



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 3, 2008

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

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:32 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: (1) City of San José v. Hon. Read Ambler; (2) Sutter's Place, Inc. v. City, et al.; (3) Sutter's Place, Inc. v. City, et al.; (4) Solorio v. City, et al.; (5) Fong et al. v. City, et al.; (B) to confer with Legal Counsel – Anticipated Litigation: Initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code: Number of matter(s) to be discussed: 2; (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO; (2) City Association of Management Personnel.

By unanimous consent, Council recessed from the Closed Session at 10:32 a.m. and reconvened at 1:30 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

Reverend Ken Henry of Stone Church presented the Invocation. (District 6)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Items 2.7 and 4.3 were deferred to June 10, 2008.

Council Member Chu and Vice Mayor Cortese expressed sadness on the passing of Thomas Harold Riddle who had dedicated his life to education and community service.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of June 3, 2008:

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

Case Name: Solorio v. City, et al.

Adverse Party or Parties: Apolonio Solorio

Substance of Litigation: Solorio sued the City for alleged civil rights violations stemming from his arrest and incarceration as a suspect in a robbery.

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

Noes: None.

Disqualified: None.

Absent: None.

Vacant: None.

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Betty Mora for her organization of the First Annual Parent University Event held at Summerdale Elementary School. (Chu) (Deferred from 5/20/08 – Item 1.5)

Action: Mayor Reed and Council Member Chu recognized and commended Betty Mora for her organization of the First Annual Parent University Event held at Summerdale Elementary School.

1.4 Presentation of a commendation to Greenfair Silicon Valley for their work in helping people green their businesses, homes, and lives in San José/Silicon Valley. (Mayor)

Action: Mayor Reed recognized and commended Greenfair Silicon Valley for their work in helping people green their businesses, homes, and lives in San José/Silicon Valley.

1.5 Presentation of a proclamation to NVIDIA declaring August 25, 2008 – September 1, 2008 as “Visual Computing Week”. (Mayor/Liccardo)

Action: Deferred to August 19, 2008.

1.6 Presentation of a commendation to deCarta for their efforts to drive the local economy, innovation and supporting City’s reputation as the Capital of Silicon Valley. (Mayor/Liccardo/Economic Development)

Action: Mayor Reed and Council Member Liccardo recognized and commended deCarta for their efforts to drive the local economy, innovation and supporting City’s reputation as the Capital of Silicon Valley.

1.7 Presentation of a commendation to the Strong Neighborhoods Initiative Project Advisory Committee for its invaluable civic leadership and community engagement in revitalizing the neighborhoods in San José. (Mayor/Redevelopment Agency)

Action: Deferred to June 17, 2008 in the evening.

CONSENT CALENDAR

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

2.1 Approval of minutes.

- (a) Regular Minutes of March 11, 2008**
 - (b) Joint City Council/San José Financing Authority Minutes of March 11, 2008**
 - (c) Regular Minutes of March 18, 2008**
 - (d) Regular Minutes of March 25, 2008**
- [Deferred from 5/20/08 – Items 2.1(b)-(c) and (e)-(f)]**

Documents Filed: City Council Minutes of March 11, March 18 and March 25, 2008, and Joint City Council/San José Financing Authority Minutes of March 11, 2008.

Action: The minutes of March 11, March 18 and March 25, 2008 were approved. (11-0.)

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28305 – Repealing Ordinance No. 27748 to terminate the Commercial Solid Waste and Recyclables Collection Franchise previously granted to the Residential Bin Co., Inc.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28305 executed on May 20, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28305](#) was adopted. (11-0.)

- (b) **ORD. NO. 28312 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Haul-Away Today.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28312 executed on May 27, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28312](#) was adopted. (11-0.)

- (c) **ORD. NO. 28313 – Rezoning certain real property situated on the southwest corner of Cinnabar Street and Stockton Avenue (345 Stockton Street) to A(PD) Planned Development Zoning District. PDC06-094**

Documents Filed: Proof of Publication of the title of Ordinance No. 28313 executed on May 27, 2008, submitted by the City Clerk.

Action: [Ordinance No. 28313](#) was adopted. (11-0.)

- 2.3 (a) Approval of an updated master agreement with Caltrans for federal-aid transportation grant programs.**
(b) Adoption of a resolution authorizing the City Manager to negotiate and execute any program supplements to the master agreement enabling the City to receive federal-aid funds for qualifying transportation projects.

**CEQA: Not a Project. (Transportation)
(Deferred from 5/20/08 – Item 2.17)**

Documents Filed: (1) Memorandum from Director of Transportation James R. Helmer, dated April 28, 2008, recommending approval of an updated master agreement with Caltrans. (2) Supplemental memorandum from Director of Transportation James R. Helmer, dated May 30, 2008, providing additional information regarding language in updated master agreement.

Action: [Resolution No. 74387](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Program Supplements to the Master Agreement with the State of California Department of Transportation for Federal and Transportation Grant Programs”, was adopted. (11-0.)

- 2.4 Adoption of a resolution revising the airline air service promotional fee-waiver incentive program to support the development of new and added air service at the Norman Y. Mineta San José International Airport, by providing incentives for underserved long haul domestic markets, and an increased incentive for un-served Trans-Atlantic and/or Trans Pacific Air Service and long haul domestic flights, and repealing Resolution No. 73212. CEQA: Resolutions Nos. 67380 and 71451, File No. PP08-059. (Airport)**

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated May 12, 2008, recommending adoption of a resolution.

Action: [Resolution No. 74388](#), entitled: “A Resolution of the Council of the City of San José Revising and Expanding the City’s Airline Air Service Promotional Fee-Waiver Incentive Program to Support the Development of New Air Service at the Norman Y. Mineta San José International Airport and Repealing Resolution No. 73212”, was adopted. (11-0).

- 2.5 Approval of an ordinance amending Section 3.04.1410 of Chapter 3.04 of Title 3 of the San José Municipal Code (Civil Service Rules) to provide that disciplinary appeal hearings for Peace Officers be closed to the public unless requested to be a public session by the employee. (City Attorney’s Office)
[Rules Committee referral 5/14/08 – Item G(4)]**

Documents Filed: (1) Memorandum from City Attorney Doyle, dated May 6, 2008, recommending amendment of Section 3.04.1410 of the Civil Service Rules. (2) Memorandum from City Clerk Lee Price, dated May 22, 2008, submitting an Amendment to Civil Service Rules (SJMC 3.04.1410).

