



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 24, 2008

The Council of the City of San José convened in regular session at 8:30 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Constant. (Excused)

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room W133, (A) Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957: Department/Agency: Fire; Title: Fire Chief; (B) 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) Tuttelman v. City of San José; (2) City of San José v. Union Pacific Railroad Company; (C) 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: 1; (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association; (2) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO; (3) City Association of Management Personnel Agreement; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.

By unanimous consent, Council recessed from the Closed Session at 9:40 a.m. and reconvened at 11:08 a.m. in the Council Chambers.

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

Absent: Council Members - Constant. (Excused)

INVOCATION

Ryan Vasquez from the Children's Musical Theatre of San José performed "Something's Coming" from *West Side Story* (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 Chirco and carried unanimously, the Orders of the Day and the Amended Agenda were approved with Items 3.2 and 3.15 deferred to August 5, 2008.. (11-0.)

STRATEGIC SUPPORT SERVICES

- 3.7 (a) Adoption of the Annual Appropriation Ordinance, including transfers and loans for Fiscal Year 2008-2009 and the Manager's Final Budget Addendum.**
- (b) Adoption of the Annual Funding Sources Resolution for Fiscal Year 2008-2009 and the Manager's Final Budget Addendum.**
- (c) Adoption of a resolution in compliance with Article XIII B of the Constitution of the State of California and as modified by Proposition 111 and SB 88 electing the population and inflation factors and establishing the Fiscal Year 2008-2009 Appropriation Limit.**

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

Documents Filed: Memoranda from Budget Director Jennifer Maguire, dated June 10 and June 20, 2008, recommending adoption of resolutions and an annual appropriation ordinance.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Williams and carried, Ordinance No. 28349, entitled "Annual Appropriation Ordinance of the City of San José for City's Fiscal Year Beginning July 1, 2008 and Ending June 30, 2009, Appropriating and Authorizing the Expenditure of Monies for the Operation of Each of the Offices, Departments, and Agencies of the City During Said Fiscal Year, and for Various Other Purposes and Objects for Said Fiscal Year; and Providing for Transfers from Various City Funds to Other City Funds as may be Necessary During Said Fiscal Year", Resolution No. 74461, entitled "A Resolution of the Council of the City of San José Adopting the Estimated Sources of Funds for Fiscal Year 2008-2009", and Resolution No. 74462, entitled "A Resolution of the Council of the City of San José Electing the Population and Inflation Adjustment Factors and Establishing the 2008-2009 Appropriations Limit of the City of San José Pursuant to California Constitution Article XIII B, and Section 7900 ET Seq. of the California Government Code", were adopted. (9-1-1: Noes: Oliverio: Absent: Constant.).

JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Adoption of Redevelopment Agency Board resolutions:

- (a) Approving the amendments to the FY 2007-08 Adopted Budget to reflect various modifications to the FY 2007-08 Revenue resolution, Capital Budget, and amending the FY 2007-08 Agency appropriation resolution;
- (b) Approving amendments to FY 2008-09 Proposed Budget;
- (c) Adopting the FY 2008-09 Revenue and Appropriations Resolutions for the Operating and Capital Budgets detailed on Attachment C of the staff memorandum, and authorizing the Executive Director to rebudget FY 2007-08 Operating and Capital remaining appropriation balances for on-going projects/programs previously approved by the Agency Board;
- (d) Making certain determinations regarding the expenditure of Agency funds to eradicate graffiti.

CEQA: Not a Project. (Redevelopment Agency)

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated June 11, 2008, recommending adoption of appropriation resolutions, approving amendments to the FY 2007-2008 adopted budget and submitting graffiti removal program findings.

Action: Upon motion by Councilmember Williams, seconded by Vice Mayor Cortese and carried, Redevelopment Agency Resolution Number 5839 approving amendments to the FY 2007-08 Adopted Budget to reflect various modifications to the FY 2007-08 Revenue resolution, Capital Budget, and amending the FY 2007-08 Agency appropriation resolution, and Redevelopment Agency Resolution Number 5840 approving amendments to the FY 2008-09 Proposed Budget, Redevelopment Agency Resolution Number 5841 adopting the FY 2008-09 Revenue and Appropriations Resolutions for the Operating and Capital Budgets detailed on Attachment C of the staff memorandum, and authorizing the Executive Director to rebudget FY 2007-08 Operating and Capital remaining appropriation balances for on-going projects/programs previously approved by the Agency Board , Redevelopment Agency Resolution Number 5842 Making certain determinations regarding the expenditure of Agency funds to eradicate graffiti, and Redevelopment Agency Resolution Number 5852 were adopted..(9-1-1. Absent: Constant. Noes: Campos.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring June 27th, 2008 as “National HIV Testing Day” in the City of San José. (Mayor)

Action: Mayor Reed recognized June 27th, 2008 as “National HIV Testing Day” in the City of San José.

1.2 Presentation of a proclamation declaring the month of July 2008 as “National Recreation and Parks Month” in the City of San José. (Pyle)

Action: Mayor Reed and Council Member Pyle recognized the month of July 2008 as “National Recreation and Parks Month” in the City of San José.

1.3 Presentation of a commendation to Pioneer High School and Simonds Elementary School for their commitment to excellence and designations as California Distinguished Schools. (Pyle)

Action: Mayor Reed and Council Member Pyle recognized and commended Pioneer High School and Simonds Elementary School for their commitment to excellence and designations as California Distinguished Schools.

**1.4 Presentation of a proclamation declaring the month of July as “Olympics Month” in the City of San José. (Constant)
(Rules Committee referral 6/11/08)**

Action: Mayor Reed recognized the month of July as “Olympics Month” in the City of San José.

**1.5 Presentation of a commendation to Gabrielle Gamez for her involvement in the Shooting Stars Basketball Enrichment Program. (Mayor)
(Rules Committee referral 6/18/08)**

Action: Mayor Reed and Council Member Campos recognized and commended Gabrielle Gamez for her involvement in the Shooting Stars Basketball Enrichment Program.

**1.6 Swearing in ceremony for District 3 Youth Commissioner Enedelia Ochoa, District 5 Youth Commissioner Destiny Trevino, District 6 Youth Commissioner Sara Alise Vierra, and District 10 Youth Commissioner Nicholas Polussa. (City Clerk)
(Rules Committee referral 6/18/08)**

Action: City Clerk Lee Price administered the Oath of Office to District 3 Youth Commissioner Enedelia Ochoa, District 5 Youth Commissioner Destiny Trevino, District 6 Youth Commissioner Sara Alise Vierra, and District 10 Youth Commissioner Nicholas Polussa.

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.2 (a) Adoption of a resolution by the Redevelopment Agency Board authorizing the Director of Housing to negotiate and execute an amended affordability restriction to allow an existing for-sale affordability agreement to incorporate rental unit requirements for the 30-unit Madison Place at Monte Vista Apartments Project located at 809 Auzerais Avenue.
- (b) Adoption of a resolution by the City Council approving a funding commitment of up to \$3,000,000 to Eden Housing, Inc., or its designated affiliate, for an acquisition/permanent loan for the 30-unit Madison Place at Monte Vista Apartments project located at 809 Auzerais Avenue, to be made available to extremely low-income (ELI) and very low-income (VLI) senior households.

CEQA: Not a Project. Council District 6. SNI: Burbank/Del Monte. (City Manager's Office/Redevelopment Agency)

Documents Filed: (1) Memorandum from City Manager Debra Figone and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated June 9, 2008, recommending adoption of a resolution. (2) Supplemental memorandum from City Manager Debra Figone and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated June 10, 2008, amending income restriction for the rental project.

Action: Upon motion by Council Member Pyle, seconded by Council Member Oliverio and carried unanimously, Resolution No. 74509, entitled "A Resolution of the Council of the City of San José Approving a Funding Commitment of up to \$3,000,000 to Eden Housing, Inc. for the Madison Place at Monte Vista Apartments", and Redevelopment Agency Resolution No. 5850 authorizing the Director of Housing to negotiate and execute an amended affordability restriction to allow an existing for-sale affordability agreement to incorporate rental unit requirements for the 30-unit Madison Place at Monte Vista Apartments Project located at 809 Auzerais Avenue were adopted. (10-0-1. Absent: Constant.)

- 9.3 **Approval of the Third Amendment to the Agreement providing for the development, renovation and operation of a Smart Start Center between the San José Day Nursery, the City of San José, and the Redevelopment Agency of the City of San José, increasing the Agency contribution by \$150,000, for a total City/Agency contribution not to exceed \$1,450,000, in order to provide funding for the completion of improvements to San José Day Nursery's existing facilities located at 33 North Eighth Street, and also extending the duration of the Smart Start covenants for the property from 30 to 35 years as consideration for the increase in funding. CEQA: Exempt, File No. CP05-002. (Redevelopment Agency/City Manager's Office)**

Documents Filed: Memorandum from City Manager Debra Figone and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated June 13, 2008, recommending approval of a third amendment.

9.3 (Cont'd.)

Upon motion by Council Member Pyle, seconded by Council Member Oliverio and carried unanimously, the third Amendment to the Agreement providing for the development, renovation and operation of a Smart Start Center between the San José Day Nursery, the City of San José, and the Redevelopment Agency of the City of San José, increasing the Agency contribution was approved. (10-0-1. Absent: Constant.)

9.4 **Approval of the Fiscal Year 2008-2009 Cooperation Agreements between the City of San José and the Redevelopment Agency for:**

(a) Capital Improvement Projects in the Merged Redevelopment Area; and

(b) Support Services in the Fiscal Year 2008-09 Operating Budget.

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

Approved.

Documents Filed: Memorandum from City Manager Debra Figone and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated June 9, 2008, recommending approval of Cooperation Agreements for Capital Improvement Projects and Support Services in the Operating Budget.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, the Fiscal Year 2008-2009 Cooperation Agreements between the City of San José and the Redevelopment Agency for Capital Improvement Projects in the Merged Redevelopment Area; and Support Services in the Fiscal Year 2008-09 Operating Budget were approved. (10-0-1. Absent: Constant.)

9.5 (a) **City Council approval of an Ordinance amending Title 22 of the San Jose Municipal Code modifying the basis for calculating the percent for public art in City and Agency Capital Improvement Projects and other changes to implement portions of the Public Art Master Plan approved by City Council on March 13, 2007.**

(b) **City Council approval of an Ordinance amending Section 4.04.020 of Title 4 of the San Jose Municipal Code to increase administrative contract authority for public art contracts, grant agreements and sponsorship agreements to \$250,000.**

(c) **Adoption of resolutions by the City Council and Redevelopment Agency Board rescinding City Council Resolution No. 64284 and Redevelopment Agency Board Resolution No. 3606, with the rescission to be effective upon the effective date of the foregoing ordinance.**

(d) **Direct the City Manager and Executive Director to return to Council in August for policy discussion and consideration regarding the Public Art Master Plan's recommended one percent public art allocation on City capital projects funded with development fees and to engage in discussions with the development community before returning to Council.**

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

9.5 (Cont'd.)

Documents Filed: Memorandum from City Manager Debra Figone and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated June 12, 2008 recommending public art ordinance revisions.

Public Comment: Michael Martin (Arts Commission Chairman) and Tamara Alvarado (1st ACT Silicon Valley) expressed support for the project.

Chief Development Officer Paul Krutko responded to questions from Council.

Action: Upon motion by Council Member Williams, seconded by Council Member Oliverio and carried unanimously, Ordinance No. 28358, entitled “An Ordinance of the City of San José Amending Chapters 22.04 and 22.08 of Title 22 of the San José Municipal Code to Update and Modify the Art in Public Places Requirements and the Provisions Regarding the Operation of the Convention and Cultural Facilities”, and Ordinance No. 28359 entitled “An Ordinance of the City of San José Section 4.04.020 of Chapter 4.04 of Title 4 of the San José Municipal Code to Increase Administrative Contract Authority for Grant Agreements, Public Art Agreements and sponsorship Agreements, were passed for publication, and Resolution No. 74510, entitled “A Resolution of the Council of the City of San José Rescinding City Council Resolution No. 64284, with the Rescission to be Effective Upon the Effective Date of the Ordinance Amending title 22 of the San Jose Municipal Code”, and Redevelopment Agency Resolution 5851 rescinding Redevelopment Agency Board Resolution No. 3606, with the rescission to be effective upon the effective date of the foregoing ordinance amending Section 4.04.020 of Title 4 of the San José Municipal Code to increase administrative contract authority for public art contracts, grant agreements and sponsorship agreements to \$250,000, were adopted. (10-0-1. Absent: Constant.)

CONSENT CALENDAR

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

2.1 Approval of minutes.

- (a) **Regular Minutes of April 22, 2008**
- (b) **Joint City Council/Santa Clara Valley Water District Board Study Session Minutes of April 24, 2008**

Action: Deferred to August 5, 2008 per City Clerk.

- (c) **Regular Minutes of April 29, 2008**

Action: Approved. (10-0-1. Absent: Constant.)

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28330** – Amending Section 3.36.1020 of Chapter 3.36 of Title 3 of the San José Municipal Code related to service connected disability benefits for employees of the Fire Department who are members of the Police and Fire Department Retirement Plan.

Documents Filed: Proof of Publication of the title of Ordinance No. 28330 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28330 was adopted. (10-0-1. Absent: Constant.)

- (b) **ORD. NO. 28331** – Amending Sections 3.36.1270 and 3.36.1280 of Chapter 3.36 of Title 3 of the San José Municipal Code to revise the benefit formula for certain surviving spouses and surviving domestic partners of members of the Police and Fire Department Retirement Plan who are employed in the Fire Department.

Documents Filed: Proof of Publication of the title of Ordinance No. 28331 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28331 was adopted. (10-0-1. Absent: Constant.)

- (c) **ORD. NO. 28332** – Amending Chapters 3.28 and 3.36 of Title 3 of the San José Municipal Code to provide the City with the option to make lump sum payments of City required contributions to the Police and Fire Department Retirement Plan and to the Federated City Employees Retirement Plan on or before August 1, 2008 for the balance of Fiscal Year 2008-09, to provide the City with an annual option commencing with Fiscal Year 2009-10 to select the periodic basis on which City required contributions will be made in advance to the plans, to provide for the establishment by each Retirement Board of the amounts of the City required contributions for the advance lump sum payment for Fiscal Year 2008-09 and for such alternative periodic bases as City may select commencing with Fiscal Year 2009-10, to provide that City required payments to the medical benefits accounts within said plans shall be made on the same periodic basis as retirement contribution payments are made, and to provide for adjustment of the City contributions in the following fiscal year after any lump sum payment is made to reflect any difference in contributions due to a variance between the actual payroll amount for the fiscal year in which the payment was made as compared to the projected payroll amount on which the lump sum payment was calculated.

Documents Filed: Proof of Publication of the title of Ordinance No. 28332 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28332 was adopted. (10-0-1. Absent: Constant.)

- 2.2 (d) **ORD. NO. 28333 – Rezoning certain real property situated on the west side of Coleman Avenue between Newhall Street and Brokaw Road from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC08-017**

Documents Filed: Proof of Publication of the title of Ordinance No. 28333 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28333 was adopted. (10-0-1. Absent: Constant.)

- (e) **ORD. NO. 28334 – Rezoning certain real property situated on the southeast corner of Vine Street and Floyd Street (1312 Vine Street) to A(PD) Planned Development Zoning District. PDC07-068**

Documents Filed: Proof of Publication of the title of Ordinance No. 28334 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28334 was adopted. (10-0-1. Absent: Constant.)

- (f) **ORD. NO. 28335 – Rezoning certain real property situated on the west side of North 4th Street, approximately 230 feet north of East St. James Street (237 North)**

Documents Filed: Proof of Publication of the title of Ordinance No. 28335 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28335 was adopted. (10-0-1. Absent: Constant.)

- (g) **ORD. NO. 28336 – Rezoning certain real property situated at the northerly terminus of Industrial Avenue (1605 Industrial Avenue) to HI(PD) Planned Development Zoning District. PDC08-002**

Documents Filed: Proof of Publication of the title of Ordinance No. 28336 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28336 was adopted. (10-0-1. Absent: Constant.)

- (h) **ORD. NO. 28337 – Rezoning certain real property in the area generally bounded by West Hedding Street, the CalTrain right-of-way, Stockton Avenue, Emory Street, and Elm Street to A(PD) Planned Development Zoning District. PDC07-072**

Documents Filed: Proof of Publication of the title of Ordinance No. 28337 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28337 was adopted. (10-0-1. Absent: Constant.)

- 2.2 (i) **ORD. NO. 28338** – Amending Section 20.70.010 of Chapter 20.70 of Title 20 of the San José Municipal Code to expand the area to which the Downtown Zoning District Regulations apply to include an area bounded by 4th Street, St. John Street, 7th Street and San Fernando Street.

Documents Filed: Proof of Publication of the title of Ordinance No. 28338 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28338 was adopted. (10-0-1. Absent: Constant.)

- (j) **ORD. NO. 28339** – Amending Ordinance No. 26136, which Ordinance approved a Development Agreement with Cisco Technology, Inc. relative to the development of real property in North San José, to allow amendment of a certain occupancy deadline contained in the original Development Agreement, and to ratify the effectiveness of the original Development Agreement from November 13, 2000, and authorizing the City Clerk to execute the Amended Development Agreement.

Documents Filed: Proof of Publication of the title of Ordinance No. 28339 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28339 was adopted. (10-0-1. Absent: Constant.)

- (k) **ORD. NO. 28340** – Rezoning certain real property situated at the southeast corner of River Oaks Parkway and Seely Avenue (545-575 River Oaks Parkway) to the A(PD) Planned Development Zoning District. PDC06-067

Documents Filed: Proof of Publication of the title of Ordinance No. 28340 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28340 was adopted. (10-0-1. Absent: Constant.)

- (l) **ORD. NO. 28341** – Rezoning certain real property situated at the south side of Murphy Avenue approximately 400 feet easterly of Old Oakland Road (1180 Murphy Avenue) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC07-042

Documents Filed: Proof of Publication of the title of Ordinance No. 28341 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28341 was adopted. (10-0-1. Absent: Constant.)

- 2.2 (m) **ORD. NO. 28342 – Rezoning certain real property situated at the south side of Douglas Street approximately 200 feet easterly of South Willard Avenue (1480 Douglas Street) to A(PD) Planned Development Zoning District. PDC07-089**

Documents Filed: Proof of Publication of the title of Ordinance No. 28342 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28342 was adopted. (10-0-1. Absent: Constant.)

- (n) **ORD. NO. 28343 – Rezoning certain real property situated at the west side of Lucretia Avenue approximately 250 feet south of Bellhurst Avenue to A(PD) Planned Development Zoning District. PDC06-131**

Documents Filed: Proof of Publication of the title of Ordinance No. 28343 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28343 was adopted. (10-0-1. Absent: Constant.)

- (o) **ORD. NO. 28344 – Rezoning certain real property situated on the east side of Monterey Road approximately 700 feet northerly of Tully Road (2112 Monterey Road) to A(PD) Planned Development Zoning District. PDC08-012**

Documents Filed: Proof of Publication of the title of Ordinance No. 28344 executed on June 20, 2008, submitted by the City Clerk.

Action: Ordinance No. 28344 was adopted. (10-0-1. Absent: Constant.)

- 2.3 (a) **Approval of a consultant master agreement with Barnestorming Advertising and Marketing Communications to provide marketing, communications, and event support services to Norman Y. Mineta San José International Airport for a two-year term beginning July 1, 2008 through June 30, 2010, in an amount not-to-exceed \$370,000.**
- (b) **Adoption of a resolution authorizing the City Manager to exercise up to two one-year options to extend the term on a fiscal year basis to June 30, 2012, in amounts not-to-exceed \$185,000 per year for a total contract amount not-to-exceed \$740,000.**

CEQA: Resolution Nos. 67380 and 71451, File No. PP08-086. (Airport)

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated June 2, 2008, recommending approval of an agreement and adoption of a resolution.

Action: Resolution No. 74468, entitled “A Resolution of the Council of the City of San José Authorizing the City Manager to Exercise up to two one-year Options of a Consultant Master Agreement with Barnestorming Advertising and Marketing Communications” was adopted. (10-0-1. Absent: Constant.).

- 2.4 Adoption of a resolution authorizing the City Manager to negotiate and execute a:**
- (a) First amendment to the Small Concession Agreement with Verified Identity Pass, Inc. to extend the term from December 1, 2008 through November 30, 2010, with projected annual revenue to the City of approximately \$153,000;**
 - (b) First amendment to the Lease of Airport Premises with Verified Identity Pass, Inc. to extend the term from December 1, 2008 through November 30, 2010, with annual lease revenue to the City of \$73,944.96;**
 - (c) Second amendment to the Small Concession Agreement with Verified Identity Pass, Inc. to extend the term from December 1, 2010 to November 30, 2012, on the same terms and conditions;**
 - (d) Second amendment to the Lease of Airport Premises with Verified Identity Pass, Inc. to extend the term from December 1, 2010 to November 30, 2012, on the same terms and conditions.**

CEQA: Resolutions Nos. 67380 and 71451, File No. PP08-102. (Airport)

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated June 3, 2008, recommending adoption of a resolution.

Action: Resolution No. 74469 entitled, "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to the Small Concession Agreement and the Lease of Airport Premises with Verified Identity Pass, Inc." was adopted. (10-0-1. Absent: Constant.).

- 2.5 Adoption of a resolution authorizing the City Attorney to negotiate and execute an Eleventh Amendment to the agreement with Orrick, Herrington & Sutcliffe LLP for legal services related to the financing of improvements at the Norman Y. Mineta San José International Airport and the City's outstanding Airport revenue debt, increasing compensation by \$100,000, for a total amount not to exceed \$350,000. CEQA: Not a Project. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Doyle, dated June 12, 2008, recommending adoption of a resolution.

Action: Resolution No. 74470, entitled "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Eleventh Amendment to the Airport Legal Service Agreement with Orrick, Herrington & Sutcliffe LLP" was adopted. (10-0-1. Absent: Constant.).

- 2.6 Adoption of a resolution declaring the results of the June 3, 2008 Municipal Election pursuant to Elections Code Section 15400. (City Clerk)**

Action: Deferred to August 12, 2008 per City Clerk.

- 2.7 Consider nominating petitions and the recommendation of the Federated Retirement Board for appointment of one employee member from a department other than Public Works to fill a vacancy for a term expiring November 30, 2009. (City Clerk/Federated Retirement Board)**

RENUMBERED TO ITEM 3.11

- 2.8 Approval of a fourth amendment to the grant agreement with San José Stage Company, in order to extend the term of the agreement to an optional fifth year with a grant in an amount not-to-exceed \$68,252, thereby increasing the total grant amount to \$352,357 for the five-year term. CEQA: Not a Project. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated June 2, 2008, recommending approval of a fourth amendment.

Action: The fourth amendment to the grant agreement with San José Stage Company, increasing the total grant amount to \$352,357 for the five-year term was approved.

2.9 Adoption of a resolution authorizing:

- (a) **The City Manager to negotiate and execute all contracts, amendments, agreements, leases, subleases and memos of understanding with contractors and vendors providing services to the Workforce Investment Act (WIA) Program, including, but not limited to, novations or assignments, vendor training contracts, case management contracts, consultant contracts, memorandums of understanding required with Mandatory Partners for the use of One-Stop facilities, and cities and the unincorporated area of Santa Clara County whose residents receive service under the WIA Program for the period from July 1, 2008 to June 30, 2009 in accordance with procurement procedures and requirements mandated by the State and Federal governments for Workforce Investment Act grant recipients and with established City procurement procedures and requirements that have been reviewed and approved by the Silicon Valley Workforce Investment Network (work2future) Executive Committee and/or the work2future Board, so long as moneys have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.**
- (b) **The City Manager to amend Council approved agreements that have been reviewed and approved by the work2future Executive Committee and/or the work2future Board so long as moneys have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.**
- (c) **The City Manager to negotiate and execute all grants and sub-grant agreements for discretionary funding applied for and approved by the work2future Board for the period from July 1, 2008 to June 30, 2009 so long as moneys have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.**

CEQA: Not a Project. (Economic Development)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated May 27, 2008, recommending adoption of a resolution.

2.9 (Cont'd.)

Action: Resolution No. 74471, entitled “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Certain Agreements Related to the Workforce Investment Act (WIA) Program and Projects for FY 2008-2009” was adopted. (10-0-1. Absent: Constant.)

2.10 Approval of an agreement with R3 Consulting Group, Inc., to provide consulting services for waste characterization studies, best waste management practice analyses, audit and certification of existing and new facilities, and training of staff regarding enhancements to the Construction and Demolition Diversion Program, for a term from July 1, 2008 through June 30, 2010 in an amount not to exceed \$500,000. CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated June 2, 2008, recommending approval of an agreement with R3 Consulting Group, Inc.

Action: An agreement with R3 Consulting Group, Inc., to provide consulting services for waste characterization studies, best waste management practice analyses, audit and certification of existing and new facilities, and training of staff regarding enhancements to the Construction and Demolition Diversion Program, was approved. (10-0-1. Absent: Constant.)

2.11 Approval of a continuation agreement with Metcalf & Eddy, Inc., for water system modeling, capital planning, Major Water Facilities Fee update and scheduling options, to retroactively extend the term of the agreement from May 31, 2008 to September 30, 2008, at no additional cost to the City. CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated June 2, 2008, recommending approval of a third amendment to the agreement with Metcalf & eddy, Inc.

Action: The continuation agreement with Metcalf & Eddy, Inc., for water system modeling, capital planning, Major Water Facilities Fee update and scheduling options, to retroactively extend the term of the agreement from May 31, 2008 to September 30, 2008, at no additional cost to the City, was approved. (10-0-1. Absent: Constant.)

- 2.12 (a) **Adoption of a resolution authorizing the City Manager to negotiate and execute:**
- (1) **Amendments to agreements with GreenTeam of San José and GreenWaste Recovery, Inc. to expand the multi-family recycling program and to allow for other operational and administrative improvements, for an estimated net annual expenditure increase of \$1,513,000.**
 - (2) **Amendments to agreements with California Waste Solutions and Garden City Sanitation to reduce the cost to the City for on-premises service; to compensate the haulers for shared cart collection retroactive to July 1, 2007; and to allow for other operational and administrative improvements, for an estimated net annual increase of \$90,000.**
 - (3) **Amendments to the agreements with GreenWaste Recovery, Inc. to provide additional street sweeping services at the rate \$69.72 for each additional mile.**
- (b) **Adoption of a resolution to amend services rates for the Recycle Plus Program to reduce customer rates for on-premises collection by \$20.24 monthly, from \$75.24 per month over the base service rate to \$55.00 per month; and delete the rates in the single-family dwelling program for contaminated recycling rates at multi-family properties, effective July 1, 2008.**

CEQA: Negative Declaration, File No. SP06-024 and addenda thereto, PP08-096. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated June 2, 2008, recommending adoption of a resolution. (2) Supplemental Memorandum from Director of Environmental Services John Stufflebean, dated June 17, 2008, adding additional rates for Council approval and background information. (3) Memorandum from Joshua Howard (Executive Director, CAA Tri-County) supporting the City's recycling program.

This item was pulled for questions by Council Member Campos.

Director of Environmental Services John Stufflebean and Director of Equality Assurance, Public Works, Nina Grayson responded to questions from Council regarding the prevailing wage agreement with GreenWaste.

Brief council discussion ensued.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Chirco and carried, Resolution No. 74472, entitled "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to Recycle Plus Agreements with Garden City Sanitation, California Waste Solutions, Greenteam of San Jose, and Greenwaste Recovery, Inc." and Resolution No. 74473, entitled "A Resolution of the Council of the City of San José Adopting Service Rates for the Recycle Plus Program Effective July 1, 2008 and Superseding Resolution No. 74362" were adopted. (8-2-1. Noes: Campos, Williams. Absent: Constant.).

2.13 Adoption of a resolution approving the annual certification of the City of San José Investment Policy, including certain revisions to update the list of the Primary Government Securities Dealers. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74474, entitled “A Resolution of the Council of the City of San José Approving the City’s Investment Policy including Certain Revisions Thereto” was adopted. (10-0-1. Absent: Constant.).

2.14 Adoption of a resolution authorizing the Director of Finance to:

(a) **Execute any necessary documentation to purchase software maintenance services from Intergraph Corporation for the Computer Aided Dispatch System, with pricing obtained under the U.S. General Services Administration cooperative contract # GS-35F-0011-K with Intergraph; in an amount not-to-exceed \$288,120 for the period of July 1, 2008 through June 30, 2009.**

(b) **Execute subsequent annual software maintenance agreements subject to the appropriation of funds.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74475, entitled “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute any Necessary Documentation to Purchase Software Maintenance Services from Intergraph Corporation”, was adopted. (10-0-1. Absent: Constant.).

2.15 Adoption of a resolution authorizing the Director of Finance to:

(a) **Exercise the third of six options to renew the annual Operations and Maintenance Services with Nortel Networks, Inc. for managed services of the converged network and telephone system in the amount of \$800,000.**

(b) **Exercise the three remaining one-year options for ongoing support and maintenance subject to the appropriation of funds.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74476, entitled “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Exercise a Third Option to Renew Annual Operations and Maintenance Services for the City Hall Converged Network and Telephony System with Nortel Networks, Inc.” was adopted. (10-0-1. Absent: Constant.).

2.16 Adoption of a resolution:

- (a) **Setting a public hearing on Tuesday, August 5, 2008 at 1:30 p.m. for 2008-2009 Sanitary Sewer Service and Use Charges, and Storm Sewer Service Charges based on annual reports of the Director of Finance, and direct the City Clerk to publish notice of the time and place of the hearing.**
- (b) **Allowing the Director of Finance to file, with the City Clerk, the 2008-2009 Sanitary Sewer Service and Use Charges on or before July 15, 2008.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74477, entitled "A Resolution of the Council of the City of San José Setting a Public Hearing on the Annual Sewer Service and Use Charge and Storm Sewer Service Charge Reports of the Director of Finance Pursuant Sections 15.12.550 and 15.16.1410 of the San José Municipal Code", was adopted. (10-0-1. Absent: Constant.).

2.17 Approval of the seventh amendment to the General Banking Services Agreement with Union Bank of California to extend the term of the agreement for nine months from July 1, 2008 through March 31, 2009, to amend the termination provision to allow either party to terminate the agreement upon 30 day written notice to the other, and to increase the agreement total maximum compensation for the extended term in an amount not-to-exceed \$787,500. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Deputy Director of Finance Julia H. Cooper, dated June 2, 2008, recommending approval of the Seventh Amendment to the General Banking Services Agreement with Union Bank of California.

Action: The seventh amendment to the General Banking Services Agreement with Union Bank of California to extend the term of the agreement for nine months from July 1, 2008 through March 31, 2009 with associated provisions, was approved. (10-0-1. Absent: Constant.)

2.18 Approval of the Fifth Amendment to the Investment Custodial Services Agreement with Wells Fargo Bank to extend the term of the agreement for nine months from July 1, 2008 through March 31, 2009, to amend the termination provision to allow either party to terminate the agreement upon 30 day written notice to the other, to authorize the City Manager and other designated officials to make changes to the list of authorized personnel who transmit instructions to the bank without further Council action; and to increase the maximum compensation for the extended term in an amount not to exceed \$37,500. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Deputy Director of Finance Julia H. Cooper, dated June 2, 2008, recommending approval of the Seventh Amendment to the General Banking Services Agreement with Union Bank of California.

2.18 (Cont'd.)

Action: The Fifth Amendment to the Investment Custodial Services Agreement with Wells Fargo Bank to extend the term of the agreement for nine months from July 1, 2008 through March 31, 2009, with associated provisions, was approved.
(10-0-1. Absent: Constant.)

2.19 Adoption of a resolution authorizing the Director of Finance to:

- (a) **Negotiate and execute the first amendment to the continuation agreement with Horwath Hospitality & Leisure, LLC to provide City with asset management oversight services related to the Dolce Hayes Mansion to:**
- (1) **Extend the current term of the agreement for an additional one-year period of July 1, 2008 through June 30, 2009, and to increase the contract amount from \$234,826 by \$78,000 for a revised not-to-exceed amount of \$312,826; and**
 - (2) **Add two additional option years, at City's sole discretion, to extend the agreement for the option terms of July 1, 2009 through June 30, 2010 and July 1, 2010 through June 30, 2011, respectively for a total compensation for the term of the agreement from December 1, 2004 through June 30, 2011, in an amount not-to-exceed \$479,986.**
- (b) **Exercise the two one-year options subject to the appropriation of funds.**
CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 5, 2008, recommending adoption of a resolution.

This item was pulled for questions by Mayor Reed.

Director of Finance Scott P. Johnson responded to questions regarding consultant fees.

Action: Resolution No. 74478, "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute a First Amendment to the Continuation Agreement with Horwath Hospitality & Leisure, LLC Relating to Asset Management Oversight Services for the Dolce Hayes Mansion", was adopted.
(10-0-1. Absent: Constant.)

2.20 Adoption of a resolution authorizing the Director of Finance to:

- (a) **Execute the First Amendment to the Agreement for Maintenance of Parking Revenue Control Equipment at the San José International Airport with ACS Transport Solutions, Inc., to extend the term of the Agreement for one year, increase the not-to-exceed compensation from \$2,646,341 by \$463,679 to \$3,110,020, and with two additional one year options to extend.**
- (b) **Exercise two additional one year options to extend the agreement subject to the appropriation of funds.**
- (c) **Execute change orders as required to add or delete services as program requirements change, subject to the appropriation of funds.**
CEQA: Resolutions Nos. 67380 and 71451, File No. PP08-078. (Finance)

2.20 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 4, 2008, recommending adoption of a resolution.

Action: Resolution No. 74479, entitled “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a First Amendment to the Agreement with ACS Transport Solutions, Inc. for Maintenance of Parking Revenue Control Equipment at the San José International Airport”, was adopted.
(10-0-1. Absent: Constant.)

- 2.21 (a) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #11 and authorization for the Director of Finance to execute the purchase orders.**
- (b) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #12 and authorization for the Director of Finance to execute the purchase orders.**

CEQA: See Administration’s memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson, dated June 3, 2008, recommending approval of an award for supplies and services for FY 2007-2008 #11. (2) