due to Personal Business. (Chirco) (Rules in-Lieu referral 11/20/07)**

Documents Filed: Memorandum from Council Member Chirco, dated November 5, 2007, requesting an absence due to personal business.

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

- 2.6 (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 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;**
 - (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. (Economic Development/City Manager's Office)

2.6 (Cont'd.)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko and Acting Budget Director Jennifer Maguire, dated November 13, 2007, recommending approval of the agreement and adoption of appropriation amendments.

Action: The agreement with Fernanda D'Agostino to fabricate and install artwork for the Mayfair Community Center in a total amount not to exceed \$195,400 was approved and [Ordinance No. 28180](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Subdivision Park Trust Fund for the Mayfair Community Center Public Art; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

2.7 Approval of an ordinance authorizing an amnesty program for specified accounts receivable. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 13, 2007, recommending approval of an ordinance.

Action: [Ordinance No. 28181](#), entitled: "An Ordinance of the City of San José Adopting a Limited Amnesty Program Under Which the City Will Forgive up to Thirty Percent of Certain Types of Delinquent Accounts, Including up to Thirty Percent of Any Interest and Penalties Associated with Such Accounts, Upon the Debtor's Full Payment of Seventy Percent of the Total Amount of the Delinquent Account", was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

2.8 Adoption of a resolution approving a funding commitment of up to \$400,000 to provide second mortgages of up to \$50,000 each to moderate-income households purchasing townhomes in the San Antonio Place development, located on the corner of East San Antonio Street and King Road. CEQA: Not a Project. Council District 5. SNI: Mayfair. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated October 29, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74128](#), entitled: "A Resolution of the Council of the City of San José Approving a Funding Commitment of Up to \$400,000 to Provide Second Mortgages of Up To \$50,000 Each to Moderate Income Households Purchasing Townhomes in the San Antonio Place Development, Located on the Corner of East San Antonio Street and King Road", was adopted. Correction noted: San Antonio Place is in Council District 5, not District 4, as previously reflected. (9-0-2. Absent: Liccardo, Nguyen.)

2.9 Adoption of a resolution authorizing the City Manager to negotiate and execute a two-year sponsorship agreement with Hill's Pet Food Company to receive dog and cat food at the cost of shipping in exchange for exclusive promotional opportunities to Hill's Pet Food at the City of San José's Animal Care Center. CEQA: Not a Project. (Parks, Recreation and Neighborhood Service)

2.9 (Cont'd.)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 13, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74129](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Two Year Sponsorship Agreement with Hill's Pet Food Company to Receive Dog and Cat Food at the Cost of Shipping in Exchange for Exclusive Promotional Opportunities to Hill's Pet Food at the City of San José's Animal Care Center", was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

- 2.10 (a) Adoption of a resolution accepting a donation in the amount of \$17,500 from the Rotary Club of San José to fund the purchase and installation of adaptive swings in City parks to facilitate equal play for special needs children.**
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Gift Trust Fund:**
- (1) Increase the Earned Revenue estimate by \$17,500; and**
 - (2) Establish a gift appropriation to the Parks, Recreation and Neighborhood Services Department for the Swings for Special Needs Children for \$17,500.**

CEQA: Exempt, File No. PP07-244. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Acting Budget Director Jennifer Maguire, dated November 13, 2007, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Mayor Reed pulled Item 2.10 to disclose that he is a member of the Rotary Club of San José. Vice Mayor Cortese and Council Members Liccardo and Chu also disclosed their membership in Rotary.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74130](#), entitled: "A Resolution of the Council of the City of San José Accepting a Donation of \$17,500 from the Rotary Club of San José to be Used for the Purchase and Installation of Adaptive Swings in City Parks to Facilitate Equal Play for Special Needs Children"; [Ordinance No. 28182](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Gift Trust Fund for the Swings for Special Needs Children; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 74131](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the Gift Trust Fund", were adopted. (9-0-2. Absent: Liccardo, Nguyen.)

- 2.11 (a) Approval of the proposed 2007-09 Spending Plan for the 2007 Edward Byrne Memorial Justice Assistance Grant Trust (JAG) Fund.**
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund:**
- (1) Increase the estimate for Earned Revenue in the amount of \$291,220.**
 - (2) Establish an appropriation to the Police Department for the Justice Assistance Grant 2007-09 Spending Plan in the amount of \$291,220.**
- CEQA: Not a Project. (Police/City Manager's Office)**

Documents Filed: Memorandum from Police Chief Robert Davis and Acting Budget Director Jennifer Maguire, dated November 13, 2007, recommending approval of the Justice Assistance Grant Trust Fund and adoption of appropriation ordinance and funding sources resolution amendments.

Action: The proposed 2007-09 Spending Plan for the 2007 Edward Byrne Memorial Justice Assistance Grant Trust Fund was approved and [Ordinance No. 28183](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Edward Byrne Memorial Justice Assistance Grant Trust Fund for the Justice Assistance Grant 2007-2009 Spending Plan; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 74132](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the Edward Byrne Memorial Justice Assistance Grant Trust Fund", were adopted. (9-0-2. Absent: Liccardo, Nguyen.)