Action: [Ordinance No. 28314](#), entitled: “An Ordinance of the City of San José Amending Section 3.04.1410 of Chapter 3.04 of Title 3 of the San José Municipal Code to provide that a Disciplinary Hearing for an Employee in a City of San José Peace Officer Classification shall be Closed to the Public unless the Employee Requests that the Hearing be open to the Public”, was passed for publication. (11-0.)

- 2.6 Approval of payment to claimant, Kim Oanh-Nguyen, in the amount of \$75,000 pursuant to a Release, approved by Council in Closed Session on May 6, 2008 and executed by claimant on May 14, 2008, which provides that claimant discharges and releases the City from any and all claims resulting from, or which may result from a sewer back-up that occurred on January 28, 2007 at claimant’s property. (City Attorney’s Office)**

Documents Filed: Memorandum from City Attorney Doyle, dated May 22, 2008, recommending approval of payment to claimant, Kim Oanh-Nguyen.

Action: Payment to Claimant Kim Oanh-Nguyen in the amount of \$75,000 providing that claimant discharges and releases the City from any and all claims resulting from, or which may result from a sewer back-up that occurred on January 28, 2007 at claimant’s property, was approved. (11-0.)

- 2.7 Approval of a contract for consultant survey services with Fairbank, Maslin, Maullin & Associates, for a three-year term from time of execution, in an amount not-to-exceed \$296,000, subject to appropriation of funding. CEQA: Not a Project. (City Manager's Office)**

Action: Deferred to June 10, 2008.

- 2.8 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Tom Otterness to design, fabricate and install public artwork for the Happy Hollow Park and Zoo in a total amount not-to-exceed \$932,500. CEQA: Exempt, File No. PP05-184. (Economic Development)**

Action: Deferred to June 10, 2008.

- 2.9 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Roman de Salvo to fabricate and install artwork for the Seven Trees Community Center and Branch Library in a total amount not-to-exceed \$298,500. CEQA: Exempt, File No. PP05-184. Council District 7. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated May 12, 2008, recommending adoption of a resolution.

Action: [Resolution No. 74389](#), entitled: "A Resolution of the City of San José authorizing the City Manager to Negotiate and Execute an Agreement with Roman de Salvo for a Work of Art for Seven Trees Community Center and Branch Library in an Amount Not to Exceed \$298,500", was adopted. (11-0.)

- 2.10 Adoption of a resolution authorizing the Director of Finance to donate five surplus Brush Patrol Vehicles (1988 Ford F350 Cab and Chassis with a Brush Patrol body) with a cumulative estimated value of \$25,000 as follows: one vehicle to the Spring Valley Fire District, a volunteer fire department; two vehicles to San José Search and Rescue, a non-profit organization; one vehicle to Central County Occupational Center, an educational organization; and one surplus Brush Patrol to the Eves Volunteer Fire Department. CEQA: Not a Project. (Finance)**

Council Member Campos pulled Item 2.10 to question the procedures used in determining eligibility requirements for and distribution of donated equipment.

Public Comment: John S. DiQuisto, San José Retired Firefighters' Association, voiced concerns about the Staff recommendation and urged the Council to donate the vehicles to communities of need in Mexico.

Chief Purchasing Officer Walter C. Rossman responded to questions about the donation policy for vehicles and other surplus items. Fire Chief Darryl Von Raesfeld responded to questions from Council on the protocol followed for determining distribution of surplus brush patrol vehicles.

2.10 (Cont'd.)

Council Member Campos expressed concern that her office had not been notified about the surplus vehicles and questioned Staff about outreach.

Motion: Council Member Campos moved to defer this item for one week to allow for the opportunity to clarify how determination was made and assure inclusiveness in the decision. Council Member Williams seconded the motion.

Action: On a call for the question, the motion carried unanimously, Item 2.10 was deferred to June 10, 2008. (11-0.)

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

- (1) Increase the estimate for Earned Revenue by \$244,730.
- (2) Increase the appropriation to the Department of Public Works for the Non-Project Specific DPW Services project (PSM 393, Amendment 1) in the amount of \$10,000. CEQA: Not a Project.
- (3) Increase the appropriation to the Department of Housing for the SNI Multi-Family Home Improvement Program project (PSM 470, Amendment 1) in the amount of \$175,000. CEQA: Not a Project.
- (4) Establish the appropriation to the Environmental Services Department for the KONA Area clean-up project (PSM 532) in the amount of \$59,730. CEQA: Exempt, File No. PP07-009.

(b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the KONA Area clean-up project as more specifically described in the memorandum from the Redevelopment Agency, dated May 5, 2008. CEQA: Exempt, File No. PP07-009.

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Housing Leslye Krutko, Director of Environmental Services John Stufflebean and Acting Budget Director Jennifer Maguire, dated May 12, 2008, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 28315](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Non-Project Specific DPW Services Project, for the SNI Multi-Family Home Improvement Program Project, and the for K.O.N.A. Area Clean-up Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", [Resolution No. 74390](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73862 setting forth Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the Services for Redevelopment Capital

2.11 (Cont'd.)

Projects Fund”, and [Resolution No. 74391](#), entitled: “Resolution of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the King-Ocala Neighborhood Area (K.O.N.A.) in the Strong Neighborhoods Initiative Redevelopment Project Area”, were adopted. (11-0.)

2.12 Approval of an agreement with Advance Design Consultants, Inc. for consultant services for the Auxiliary Chilled Water System project for the City Hall Network Operations Center, from the date of execution to February 28, 2009 in an amount not-to-exceed \$134,000. CEQA: Not a Project. (Public Works/General Services.

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of General Services Peter Jensen, dated May 12, 2008, recommending approval of an agreement.

Action: The agreement with Advance Design Consultants, Inc. for consultant services for the Auxiliary Chilled Water System project for the City Hall Network Operations Center, from the date of execution to February 28, 2009 in an amount not-to-exceed \$134,000 was approved. (11-0.)

2.13 Adoption of a resolution to summarily vacate a portion of public right-of-way at the southwest corner of Third Street and San Fernando Street, recorded November 28, 2006 in Book 809 of Maps at Pages 16 and 17 of Official Records, Office of the Recorder, County of Santa Clara. CEQA: Resolution No. 71039.1 and Addenda thereto, File No. H04-038. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 12, 2008, recommending adoption of a resolution.

Action: [Resolution No. 74392](#), entitled: “A Resolution of the City of San José Summarily Vacating Public Right-of-Way and a Public Service Easement at Third Street and San Fernando Street”, was adopted. (11-0.)

2.14 Approval of a fourth amendment to the Consultant Services Agreement between the City of San José and Kimley-Horn and Associates, Inc. for the design and development of the Silicon Valley Intelligent Transportation Systems West Corridor Project, to modify the cost reimbursement terms with no change in maximum compensation. CEQA: Exempt, File No. PP00-02-026. Council Districts 1 and 6. SNI: Burbank/Del Monte, Winchester. (Transportation)

Documents Filed: Memorandum from Director of Transportation James R. Helmer dated May 12, 2008, recommending approval of a fourth amendment.

2.14 (Cont'd.)

Action: A fourth amendment to the Consultant Services Agreement between the City of San José and Kimley-Horn and Associates, Inc. for the design and development of the Silicon Valley Intelligent Transportation Systems West Corridor Project modifying the cost reimbursement terms with no change in maximum compensation was approved. (11-0.)

2.15 Report on bids and award of contract for the California Housing Grant Project Accessibility Curb Ramps 2008 to the low bidder, SpenCon Construction, and approval of a contract amount of \$421,685 plus a contingency in the amount of \$42,168 for a total contract amount of \$463,853. CEQA: Exempt, File No. PP05-212. Council Districts 1, 3, 6 and 7. (Transportation)

Documents Filed: Memorandum from Director of Transportation James R. Helmer dated May 12, 2008, recommending approval of a report on bids and award of a contract with related contingencies.

Action: The report on bids and award of contract for the California Housing Grant Project Accessibility Curb Ramps 2008 to the low bidder, SpenCon Construction, and approval of a contract amount of \$421,685 with related contingencies was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – May 14, 2008 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated May 14, 2008.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Cortese and carried unanimously, the Report of the Rules and Open Government Committee and the actions of May 14, 2008 were accepted. (11-0.)

3.3 Report of the Public Safety, Finance and Strategic Support Committee – May 15, 2008 Councilmember Nguyen, Chair

Documents Filed: The Public Safety, Finance and Strategic Support Committee Report dated May 15, 2008.

Action: Upon motion by Nguyen, seconded by Council Member Williams and carried unanimously, the Public Safety, Finance and Strategic Support Committee Report and actions of May 15, 2008 were accepted. (11-0.)

- 3.4 Adoption of a resolution authorizing the Director of Finance to execute:**
- (a) An agreement and purchase order for the cooperative purchase of office supplies with Corporate Express through the cooperative contract offered by the National Intergovernmental Purchasing Alliance starting July 1, 2008 until June 30, 2012 in an amount not-to-exceed \$1,200,000 for the initial year of the agreement.**
 - (b) Amendments to the initial purchase order to adjust the not-to-exceed compensation subject to annual appropriation of funding.**
 - (c) Execute subsequent annual Purchase Orders subject to annual appropriation of funding.**

**CEQA: Not a Project. (Finance)
(Deferred from 5/20/08 – Item 3.5)**

Action: Deferred to June 10, 2008.

- 3.5 As referred by the Rules and Open Government Committee, consider a position of support for AB 2058 (Levine) – Recycling: Plastic Carryout Bags: Paper Carryout Bags. (City Clerk)
[Rules Committee referral 5/21/08 – Item C(1)(a)]**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 14, 2008, recommending City Council Support of California Assembly Bill (2058). (2) Memorandum from City Clerk Lee Price dated May 22, 2008, submitting a memorandum from Director of Environmental Services John Stufflebean.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Campos and carried, a position of support for AB 2058 – Recycling: Plastic Carryout Bags: Paper Carryout Bags was adopted. (10-1-0. Noes: Constant.)

- 3.6 As referred by the Rules and Open Government Committee, consider a position of support for AB 2437 (Ruskin) Regional Water Systems. (City Clerk)
[Rules Committee referral 5/21/08 – Item C(1)(a)]**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 14, 2008, recommending City Council Support of California Assembly Bill (2437). (2) Memorandum from City Clerk Lee Price dated May 22, 2008, submitting a memorandum from Director of Environmental Services John Stufflebean.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, a position of support for AB 2437 for Regional Water Systems was approved. (11-0.)

3.7 Report on Request for Information and direct the Director of Finance to develop and issue a formal Request for Proposal for the purpose of potentially outsourcing the City's Central Warehouse Operations in accordance with the City's Public Private Competition Policy 0-29. CEQA: Not a Project. (Finance)

Director of Finance Scott P. Johnson and Chief Purchasing Officer Walter C. Rossman offered a presentation on outsourcing of the City's Central Warehouse operations.

Public Comments: Bob Brownstein (Working Partnerships), City employees Tommie Miller, Erik Larsen, Linda Dittes and Yolanda Cruz (AFSCME Local 101), and Ross Signorino expressed concerns about outsourcing the City's Central Warehouse operations and requested that the Council defer the item for further consideration and input.

Motion: Council Member Liccardo moved to continue this item until impact of outsourcing can be addressed and that the item be brought to the Rules and Open Government Committee for further discussion. Council Member Nguyen seconded the motion.

Action: On a call for the question, the motion to defer this item to August or September 2008 for further analysis and outreach to potentially impacted employees carried unanimously. (11-0.)

**3.9 As recommended by the Rules and Open Government Committee adopt a position of support for AB 2460 (Huffman) Solid Waste: Compostable Organics Management. (Environmental Services)
[Rules Committee referral 5/28/08 – Item C(1)(a)]**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 21, 2008, recommending City Council Support of California Assembly Bill (2640). (2) Memorandum from City Clerk Lee Price dated May 29, 2008, submitting a memorandum from Director of Environmental Services John Stufflebean.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Williams and carried unanimously, a position of support for AB 2640 for Solid Waste: Compostable Organics Management was adopted. (10-0-1. Absent: Constant.)

3.10 As recommended by the Rules and Open Government Committee adopt a position of support for SB 1321 (Correa): School Recycling Programs. (Environmental Services) [Rules Committee referral 5/28/08 – Item C(1)(b)]

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 21, 2008, recommending City Council Support of Senate Bill 1321. (2) Memorandum from City Clerk Lee Price dated May 29, 2008, submitting a memorandum of support from Director of Environmental Services John Stufflebean.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, a position of support for SB 1321: School Recycling Programs, was adopted. (10-0-1. Absent: Constant.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 Acceptance of the *San José Japantown Historic Context and Intensive Survey, Phase II* as recommended by the Historic Landmarks Commission (4-0-0). CEQA: Exempt, File No. PP05-004. Council District 3. (Planning, Building and Code Enforcement)
(Deferred from 5/6/08 – Item 4.2)**

Documents Filed: Memorandum from the Historic Landmarks Commission, dated April 14, 2008, recommending acceptance of the *San José Japantown Historic Context and Intensive Survey, Phase II*.

Action: Item 4.2 was dropped.

4.3 Adoption of a resolution:

- (a) Approving an increase to the City permanent loan to Cinnabar Commons, a California limited partnership, or an affiliated entity for up to \$506,652 to capitalize interest on the City's loan for the Cinnabar Commons Family Apartments project, located on Stockton Avenue between Cinnabar Street and Lenzen Avenue.
- (b) Approving up to 120% Loan-to-Value (LTV) as an exception to the City Council policy limiting LTV to 100%.

**CEQA: EIR Resolution No. 71174. Council District 6. (Housing)
(Deferred from 5/20/08 – Item 2.9)**

Action: Deferred to June 10, 2008 per Orders of the Day.

- 4.4 (a) Approval of an ordinance amending Chapter 5.06 of the San José Municipal Code – “Contract Authority of the Director of Housing, City Manager and Director of Finance” – to modify the Director of Housing’s delegated authority by: eliminating the maximum amount of predevelopment loans that can be made to nonprofit housing developers by the Director; and authorizing the Director to make commitments of project-based second mortgages.**
- (b) Adoption of a resolution to increase the maximum amount of predevelopment loans that can be approved by the Director of Housing from \$100,000 to \$500,000; and set a \$500,000 limit on the amount of project-based second mortgages that can be committed by the Director of Housing to any one for-sale development.**

**CEQA: Not a Project. (Housing)
(Deferred from 5/20/08 – Item 4.3)**

Action: Deferred to August 5, 2008 per Mayor Reed.

- 4.5 (a) Provide guidance and feedback to staff at this mid-way point in the review of a potential Citywide Inclusionary Housing Ordinance; and
(b) Accept the Economic Feasibility Analysis Study completed by David Paul Rosen and Associates related to Citywide Inclusionary Housing in the City of San José.

**CEQA: Not a Project. (Housing)
(Deferred from 5/20/08 – Item 4.4)**

Action: Referred to Rules & Open Government Committee to set a date.

- 4.6 (a) Approval of a lease agreement between the City of San José and the Tech Museum of Innovation for the use of Parkside Hall’s roof and approval of City’s consent to the sublease of Parkside Hall’s roof and the Tech Museum’s roof to Solar Star for the purpose of constructing, installing, maintaining and operating a photovoltaic solar generation system; and
(b) Adoption of a resolution authorizing the City Manager to consent to the assignment of Solar Star’s rights and obligations under the sublease to a third party, if necessary, in order to finance the photovoltaic solar generation system.

CEQA: Exempt, File No. PP08-039. Council District 3. (City Manager’s Office)

Action: Deferred to June 10, 2008 per Orders of the Day.

- 4.7 Adoption of a resolution approving a new Council Policy entitled: “Framework for Establishing Demonstration Partnerships” which would establish a framework for engaging in and evaluating partnerships with private parties with the goal of developing, testing and demonstrating emerging technologies, product and service innovation. **CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: Memorandum from Deputy City Manager Ed Shikada, dated May 9, 2008, recommending adoption of a resolution.

Deputy City Manager Ed Shikada offered a presentation on the framework for establishing demonstration partnerships. Director of Transportation James R. Helmer gave an overview of the Green Mobility Showcase, and introduced Brian Girardot of BRG Supply who demonstrated the RELUME “Smart” LED streetlight.

Public Comments: Jim Robbins (Environmental Business Cluster) and Ted Scarlett spoke in support of the Staff recommendation. Ross Signorino expressed need for adequate lighting to address safety concerns in District 5.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74394](#), entitled: “A Resolution of the Council of the City of San José Approving a New Council Policy Entitled: *Framework for Establishing Demonstration Partnerships*”, was adopted. (11-0.)

- 4.8 Conduct a public hearing and consider the adoption of a resolution approving a Historical Property Contract (Mills Act Contract) between the City of San José and the owner of the McKee-Lundy House located at 592 N. Seventeenth Street, City Landmark No. HL86-34 (Maria Loretto, owner). CEQA: Exempt. Council District 3. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from the Historic Landmarks Commission, dated May 12, 2008, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on April 25, 2008, 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 Liccardo, seconded by Council Member Williams, and carried unanimously, [Resolution No. 74395](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Maria Loretto for the McKee – Lundy House Located at 592 N. Seventeenth Street (City Landmark No. HL86-34)”, was adopted. (10-0-1. Absent: Chirco).

- 4.9 Conduct a public hearing and consider a Conservation Area Amendment to allow a seven-parcel expansion of the current boundaries of the Hanchett and Hester Park Conservation Area to include the following single-family detached residences: 23, 26, 27, 28, 31, 34 and 36 Tillman Avenue Cassandra Ravenscroft, project proponent. CEQA: Exempt. Council District 6. (Planning, Building and Code Enforcement)**

Action: Continued to June 17, 2008 per Administration.

NEIGHBORHOOD SERVICES

- 5.2 (a) Approval of a Turnkey Park Agreement, Environmental Agreement, and Maintenance Agreement with Hitachi Global Storage Technologies, Inc. (“Hitachi”) to:**
- (1) Dedicate parkland and construct park improvements;**
 - (2) Set forth terms and conditions regarding environmental matters involving the parklands; and**
 - (3) Outline Hitachi’s temporary obligations on the three (3) sites to be designated future public parks associated with Planned Development Zoning No. PDC04-031, Master Planned Development Permit PD05-087 and Tentative Map No. PT05-108.**

- 5.2 (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund (Fund 375):**
- (1) **Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$400,000 for Hitachi Turnkey Project Design Review and Inspection.**
 - (2) **Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$714,000 for Reserve: Hitachi Turnkey Park and;**
 - (3) **Increase the Earned Revenue estimate by \$1,114,000.**
- CEQA: Resolution No. 72772. Council District 2. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Jennifer Maguire, dated May 12, 2008, recommending approval of agreements and approval of appropriation ordinance and funding sources resolution amendments.

Division Manager of Parks, Recreation and Neighborhood Services Matt Cano noted an error in the Budget Director's memorandum of May 12, 2008, and asked that the maintenance period end date be corrected to March 10, 2010.

Action: Upon motion by Council Member Williams, seconded by Council Member Liccardo and carried unanimously, [Ordinance No. 28316](#), entitled: "An Ordinance of the City of San José amending Ordinance No. 28071 to Appropriate Monies in the Subdivision Park Trust Fund for the Hitachi Turnkey Project Design Review and Inspection and for Reserve: Hitachi Turnkey Park Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and [Resolution No. 74397](#), 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 Subdivision Park Trust Fund", were adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) **Consideration of appeal by Pacific Gateway Concessions, regarding the Airport Food & Beverage and Retail Concessions Program Request for Proposals and adoption of a resolution setting forth the decision of the City Council.**
- (b) **Adoption of a resolution authorizing the City Manager to:**
- (1) **Negotiate and execute Concession Agreements between the City of San José and the following entities, effective from the date of execution by the City Manager through June 30, 2020:**
 - (a) **Host International, Inc., for the construction and operation of retail concessions at the Airport listed as Package 1 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$1,620,000.**

- 6.2 (2) (1) (b) **AMS-SJC JV, for the construction and operation of retail concessions at the Airport listed as Package 2 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$2,000,000.**
- (c) **Areas USA SJC, LLC, for the construction and operation of food and beverage concessions at the Airport listed as Package 3 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$1,726,200.**
- (d) **Host International, Inc., for the construction and operation of food and beverage concessions at the Airport listed as Package 4 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$2,860,000.**
- (2) **Terminate negotiations with any of the recommended proposers for Packages 1 through 4 and negotiate Concession Agreements with lower-ranked proposers in order of their ranking for each package, in the event that the City Manager determines that the City and the recommended proposer cannot agree upon the terms of the Concession Agreement by August 1, 2008.**
- (3) **Negotiate and execute amendments to the Concessions Agreements for expansion or contraction of locations and modification or replacement of concepts and subtenants during the overall term of the Concession Agreements, so long as no changes are made in the provisions in the Concession Agreements regarding percentage rent or MAG to be paid to the City.**

CEQA: Resolutions Nos. 67380 and 71451, File No. PP08-060. (Airport)

Action: Deferred to June 10, 2008.

PUBLIC SAFETY SERVICES

8.1 Accept the 2007 Independent Police Auditor Year End Report; and:

- (a) **Direct the City Manager to Direct the SJPD to Enter Misconduct Complaints into the Shared Database Contemporaneous with the Date of SJPD Knowledge of the Complaint to Ensure Accurate Recording, Reporting and Tracking of All Complaints.**
- (b) **Direct the City Manager to Direct the SJPD to Revise Its Policies to Ensure that Written Notice Is Given of the Property Return/Auction/Disposal Process to the Owner at the Time that Property is Booked.**
- (c) **Direct the City Manager and the City Attorney to Standardize the Processes Used by San José City Departments to Provide Notice to Owners of the Intention to Tow a Vehicle for Violation of San José Municipal Code §11.56.020.**

(Independent Police Auditor)

8.1 (Cont'd.)

Documents Filed: (1) Memorandum from Independent Police Auditor Barbara Attard, dated May 22, 2008, submitting the Independent Police Auditor's (IPA) 2007 Year End Report. (2) Memorandum from Chief of Police Robert L. Davis, dated May 30, 2008, recommending acceptance of the IPA 2007 Annual Report.

Independent Police Auditor Barbara Attard provided a presentation of the 2007 Year End Report. Chief of Police Robert L. Davis responded to questions from Council.

Council discussion followed.

Public Comments: Skyler Porras (ACLU of Northern California) urged better access to records and more timely release of statistical information about the use of force. Ross Signorino expressed support for the audit process.

Action: Upon motion by Council Member Constant, seconded by Council Member Nguyen and carried unanimously, the Annual Report and Police Department Response was accepted, with Council directing the City Manager to direct the SJPD to: (1) Revise policies to ensure that written notice is given of the property return/auction/disposal process to the owner at the time that property is booked, and (2) Standardize the processes by San José City departments to provide notice to owners of the intention to tow a vehicle for violation of the San José Municipal Code Section 11.56.020. (11-0.)

STRATEGIC SUPPORT SERVICES

- 3.8 (a) **Authorizing the issuance of the City of San José General Obligation Bonds, Series 2008 (Libraries and Parks Projects) ("2008 Bonds") in the not-to-exceed aggregate principal amount of \$33,100,000 to be sold at a competitive sale.**
- (b) **Approving, in substantially final form, the Fiscal Agent Agreement, Official Notice Inviting Bids, and Preliminary Official Statement and authorizing the City Manager or other authorized officers to execute these documents and other related documents as necessary in connection with the issuance of the 2008 Bonds.**

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

Documents Filed: (1) Memorandum from Deputy Director of Finance Julia H. Cooper, dated May 12, 2008, recommending adoption of a resolution. (2) Supplemental Memorandum from Deputy Director of Finance Julia H. Cooper, dated May 19, 2008, transmitting the Official Statement for the proposed General Obligation Bonds. (3) Memorandum from Deputy Director of Finance Julia H. Cooper, dated May 19, 2008 submitting Bond Documents for City of San José General Obligation Bonds, Series 2008 (Libraries and Parks Projects).

Deputy Director of Finance Julia H. Cooper responded to questions from Council.

3.8 (Cont'd.)

Public Comments: Ross Signorino directed questions to Deputy Director of Finance Julia H. Cooper regarding interest accrual on General Obligation (GO) Bonds.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Williams and carried unanimously, [Resolution No. 74393](#), entitled: “A Resolution of the City of San José Authorizing the Issuance of its General Obligation Bonds, Authorizing and Directing the Execution of a Fiscal Agent Agreement and Certain other Related Documents, and Authorizing Actions Related Thereto”, was adopted.(10-0-1. Absent: Pyle.)

RECESS/RECONVENE

The City Council recessed at 4:19 p.m. from the afternoon Council Session and reconvened at 7:01 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Cortese. (Excused)

CEREMONIAL ITEMS

1.2 Presentation of a commendation to the Student Body of Holy Family School for being a D9 Star. (Chirco)

Action: Mayor Reed and Council Member Chirco recognized and commended the Student Body of Holy Family School for being D9 Stars.

1.3 Presentation of a commendation to Jodi Lendenthal and Jane Burgunder for their development of the “Arts Express” program at Horace Mann School. (Liccardo)

Action: Mayor Reed and Council Member Liccardo recognized and commended Jodi Lendenthal and Jane Burgunder for their development of the “Arts Express” program at Horace Mann School.

JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 (a) Approval of an ordinance by the City Council:

- (1) Amending Chapter 6.58 of Title 6 of the San José Municipal Code to require operators of public dancehall venues to use permitted promoters and to hold persons required to be permitted under Chapter 6.58 of the Code, but not so permitted responsible for violations of Chapter 6.58 of the Code; and**
- (2) Amending Chapter 6.60 of Title 6 of the Code to require operators of public entertainment business venues to use permitted promoters and to hold persons required to be permitted or licensed under Chapter 6.60, but not so permitted or licensed, responsible for violations of Chapter 6.60 of the Code; and**
- (3) Adding Chapter 6.62 to Title 6 of the Code to require promoter permits and setting regulations and conditions on promoter permits.**

- 9.1 (b) **Adoption of a resolution by the City Council amending the Administrative Citation Schedule of Fines for Certain Violations of the Code to amend and establish fines for certain violations of Code Chapters 6.58 (Public Dancehalls) and 6.60 (Public Entertainment Permit) and to establish fines for violations of Code Chapter 6.62 (Event Promoters), and repealing Resolution No. 74033, to be effective July 1, 2008.**
- (c) **Acceptance of the Supplemental Memo as staff's report to the request by City Council to conduct further outreach regarding the proposed ordinance and the resolution amending the City's Schedule of Administrative Fines.**
- (d) **Direction to include the proposed fee of \$986 for the Event Promoter Permit in the City's Schedule of Fees and Charges for 2008-2009.**

CEQA: Not a Project. Council District 3.

[Deferred from 4/29/08 – Item 9.1(b) and 5/20/08 – Item 9.1]

Documents Filed: (1) Memorandum from City Manager Debra Figone and Executive Director of the Redevelopment Agency Harry S. Mavrogenes dated April 11, 2008, recommending approval of an ordinance. (2) Supplemental memorandum from Chief of Police Robert L. Davis, dated May 29, 2008, recommending approval of Staff's report and addition of action item to the original recommendation. (3) "Proposed Promoter Ordinance Frequently Asked Questions", dated May 21, 2008. (4) Petition to the San José City Council with 1,762 signatures in opposition to the Promoters' Licensing Ordinance, provided by Rich Wiese (SJNEC Delegate). (5) Letter from Dave Powell (San José Restaurant & Entertainment Association), dated June 2, 2008, supporting the proposed ordinance. (6) Full-color ads promoting assorted venues in San José provided by Staff.

City Manager Debra Figone and Chief Development Officer Paul Krutko provided an introduction to the proposed ordinance.

Police Lieutenant Dave Hober offered a presentation on the ordinance and discussed actions related to permitting promoters. Chief of Police Robert L. Davis responded to questions from Council.

Extensive Council discussion ensued.

Public Comments: Expressing concerns and speaking in opposition to the proposed ordinance were: Rich Wiese, Barbara Wahli, Sarah Holcomb, Sonia Molina, Mike Nguyen and Shamako Nobe (members of the San José Nightclub & Entertainment Committee), and Pierre Kouchekey (Miami Beach Club), Tommy Aguilar (MACLA), Michael Bush, Andrew Moyco, Joseph Miclotte, Wendell Davis, and Peter Stanislaw.

Motion: Council Member Liccardo moved approval of the ordinance with direction to the City Attorney to work with the City Manager in providing promoters and club owners with some form of exemplary boilerplate language for creating contracts. Council Member Williams seconded the motion.

9.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, [Ordinance No. 28317](#), entitled: “An Ordinance of the City of San José Amending Title 6 of the San José Municipal Code by Amending Chapter 6.58 and Chapter 6.60 to Add New Sections and Amend Section 6.60.200, and Adding a New Chapter 6.62 to Require Promoters to be Permitted Prior to Promoting Events in Public Entertainment Venues or Public Dancehall Venues in the City, and Require the Operators of those Venues to use only Permitted Promoters, and to Specify that Persons Required to be Permitted or Licensed under the Provisions of these Chapters, but not so permitted or Licensed, are also Subject to the Provisions of these Chapters”, was passed for publication, and [Resolution No. 74398](#), entitled: “A Resolution of the Council of the City of San José Amending the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code in Order to Establish and Amend Administrative Fines for Certain Violations Relating to Violations of Public Dancehall Permits and Public Entertainment Business Permits and Ownership/Management Licenses and to Establish Administrative Fines for Violations Relating to Violations of Event Promoter Permits Pursuant to Title 6, and Repealing Resolution No. 74033, to be Effective July 1, 2008”, was adopted, with the City Manager directed to provide promoters and club owners with some form of exemplary boilerplate language for creating contracts. (10-0-1. Absent: Cortese).

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.10 Conduct a public hearing and adoption of a resolution ordering the reorganization of the territory designated as McKee No. 134, which involves the annexation to the City of San José of approximately 1.33 gross acres of land consisting of 2 parcels located on the east side of North White Road, approximately 100 feet southerly of Kentridge Drive, and detachment of the same from the appropriate special districts, including Central Fire Protection, Area No. 01 (Library Services) County Service, County Lighting County Service and County Sanitation District 2-3 (Timothy Chen and Bruno J. Zulpo, Owners) (Related Prezonings PDC07-041 and C08-013). CEQA: EIR Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated May 12, 2008, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on April 25 2008, 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.

4.10 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, [Resolution No. 74396](#), entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as McKee No. 134, Subject to Liability for General Indebtedness of the City, After Finding Protests Insufficient to Terminate Such Proceedings", was adopted. (9-0-2. Absent: Constant, Cortese.)

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) **Consideration of an ordinance rezoning the real property located at/on the north side of Michigan Avenue approximately 350 feet easterly of North 1st Street from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District to allow up to 6 single-family detached residences on a 0.69 gross acre site (Schulman, Bennie and Linda S, Owners). CEQA: Mitigated Negative Declaration. PDC06-018 – District 4
[Continued from 4/22/08 – Item 11.1(a)]**

Action: Dropped per Applicant.

- (b) **Consideration of an ordinance rezoning the real property located at the northwest corner of East Brokaw Road and Oakland Road (1015 East Brokaw Road) from IP Industrial Park, LI Light Industrial, and HI Heavy Industrial Zoning Districts to CN Commercial Neighborhood Zoning District to allow commercial uses on a 8.2 gross acre site (Brokaw Ventures LLC, Owner). CEQA: Resolution No. 72768 and Addendum thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. C08-029 – District 4**
- (c) **Consideration of a Street renaming for the southern extension of Peregrino Way to Peregrino Drive, located at the southerly extension of Peregrino Way to approximately 350 feet northerly of Dry Creek Road (David Warda, Applicant). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). ST07-003 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C08-029, dated May 12, 2008, recommending approval. (2) Memorandum from Planning Commission Secretary, Joseph Horwedel, dated May 12, 2008, transmitting the Planning Commission recommendation of approval. (3) Letter from Scott Athearn, Director of Acquisitions & Marketing, Dollinger Properties, dated May 29, 2008, providing additional information regarding the proposed rezoning for Project No. C08-029. (4) Proofs of Publications of Notices of Public Hearings executed on April 25, 2008 and May 9, 2008, submitted by the City Clerk.

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

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 Pyle, seconded by Council Member Nguyen and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, [Ordinance No. 28318](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of East Brokaw Road and Oakland Road (1015 East Brokaw Road) to the CN-Commercial Neighborhood Zoning District”, was passed for publication, and [Resolution No. 74399](#), entitled: “A Resolution of the City Council of the City of San José Renaming the Southern Extension of Peregrino Way, Located at the Southerly Extension of Peregrino Way to Approximately 250 Feet Northerly of Dry Creek Road, to Peregrino Drive”, was adopted. (10-0-1. Absent: Cortese.)

END PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of an ordinance rezoning the real property located on the southeast corner of Berryessa and Jackson Avenue from R-1-5(PD) Planned Development Zoning District and A-Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 379 single-family attached residences and 30,000 square feet for commercial uses, the demolition of one single-family residence and nine accessory structures, and the preservation/relocation of one single-family residence and one fruit stand on a 20.18 gross acres site (Pepper Lane Berryessa LLC, Myra Reinhard, Owners; Pulte Home Corporation, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). PDC07-033 – District 4 (Deferred from 4/8/08 – Item 11.6 and 5/6/08 – Item 11.2 and 5/20/08 – Item 11.2)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-07-033, dated May 10, 2008. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 16, 2008, transmitting the Planning Commission recommendation of approval. (3) Supplemental memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated April 30, 2008, transmitting corrected information. (4) Proof of Publication of Notice of Public Hearing, executed on May 20, 2008, submitted by the City Clerk. (5) Letter from Kerri Hamilton, Citizens for Environmental and Economic Justice, dated June 2, 2008, expressing concerns on the rezoning project.

Mayor Reed opened the public hearing.

Director, Planning, Building and Code Enforcement Joseph Horwedel discussed proposed changes to the Planning recommendations and revisions to the Redevelopment standards. Erik Schoennhauer, representing Pulte Homes, offered a presentation on the project and requested Council's approval of the Staff's recommendation.

Public Comment: Erik Schoennauer, representing the Applicant, spoke to the merits of the redevelopment plan. Kerri Hamilton, representing Citizens for Environmental and Economic Justice (CEEJ) expressed dissatisfaction with the configuration of the existing plan.

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Chu, seconded by Council Member Williams, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, [Ordinance No. 28319](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Located at the Southeast Corner of Berryessa Road and Jackson Avenue to A(PD) Planned Development Zoning District", was passed for publication, with a request that Staff work with the applicant during the

11.2 (Cont'd.)

Planned Development permit stage to balance full conformance to the Residential Design Guidelines with other staff considerations, review traffic circulation issues including adding a new driveway on Jackson, look for more opportunities to make open space more usable, construction of retail prior to 50 percent of the housing, and encourage the developer to engage in communications with the School District on student generation and addressing project school impacts. (10-0-1. Absent: Cortese.)

11.3 **Consideration of an ordinance of the City of San José amending Title 20 of the San José Municipal Code, the Zoning Code, to add Section 20.30.530 to provide a height exception for solar photovoltaic power generation systems mounted on the surface of an accessory building or structure, and to amend Sections 20.20.100, 20.30.100, 20.30.500, 20.40.010, 20.50.010, 20.70.100, 20.100.500, 20.100.610, and 20.100.1030, and amend Section 13.48.210 of Chapter 13.48, of the San José Municipal Code, Historic Preservation, all to clarify that a building permit may be issued for installation of solar photovoltaic power generation systems that conform to all of the development standards of the zoning district in which they are located. CEQA: Exempt, PP08-053. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). Citywide**

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 15, 2008, transmitting the Planning Commission recommendation of approval. (2) Proof of Publication of Notice of Public Hearing, executed on April 18, 2008, 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 Oliverio, seconded by Council Member Nguyen and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, [Ordinance No. 28320](#), entitled: “An Ordinance of the City of San José Amending Title 20 of the San José Municipal Code (The Zoning Code) to Add Section 20.30.530 to Chapter 20.30 to Provide for a Height Exception for Solar Photovoltaic Power Generation Systems Mounted on Accessory Buildings or Structures, to Amend Sections 20.20.100, 20.30.100, 20.30.500, 20.40.100, 20.50.100, 20.70.100, 20.100.500, 20.100.610, and 20.100.1030 of Various Chapters of title 20 of the San Jose Municipal Code and Section 13.48.2 of Chapter 13.48 of the San José Municipal Code to Clarify that a Building Permit may be Issued for the Installation of Solar Photovoltaic Power Generation Systems that Conform to all of the Development Standards of the Zoning District in which the System is Located, and to Amend Section 20.200.1165 of Chapter 20.200 of Title 20 of the San José Municipal Code to Amend the Definition of Solar Photovoltaic Systems”, was passed for publication. (10-0-1. Absent: Cortese.)

- 11.4 Consideration of an Ordinance of the City of San José amending Title 20 of the San José Municipal Code, the Zoning Code, to amend Section 20.40.520 to streamline requirements for outdoor uses in the commercial zoning districts; amend Section 20.50.100 to allow performing arts rehearsal space with a conditional use permit in the IP district; apply the “CM” notation in Table 20-110 to properties with the combined industrial commercial general plan designation, allow additional commercial uses in conjunction with large format commercial establishments, streamline permit requirements for data centers, and add tow yard as an enumerated use; amend Section 20.50.115 to establish requirements for commercial uses associated with large format commercial establishments; amend Section 20.50.120 to make additional provision for incidental retail sales in the Industrial Zoning Districts; amend Section 20.90.060 to reduce the parking requirement for data centers and performing arts rehearsal space, and establish parking requirements for tow yards and for large format commercial establishments, associated commercial; and add Sections 20.200.265, 20.200.605, and 20.200.1278 to define data center, large format commercial establishment and vehicle tow yard; and to make other related clarifying changes and amendments. CEQA: Exempt, PP08-056. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
Citywide**

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 15, 2008, transmitting the Planning Commission recommendation of approval. (2) Supplemental memorandum of May 23, 2008, transmitting additional correspondence on the proposed ordinance. (3) Proof of Publication of Notice of Public Hearing, executed on April 25, 2008, 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 Constant, seconded by Council Member Chirco and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, [Ordinance No. 28321](#), entitled: “An Ordinance of the City of San José Amending title 20 of the San José Municipal Code (The Zoning Code) to Amend Section 20.40.520 of Chapter 20.40 to Streamline Requirements for Outdoor Uses in Commercial Zoning Districts, to Amend Section 20.50.100 of Chapter 20.50 to Allow Performing Arts Rehearsal Space with a Conditional Use Permit in the IP-Industrial Park Zoning District, to Apply the “CM” Mixed Industrial Overlay to Properties with the Combined Industrial Commercial General Plan Designation, Allow Additional Commercial Uses in Conjunction with Large Format Commercial Establishments, Streamline Permit Requirements for Data Centers, and Provide for a Tow Yard Use, to Amend Section 20.50.115 of Chapter 20.50 to Establish Requirements for Commercial Uses Associated with Large Format Commercial Establishments, to Amend Section 20.50.120 to Make Additional Provision for Incidental Retail Sales in Industrial

11.4 (Cont'd.)

Zoning Districts, to Amend Section 20.90.060 to Reduce Parking Requirements for Data Centers and Performing Arts Rehearsal Space, and to Establish Parking Requirements for Tow Yards and Large Format Commercial Establishments, to Add Sections 20.200.265, 20.200.605 and 20.200.1278 to Chapter 20.200 to Define Data Centers, Large Format Commercial Establishments and Vehicle Tow Yards, Respectively, and to make other Clarifying Changes”, was passed for publication. (10-0-1. Absent: Cortese.)

- 11.5 Consideration of an ordinance rezoning the real property located at/on the southwest corner of Murphy Avenue and Oyama Drive (1254 Murphy Avenue) from Agriculture Zoning District to the A(PD) Planned Development Zoning District to allow 3 single family residential units and up to 31 townhomes on a 2.99 gross acre site (Oyama Wright Trustee, Owner). CEQA: Addendum to North San José EIR. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC07-088 – District 4**

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 8, 2008, transmitting the Planning Commission recommendation of approval. (2) Proof of Publication of Notice of Public Hearing, executed on April 18, 2008, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comment: Stan Gould, representing the Applicant, offered a presentation on the proposed compound and responded to Council questions.

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, [Ordinance No. 28322](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of Murphy Avenue and Oyama Drive (1254 Murphy Avenue) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Cortese.)

- 11.6 Consideration of a Planned Development Rezoning for a Master Plan for the Bellarmine College Preparatory Campus. The Project includes demolition of about 47,000 square feet of existing buildings and the new construction of 135,884 square feet resulting in 272,578 square feet (total) on an existing private high school on an approximately 30.05 gross acre site located in the area generally bounded by W. Hedding Street, Caltrain right-of-way, Stockton Avenue, Emory Street and Elm Street (960 W. Hedding Street) (Bellarmine College Preparatory, Owner). CEQA: Mitigated Negative Declaration.
PDC07-072 – District 6**

Action: Continued to June 17, 2008.

Notice of City Engineer's Pending Decision on Final Maps

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9948	West side of South Willard Avenue, 180 ft south of Douglas St.	6	Steven and Nancy McVay	7 Lots / 6 Units	Single Family Attached and Detached

ADJOURNMENT

The Council of the City of San José adjourned at 9:15 p.m. in memory of Thomas Harold Riddle, who passed away April 26, 2008, and had dedicated his life to education and community service. (Chu)

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

Rmk6/03/08MIN

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>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 4:17 p.m. to consider Item 8.1 in a Joint Session.

8.1 Adoption of a resolution by the Redevelopment Agency Board approving a project-specific contractor prequalification program for the Convention Center Phase 1 Expansion Central Utility Plant Project. CEQA: Not a project. [MERGED]

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes and City Manager Debra Figone, dated May 22, 2008, recommending adoption of a resolution.

Action: Redevelopment Agency Resolution No. 5829 was adopted. (11-0.)

The Council of the City of San José and Redevelopment Agency Board adjourned at 4:19 p.m.