- 2.12 (a) Approval of a contingency budget increase in the amount of \$42,120 from \$370,000 to \$412,120 for the Rose Garden Branch Library project.**
- (b) Approval of Contract Change Order No. 26 with Robert A. Bothman Construction, Inc. for the Rose Garden Branch Library Project in the amount of \$45,294, for a total contract amount of \$7,817,385, as a final payment that resolves all outstanding issues.**
- (c) Adoption of the following Appropriation Ordinance Amendments in the Branch Libraries Bond Projects Fund:**
- (1) Increase the appropriation to the Library Department for the Rose Garden Branch for \$21,000.**
 - (2) Decrease the Ending Fund Balance by \$21,000.**

CEQA: Negative Declaration, File No. H02-065. Council District 6. (Public Works/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Acting Budget Director Jennifer Maguire, dated October 29, 2007, recommending approval of a contingency budget increase and contract change order and adoption of appropriation ordinance amendments.

2.12 (Cont'd.)

Action: The contingency budget increase in the amount of \$42,120 from \$370,000 to \$412,120 and the Contract Change Order No. 26 with Robert A. Bothman Construction, Inc. for the Rose Garden Branch Library Project in the amount of \$45,294, for a total contract amount of \$7,817,385 were approved and [Ordinance No. 28184](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Branch Libraries Bond Projects Fund for the Rose Garden Branch Library; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

2.13 Adoption of a resolution to consider the establishment of a combination Rule 20A/In Lieu Fee (Rule 20B) Underground Utility District along Delmas Avenue from Santa Clara Street to Auzerais Avenue, Cahill Street from San Fernando Street to Santa Clara Street, San Fernando Street from Highway 87 to Cahill Street, Laurel Grove Lane from Cahill Light Rail Station to Bush Street, Cahill Park from Bush Street to Wilson Avenue, San Fernando Street from Wilson Avenue to 80' west of Wilson Street, Park Avenue from Highway 87 to Montgomery Street, and Auzerais Avenue from Bird Avenue to Highway 87, and setting a public hearing on January 15, 2008 at 1:30 p.m. CEQA: Exempt, File No. PP07-218. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 13, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74133](#), entitled: “A Resolution of the Council of the City of San José Setting the Time and Place for a Public Hearing to Consider the Establishment of a Rule 20A and In Lieu Fee (Rule 20B) Underground Utility District Along Delmas Avenue, Cahill Street from San Fernando Street to Santa Clara Street, San Fernando Street from Highway 87 to Cahill Street, Laurel Grove Lane from Cahill Lightrail Station to Bush Street, Cahill Park from Bush Street to Wilson Avenue, San Fernando Street from Wilson Avenue to 80' West of Wilson Street, Park Avenue from Highway 87 to Montgomery Street and Auzerais Avenue from Bird Avenue to Highway 87, on January 15, 2008 at 1:30 p.m.”, was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

2.14 Approval of a first amendment to a sublease agreement with American Tower, L.P., successor in interest to American Radio Systems, for the use by the City of portions of the communications facility and radio tower on Coyote Peak within the Santa Teresa County Park extending the term of the agreement by 120 months while modifying and adding to the equipment to be installed on the premises. CEQA: Mitigated Negative Declaration, File No. PP07-055. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 11, 2007, recommending approval of a first amendment to a sublease agreement.

2.14 (Cont'd.)

Action: The first amendment to a sublease agreement with American Tower, L.P., successor in interest to American Radio Systems, for the use by the City of portions of the communications facility and radio tower on Coyote Peak within the Santa Teresa County Park extending the term of the agreement by 120 months while modifying and adding to the equipment to be installed on the premises was approved. (9-0-2. Absent: Liccardo, Nguyen.)

2.15 Approval of an ordinance amending Sections 4.04.10 and 4.04.020 of Chapter 4.04 of Title 4 of the San José Municipal Code in order to delegate authority to the City Manager to execute agreements and documents for the purchase or donation of real property, or grants of permanent easements to the City, and temporary construction easements where the City is grantor or grantee and which have terms of two years or less, where the compensation for the real property interest does not exceed one hundred thousand dollars (\$100,000). CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 13, 2007, recommending approval of an ordinance.

Action: [Ordinance No. 28185](#), entitled: “An Ordinance of the City of San José Amending Sections 4.04.010 and 4.04.020 of Chapter 4.04 of Title 4 of the San José Municipal Code to Delegate to the City Manager the Authority to Execute Certain Agreements for the Purchase or Donation of Real Property, Permanent Easements and Temporary Construction Easements with Terms of Two Years or Less, Where the Consideration for the Real Property, Permanent Easement or Temporary Construction Easement Does Not Exceed \$100,000”, was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

2.16 Adoption of a resolution authorizing the City Manager to execute and accept the Grant Deed dedicating parkland from Almaden Family Housing Partners, LP to the City of San José for future public park purposes. CEQA: Negative Declaration, File No. PDC98-11-089. Council District 7. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 13, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74134](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Accept the Grant Deed Dedicating Approximately 1.79 Acres of Parkland from Almaden Family Housing Partners, LP to the City of San José for Future Public Park Purposes”, was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

- 2.17 (a) Adoption of a resolution:**
- (1) Accepting an Internet Crimes Against Children Grant award from the Governor’s Office of Emergency Services (OES) in the amount of \$250,000; and**
 - (2) Authorizing the City Manager to execute the Grant Award Agreement.**
- (b) Direction to staff to return to Council during the mid-year budget process to appropriate funds for this grant in the amount of \$250,000.**
- CEQA: Not a Project. (Police)**
(Orders of the Day)

Documents Filed: Memorandum from Police Chief Robert Davis, dated November 30, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74135](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Accept an Internet Crimes Against Children Grant from the California Office of Emergency Services in the Amount of \$250,000 and to Execute the Grant Award Agreement”, was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee Mayor Reed, Chair

- (a) Report of the Rules and Open Government Committee of October 17, 2007
(Deferred from 11/20/07 – Item 3.1)**
- (b) Report of the Rules and Open Government Committee of October 24, 2007
(Deferred from 11/20/07 – Item 3.2)**
- (c) Report of the Rules and Open Government Committee of October 31, 2007
(Deferred from 11/20/07 – Item 3.3)**

Documents Filed: The Rules and Open Government Committee Reports dated October 17, 2007, October 24, 2007 and October 31, 2007.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the Rules and Open Government Committee Reports and the actions of October 17, 2007, October 24, 2007 and October 31, 2007 were accepted. (9-0-2. Absent: Liccardo, Nguyen.)

- 3.1 (d) Report of the Rules and Open Government Committee of November 7, 2007
(Deferred from 11/20/07 – Item 3.4)**
- (e) Report of the Rules and Open Government Committee of November 14, 2007**

Action: Deferred to December 11, 2007 per Orders of the Day.

**3.2 Report of the Public Safety, Finance and Strategic Support Committee
November 15, 2007 - Council Member Nguyen, Chair**

Documents Filed: The Public Safety, Finance and Strategic Support Committee Report dated November 15, 2007.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Cortese and carried unanimously, the Public Safety, Finance and Strategic Support Committee Report and the actions of November 15, 2007 were accepted. (9-0-2. Absent: Liccardo, Nguyen.)

3.3 Review employee election results and make appointments to the City's Retirement Boards:

- (a) Appoint Matt Loesch to the Federated City Employees Retirement System Board of Administration to serve a four year term ending November 30, 2011.**
 - (b) Appoint Mark Skeen to the Police and Fire Department Retirement Plan Board of Administration to serve a four year term ending November 30, 2011.**
- (City Clerk)**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated November 20, 2007, recommending appointments to the City Council. (2) Replacement supplemental memorandum from City Clerk Lee Price, dated November 26, 2007, certifying the results of the employee election.

Public Comments: Brad Imamura objected to the appointment of Matt Loesch to the Federated City Employees Retirement System Board of Administration and expressed concerns about campaign practices during the election.

Motion: Council Member Williams moved to confirm the results of the employee elections and appoint Matt Loesch and Mark Skeen to the Retirement Boards. Council Member Chirco seconded the motion.

City Attorney Richard Doyle responded to questions posed by Vice Mayor Cortese regarding employee election regulations.

Action: On a call for the question, the motion carried unanimously, Matt Loesch was appointed to the Federated City Employees Retirement System Board of Administration to serve a four year term ending November 30, 2011. Mark Skeen was appointed to the Police and Fire Department Retirement Plan Board of Administration to serve a four year term ending November 30, 2011, with Staff directed to brief the Rules and Open Government Committee on issues related to campaign policies and procedures for employee elections. (9-0-2. Absent: Liccardo, Nguyen.)

3.4 Adoption of a resolution approving the terms of an agreement with the Association of Maintenance Supervisory Personnel and authorizing the City Manager to execute the agreement with a term of December 4, 2007 to June 27, 2009. CEQA: Not a Project. (City Manager’s Office)

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated November 13, 2007, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74136](#), entitled: “A Resolution of the Council of the City of San José Approving an Agreement Between the City of San José and Association of Maintenance Supervisory Personnel for the Period of December 4, 2007 to June 27, 2009”, was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

3.5 Adoption of a resolution approving revisions to Council Policy 7-10 “Placement of Communication Facilities on City-Owned Property” as adopted October 8, 1996 to include installation of telecommunications equipment on streetlight, traffic signal, and other poles owned by the City and in the public right of way. CEQA: Not a Project. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated November 13, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated November 29, 2007, transmitting the final version of the amended policy.

Public Comments: William Garbett objected to the Staff recommendations.

Brief Council questions followed.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Cortese and carried unanimously, [Resolution No. 74137](#), entitled: “A Resolution of the Council of the City of San José Revising Council Policy 7-10 to Include Installation of Telecommunications Equipment on City Owned Property in the Right of Way”, was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

3.6 Adoption of a resolution determining that the public interest and necessity require the acquisition of a billboard owned by Clear Channel Outdoor (“CCO”) located at 1000 South Bascom, San José, CA (APN Numbers 282-29-002, 003, and 004) and authorizing the City Attorney to file suit in eminent domain to acquire such property interest, to apply for an order for possession before judgment, and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available. CEQA: Exempt, File No. PP05-0126. Council District 6. (Public Works)

Action: Deferred to December 18, 2007 per District 6.

- 3.7 Adoption of a resolution approving a revised and updated City Council Policy 7-4 regarding the City's Relocation Policy, to be retitled "City Policy and Guidelines for Relocation Assistance under State and Federal Laws for Persons Displaced by City's Capital Improvement Projects" in order to adopt federal and state regulations as the City's guidelines for relocation benefits, and repealing Resolution Nos. 41149, 41786, and 44463 as the rules and regulations contained therein have been superseded in federal and state law. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 13, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, [Resolution No. 74138](#), entitled: "A Resolution of the Council of the City of San José Revising and Updating Council Policy 7-4 Regarding City's Relocation Policy and Adopting Federal and State Regulations as the City's Guidelines for Relocation Benefits and Repealing Resolution Numbers 41149, 41786 and 44463", was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Adoption of a resolution:

- (a) **Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Curtner Studios Project), Series 2007C" in an aggregate principal amount not to exceed \$8,794,969 (the "Bonds").**
- (b) **Approving a loan of Bond proceeds to Curtner Studios, L.P., a California limited partnership, for financing the acquisition and rehabilitation of the Curtner Studios project located at 701 Curtner Avenue in San José.**
- (c) **Approving in substantially final form the Bonds, Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants.**
- (d) **Authorizing the City Manager or other authorized officers to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary.**

CEQA: Exempt, File No. PDC98-089. Council District 6. (Finance/Housing)

Documents Filed: (1) Memorandum from Deputy Director of Finance Julia Cooper and Director of Housing Leslye Krutko, dated November 13, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Deputy Director of Finance Julia Cooper, dated November 26, 2007, describing additional documents that were not addressed in the November 13, 2007 memorandum and transmitting documents for the record. (3) Supplemental memorandum from Deputy Director of Finance Julia Cooper, dated November 29, 2007, describing additional information related to the Swap Agreement between the Borrower and U.S. Bank.

4.2 (Cont'd.)

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74139](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Issuance of Multifamily Housing Revenue Bonds and the Loan of the Proceeds Thereof for the Financing of the Curtner Studios Project and Approving Other Related Documents and Actions", was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

4.3 Conduct Public Hearings and consider the adoption of resolutions approving the following Historic Landmark nominations for designation as Historic Landmarks and adoption of resolutions approving Historical Property Contracts related to each Historic Landmark:

(a) Projects located at 301 S. 1st Street, City Landmark No. HL01-126 (Saratoga Capital, Inc., owner) as follows:

- (1) [MA07-012](#). Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the Sainte Claire Building.

CEQA: Exempt. Council District 3. (Planning, Building and Code Enforcement)

(b) Projects located at 201 S. 13th Street (Peter Smith, owner) as follows:

- (1) [HL07-163](#). Historic Landmark Nomination for the Miller-Hubbard House as Historic Landmark No. 163.

- (2) [MA07-008](#). Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property.

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

(c) Projects located at 295 Sequoia Avenue (Lawrence Camuso, owner) as follows:

- (1) [HL07-164](#). Historic Landmark Nomination for the Martin House as Historic Landmark No. 164.

- (2) [MA07-009](#). Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property.

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

(d) Projects located at 523 S. 6th Street (Sandra and Walter Soellner, owners) as follows:

- (1) [HL07-165](#). Historic Landmark Nomination for the Field House as Historic Landmark No. 165.

- (2) [MA07-010](#). Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property.

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

- 4.3 (e) **Projects located at 470 S.3rd Street (Steve Cohen, owner) as follows:**
- (1) **HL07-166. Historic Landmark Nomination for the Mojmir Apartment Building as Historic Landmark No. 166.**
 - (2) **MA07-011. Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property.**
- CEQA: Exempt. Council District 3. SNI: University. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memoranda from the Historic Landmarks Commission Secretary Joseph Horwedel, both dated November 13, 2007, recommending adoption of resolutions. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File Numbers HL07-163, MA07-008, HL07-164, MA07-009, HL07-165, MA07-010, HL07-166 and MA07-01, dated October 31, 2007, recommending approval. (3) Five Proofs of Publications of Notices of Public Hearings, all executed on October 26, 2007, submitted by the City Clerk.

Public Comments: 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 Oliverio, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74140](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with James Fox on Behalf of Pacific Properties III for the Sainte Claire Building (City Landmark No. HL01-126)”; [Resolution No. 74141](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Miller-Hubbard House Located at 201 South Thirteenth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 74142](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Peter Smith for the Miller-Hubbard House Located at 201 South Thirteenth Street (City Landmark No. HL07-163)”; [Resolution No. 74143](#), “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Martin House Located at 295 Sequoia Avenue as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 74144](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Lawrence Camuso for the Martin House Located at 295 Sequoia Avenue (City Landmark No. HL07-164)”; [Resolution No. 74145](#), entitled: entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Richards-Field House Located at 523 South Sixth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 74146](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Sandra Soellner and Walter Soellner for the Richards-Field House Located at 523

4.3 (Cont'd.)

South Sixth Street (City Landmark No. HL07-165)”; [Resolution No. 74147](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Mojmir Apartments Located at 470 South Third Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature” and [Resolution 74148](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Steve Cohen for the Mojmir Apartments Located at 470 South Third Street (City Landmark No. HL07-166)”, were adopted. (9-0-2. Absent: Liccardo, Nguyen.)

4.4 Adoption of a resolution:

- (a) **Accepting the 2007-2008 Hazardous Vegetation Commencement Report compiled by the Santa Clara County Department of Agriculture and Resource Management; and**
- (b) **Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the report are a nuisance; and**
- (c) **Directing the Santa Clara County Department of Agriculture and Resource Management to mail notices of a public hearing before the City Council, on January 15, 2008 at 1:30 p.m. on the report to property owners of affected real properties, pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.**

CEQA: Exempt, File No. PP06-196. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 13, 2007, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, [Resolution No. 74149](#), entitled: “A Resolution of the Council of the City of San José Accepting and Confirming the Hazardous Vegetation Commencement Report for the Year 2007-2008 Compiled by the Santa Clara County Department of Agriculture and Resource Management; Declaring Certain Noxious or Dangerous Seasonal and Recurrent Weeds are Growing or are Likely to Grow Upon Certain Public and Private Properties or that Refuse is Situated or Likely to be Situated Upon Certain Properties Within the City of San José; Declaring such Seasonal and/or Recurrent Weeds and Refuse a Public Nuisance; and Directing that Notice of this Resolution and a Public Hearing on the Report on January 15, 2008 at 1:30 p.m. be Given Pursuant to Chapter 9.12 of the San José Municipal Code”, was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

NEIGHBORHOOD SERVICES

- 5.2 (a) **Approval of an agreement with the Police Activities League, a California non-profit corporation (PAL Board) for the Promotion and Support of the J.R. Blackmore Police Activities League Stadium and Complex (“PAL Agreement”) for a term of 20 years, provides for operation of the Stadium and Complex by the City and provides that certain revenues from the Stadium and Complex shall be used for youth programs and facility improvements and such other terms as described in the memorandum.**
- (b) **Adoption of a resolution authorizing the City Manager to approve sponsorship agreements for up to three-year terms at the PAL Stadium and Complex to assist PAL’s fundraising efforts.**
- (c) **Adoption of a resolution establishing the schedule of field fees and charges for the Stadium and Complex.**

CEQA: Not a Project. Council District 5. SNI: Mayfair. (City Manager’s Office/Parks, Recreation and Neighborhood Services/Police)

Documents Filed: (1) Memorandum from Deputy City Manager Ed Shikada, Director of Parks, Recreation and Neighborhood Services Albert Balagso and Police Chief Robert Davis, dated November 13, 2007, recommending adoption of the resolutions and approval of the agreement. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 29, 2007, recommending authorizing the City Manager to negotiate and execute an agreement with the Police Activities League to approve the agreement with the Police Activities League.

Vice Mayor Cortese requested that Staff return in 6 months to the Rules and Open Government Committee with a general update.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Campos and carried unanimously, the agreement with the Police Activities League was approved, [Resolution No. 74150](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Police Activities League to Provide for the Operation of the J.R. Blackmore Police Activities League Stadium and Complex by the city and that Certain Revenues from the Stadium and Complex Shall Be Used for Youth Programs and Facility Improvements and Authorizing the City Manager to Negotiate and Execute Sponsorship Agreements at the Stadium and Complex to Assist the Police Activities League in Fundraising Efforts” and [Resolution No. 74151](#), entitled: “A Resolution of the Council of the City of San José Establishing a Schedule of Field Fees and Charges for the Use of the J.R. Blackmore Police Activities League Stadium and Complex”, were adopted, with Staff directed to return in 6 months to the Rules and Open Government Committee with a general update. (9-0-2. Absent: Liccardo, Nguyen.)

5.3 Approval of the master plan for the new Fleming Park. CEQA: Exempt, File No. PP07-237. Council District 5. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Council Member Campos, dated November 28, 2007, recommending approval of the new master plan and a condition prohibiting on street parking along the section of Fleming Avenue adjacent to the park. (2) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 13, 2007, recommending approval and transmitting the master plan for the new Fleming Park.

Motion: Council Member Campos moved approval of her memorandum recommending approval of the master plan for the new Fleming Park with a condition prohibiting on street parking along the section of Fleming Avenue adjacent to the park. Council Member Williams seconded the motion.

Director of Transportation James Helmer responded to Council questions.

Action: On a call for the question, the motion carried unanimously, the master plan for the new Fleming Park was approved, with the condition that on street parking be prohibited along the section of Fleming Avenue adjacent to the park. (9-0-2. Absent: Liccardo, Nguyen.)

5.4 Public Hearing and adoption of a resolution setting forth the new Parkland Schedule of In-Lieu Fees charged pursuant to Chapters 14.25 (“Park Impact Ordinance”) and 19.38 (“Parkland Dedication Ordinance”) of the San José Municipal Code to reflect the 2006 Residential Land Value Study. CEQA: Resolution No. 65459. (Parks, Recreation and Neighborhood Services) (Continued from 11/20/07 – Item 5.3)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated October 29, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 26, 2007, clarifying that there are no proposed adjustments to the Parkland in lieu fees associated with high rise multi family residential projects located in the downtown core area.

Public Comments: 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 Chirco, seconded by Vice Mayor Cortese and carried unanimously, [Resolution No. 74152](#), entitled: “A Resolution of the Council of the City of San José Setting forth the Schedule of In-Lieu Fees Charged Pursuant to Chapters 14.25 and 19.38 of the San José Municipal Code to Reflect the 2006 Residential Land Value Study”, was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Report on bids and award of contract for Norwood Pump Station Replacement to the low bidder, Anderson Pacific Engineering Construction, Inc., in an amount not to exceed \$1,191,125, and approve a project contingency in the amount of \$100,000.
- (b) Adopt the following Appropriation Ordinance amendments in the Water Utility Capital Fund:
- (1) Increase the appropriation to the Environmental Services Department for the Norwood Pump Station Replacement project in the amount of \$300,000.
- (2) Decrease the Ending Fund Balance by \$300,000.
- (c) Adopt the following Appropriation Ordinance amendments in the Major Facilities Fund:
- (1) Increase the appropriation to the Environmental Services Department for the Norwood Pump Station Replacement project in the amount of \$300,000.
- (2) Decrease the Ending Fund Balance by \$300,000.

CEQA: Exempt, File No. PP07-136. Council District 8. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean and Acting Budget Director Jennifer Maguire, recommending award of the contract to the low bidder and adoption of appropriation ordinance amendments.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the contract for Norwood Pump Station Replacement to the low bidder, Anderson Pacific Engineering Construction, Inc., in an amount not to exceed \$1,191,125, with related contingency, was approved and [Ordinance No. 28186](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Water Utility Capital Fund for the Norwood Pump Station Replacement Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Ordinance No. 28187](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Major Facilities Fund for the Norwood Pump Station Replacement Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (9-0-2. Absent: Liccardo, Nguyen.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 (a) Acceptance of the status report on the North San José Neighborhoods Planning Taskforce.
- (b) Direction to staff to proceed with the implementation of the Taskforce Work Program.
- (c) Direction to staff to report on the results of the Taskforce Work Program to the City Council and Redevelopment Agency Board in February 2008.

CEQA: Not a Project. Council District 4. (City Manager's Office/Redevelopment Agency)

9.1 (Cont'd.)

Documents Filed: Memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated November 20, 2007, recommending acceptance of the status report with direction to Staff.

Principal Planner Andrew Crabtree and Redevelopment Agency Planning Coordinator Kip Harkness provided the Staff report and responded to Council questions.

Motion: Council Member Chu moved approval of the status report on the North San José Neighborhoods Planning Taskforce, and that staff proceed with the implementation of the Taskforce Work Program and report back on the progress in February 2008. Council Member Pyle seconded the motion.

Public Comments: Ross Signorino pointed out that high rise schools are likely to be unsafe during evacuations.

Action: On a call for the question, the motion carried unanimously, the Status Report was accepted and Staff was directed to proceed with the implementation of the Task Force Work Program and report back on the results in February 2008. (9-0-2. Absent: Liccardo, 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>
9836	W/S Skylark Dr at western terminus of Hummingbird Dr	6	Skylark Investors, Inc.	1 Lot / 32 Units	MFA	Approve
9877	E/S of S. Buena Vista Ave, 260’N of Scott St	6	Casa Buena, LLC	1 Lot / 8 Units	SFA	Approve

OPEN FORUM

- (1) Armando Casadio voiced concerns about police brutality.
- (2) David Wall spoke in support of City employees and strike and in favor of Civil Service reform.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 3:08 p.m.

RECESS/RECONVENE

The City Council recessed at 3:08 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Liccardo, Nguyen. (Excused)

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Chu, seconded by Council Member Williams, and carried unanimously, the below noted continuances and actions were taken as indicated. (9-0-2. Absent: Liccardo, Nguyen.)

CEREMONIAL ITEMS

1.1 Presentation of commendations to Cora Tomalinas, Thelma Boac, Norma Doctor Sparks, and Genevieve Jopanda for each being recognized as one of the 100 most influential Filipino Women in the United States. (Chu/Oliverio/Nguyen/Cortese)

Action: Mayor Reed, Vice Mayor Cortese and Council Members Chu and Oliverio recognized and commended Cora Tomalinas, Thelma Boac, Norma Doctor Sparks, and Genevieve Jopanda for each being recognized as one of the 100 most influential Filipino Women in the United States. Council Member Nguyen was not present.

1.2 Presentation of a commendation to Donald Connors for his dedication and volunteerism with San José youth programs. (Liccardo)

Action: Mayor Reed, Vice Mayor Cortese and Council Member Campos recognized and commended Donald Connors for his dedication to the San José Youth Programs. Council Member Liccardo was not present.

1.3 Presentation of a commendation to Andrew Hill High School for being named one of Newsweek magazine's "Best High Schools" and for playing a critical role in preparing San José students for college. (Nguyen) (Rules in-Lieu referral 11/20/07)

Action: Mayor Reed recognized and commended Andrew Hill High School for being named one of Newsweek Magazine's "Best High Schools". Council Member Nguyen was not present.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.5 Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Riverside No. 51 on an approximately 3.4 gross acre County pocket consisting of an approximately 1800 foot long portion of Santa Teresa Boulevard right-of-way, 1100 feet southeast of Bayliss Drive, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (No owners). CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 13, 2007, recommending adoption of a resolution.

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

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, [Resolution No. 74153](#), entitled: “A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Uninhabited Territory Designated as Riverside No. 51, Subject to Liability for General Indebtedness of the City”, was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

- 4.6 Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as McKinley No. 110 on an approximately 3.5 gross acre County pocket consisting of one parcel on the northwest side of Summerside Drive between Warfield Way and Galveston Avenue, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Eugene D and Joann L Della Maggiore, Owner). CEQA: Resolution No. 65459. Council District 7. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 13, 2007, recommending adoption of a resolution.

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

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, [Resolution No. 74154](#), entitled: “A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Uninhabited Territory Designated as McKinley No. 110, Subject to Liability for General Indebtedness of the City”, was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

4.7 Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Hillview No. 73 on an approximately 8.55 gross acre County pocket consisting of 4 parcels on both sides of Mount Pleasant Road, east of Westview Drive, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Multiple Owners). CEQA: Resolution No. 65459. Council District 8. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 13, 2007, recommending adoption of a resolution.

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

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, [Resolution No. 74155](#), entitled: “A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Uninhabited Territory Designated as Hillview No. 73, Subject to Liability for General Indebtedness of the City”, was adopted. (9-0-2. Absent: Liccardo, Nguyen.)

PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Vice Mayor Cortese, seconded by Council Member Williams, and carried unanimously, the Public Hearings on Consent Calendar were approved and the below listed actions were taken as indicated. (9-0-2. Absent: Liccardo, Nguyen.)

**11.1 (a) Consideration of an ordinance rezoning the real property located on the south side of Hillsdale Avenue approximately 600 feet east of Pearl Avenue (866 Hillsdale Avenue) from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to six single-family attached residences on a 0.45 gross acre site (Hamid Abtahi & Tom Ronning, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC07-022 – District 6
(Continued from 11/20/07 – Item 11.2)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-022, dated October 29, 2007, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 13, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on October 12, 2007, submitted by the City Clerk.

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

11.1 (a) (Cont'd.)

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28188](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the South Side of Hillsdale Avenue, Approximately 460 Feet Easterly of Foxworthy Avenue and 600 Feet East of Pearl Avenue (866 Hillsdale Avenue) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

- (b) **Consideration of an ordinance rezoning the real property located on the northeast corner of Berryessa Road and Lundy Avenue (1715 Berryessa Road) from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District to allow a car wash use at an existing gas station on a 0.64 gross acre site (Thuong Van Lam et al, owners). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C06-134 - District 4

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-134, dated November 13, 2007, recommending approval. (2) Proof of Publication of Notice of Public Hearing, executed on November 23, 2007, submitted by the City Clerk.

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

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 28189](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of Berryessa Road and Lundy Avenue (1715 Berryessa Road) to CN Commercial Neighborhood Zoning District”, was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

- (c) **Consideration of an ordinance rezoning the real property located on the northwest corner of Orchard Parkway and Atmel Way from the IP(PD) – Planned Development Zoning District to the IP(PD) – Planned Development Zoning District to allow office/research and development uses and modifications to the development standards to change the height and setbacks to conform to the IP – Industrial Park Zoning District on a 16.35 gross acre site (Legacy Partners Commercial, Owner). CEQA: Resolution No. 72768 and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

PDC07-091 - District 4

Action: Continued to December 11, 2007 per Administration.

- 11.1 (d) **Consideration of an ordinance rezoning the real property located on the east side of North White Road, approximately 100 feet southerly of Kentridge Drive (380 N. White Road) from County to A(PD) Planned Development Zoning District to allow up to 7 single-family detached residences on a 0.98 gross acre site (Timothy Chen, Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC07-041 - District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-041, dated November 5, 2007, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 15, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on November 2, 2007, submitted by the City Clerk.

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

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28190](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the East Side of North White Road, Approximately 100 Feet Southerly of Kentridge Drive (380 North White Road) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

- (e) **Consideration of an ordinance rezoning the real property located on the east side of South Winchester Boulevard, approximately 65 feet northerly of Williams Road (960 S Winchester Boulevard) from the R-1-5 Single Family Residence Zoning District to the CP – Commercial Pedestrian District on a 0.19 gross acre site (Ronnie Berry & Et Al, Trustee Owner). SNI: Winchester. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-050 - District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-050, dated November 13, 2007, recommending approval. (2) Proof of Publication of Notice of Public Hearing, executed on November 23, 2007, submitted by the City Clerk.

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

11.1 (e) (Cont'd.)

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 28191](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of South Winchester Boulevard, Approximately 65 Feet Northerly of Williams Road (960 South Winchester Boulevard) from R-1-5 Single Family Residence Zoning District to CP Commercial Pedestrian Zoning District”, was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

- (f) **Consideration of an ordinance rezoning the real property located on the southeast corner of Ewer Drive and Ross Avenue (4232 Ross Ave.) to A(PD) Planned Development Zoning District to allow the subdivision of one lot into two lots and to allow the construction of one new single-family detached residence with existing residence to remain on 0.25 gross acres (Arthur Bando, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). PDC07-040 - District 9**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-040, dated October 26, 2007, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 13, 2007, transmitting the Planning Commission recommendation of approval. (3) Proofs of Publications of Notices of Public Hearings, executed on October 26, 2007 and November 7, 2007, submitted by the City Clerk.

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

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28192](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of Ewer Drive and Ross Avenue (4232 Ross Avenue) from the RM Multiple Residence Zoning District to the A(PD) Planned Development Zoning District”, was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of a director initiated rezoning ordinance rezoning an approximately 6.93 gross acre County island consisting of 25 parcels on both sides of Rosemar Avenue, between Juliet Park Drive and Fleming Avenue and the north side of Fleming Avenue between Rosemar Avenue and Marchant Court from unincorporated county to R-1-5 Single Family Residence Zoning District for single family residential purposes (Multiple Owners). CEQA: Resolution No. 65459. (Related Annexation Story No. 58). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
C06-106 - District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-106, dated October 26, 2007, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 13, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on October 26, 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 Campos, seconded by Council Member Williams and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28193](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on Both Sides of Rosemar Avenue, Between Juliet Park Drive and Fleming Avenue and the North Side of Fleming Avenue Between Rosemar Avenue and Marchant Court to R-1-5 Single Family Residence Zoning District", was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

- 11.3 Consideration of a director initiated rezoning ordinance rezoning from unincorporated county to R-1-8 Single Family Residence District on an approximately 0.74 gross acre area consisting of 4 parcels located on the southwest side of South White Road, 400 feet southeast of East Hills Drive (Jesse and Olga Villarreal, Emilia Gonzales, and Alex and Gloria Banuelos; Owners). SNI: East Valley/680 Communities. CEQA: Resolution No. 65459. (Related Annexation Capitol No. 55). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-107 - District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-107, dated November 13, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on November 23, 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.

11.3 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 28194](#), entitled: “An Ordinance of the City of San José Prezoning Certain Real Property Situated at the Southwest Side of South White Road, 400 Feet Southeast of East Hills Drive from County of Santa Clara to R-1-8 Single Family Residence Zoning District”, was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

- 11.4 Consideration of a director initiated prezoning ordinance prezoning from unincorporated county to R-1-8 Single Family Residence District on an approximately 0.27 gross acre area consisting of 2 parcels located on the southwest side of South White road, 600 feet southeast of East Hills Drive (Michael Sanders Jr. and Sr., and Isabel M. Hernandez; Owners). SNI: East Valley/680 Communities. CEQA: Resolution No. 65459. (Related Annexation Capitol No. 56). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C06-108 - District 5

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-108, dated November 13, 2007, recommending approval of the subject prezoning. (2) Proof of Publication of Notice of Public Hearing, executed on November 23, 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 Campos, seconded by Council Member Williams and carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 28195](#), entitled: “An Ordinance of the City of San José Prezoning Certain Real Property Situated at the Southwest Side of South White Road, 600 Feet Southeast of East Hills Drive from County of Santa Clara to R-1-8 Single Family Residence Zoning District”, was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

- 11.5 Consideration of a director initiated prezoning ordinance prezoning from unincorporated county to R-1-2 Single Family Residence District approximately 25.97 gross acres consisting of 30 parcels and prezoning from unincorporated county to R-1-RR Single Family Residence District approximately 8.08 gross acres consisting of 6 parcels, all located between Pleasant Acres Drive and Ruby Avenue, west of Murillo Avenue (Multiple Owners). CEQA: Resolution No. 65459. (Related Annexation Evergreen No. 200). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C06-127 - District 8

11.5 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-127, dated November 13, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on November 23, 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 Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 28196](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated Between Pleasant Acres Drive and Ruby Avenue, West of Murillo Avenue from County of Santa Clara to R-1-2 Single Family Residence Zoning District as to a Certain Portion of the Real Property and to R-1-RR Single Family Residence Zoning District as to a Certain Portion of Real Property, All as Described Herein", was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

11.6 **Consideration of a director initiated rezoning ordinance rezoning from County of Santa Clara to R-1-2 Single-Family Residence Zoning District on an approximately 2.50 gross acre County island consisting of 6 parcels on the northeast corner of Ruby Avenue and Holderman Drive (Multiple Owners). CEQA: Resolution No. 65459. (Related Annexation No. 201). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). C06-128 - District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-128, dated October 26, 2007, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 13, 2007, transmitting the Planning Commission recommendation of approval. (3) Proofs of Publications of Notices of Public Hearings, executed on October 26, 2007, November 7, 2007 and November 23, 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 Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28197](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Ruby Avenue and Holderman Drive to R-1-2 Single Family Residence Zoning District", was passed for publication. (9-0-2. Absent: Liccardo, Nguyen.)

OPEN FORUM

- (1) Mark Trout expressed religious viewpoints.

ADJOURNMENT

The Council of the City of San José adjourned at 7:25 p.m. in memory of Tanya C. Young, a long time resident of San José, who was an outstanding community leader and a wonderful example of positive leadership in her community.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/12-4-07MIN

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JOINT REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 3:10 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

8.1 City Council and Redevelopment Agency Board approval of:

- (a) **The first amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San Jose, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Senior Policy Advisor, Economic Development and Land Use by one year.**
- (b) **The first amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San Jose, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Schedule Coordinator by one year.**

CEQA: Not a Project.

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated November 21, 2007, recommending approval of the first amendments to the cooperation agreements.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the first amendments to the Cooperation Agreements between the Redevelopment Agency and the City of San Jose were approved. (9-0-2. Absent: Liccardo, Nguyen.)

8.2 **Adoption of a resolution rejecting all bids for the construction of a parking lot for the Guadalupe River Park (GRP) with access from Santa Clara and St. John Streets. CEQA: Downtown Strategy 2000 EIR, Resolution No. 72767 and Addendum thereto. File No. PP07-223. [MERGED] (Deferred from 10/2/07, Item 8.3 et al. 11/6/07, Item 8.3)**

Documents Filed: Supplemental memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated November 21, 2007, recommending adoption of a Redevelopment Agency resolution and transmitting additional information.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Williams and carried unanimously, Redevelopment Agency Resolution No. 5800 adopted. (9-0-2. Absent: Liccardo, Nguyen.)

The Council of the City of San José and Redevelopment Agency Board adjourned at 3:11 p.m.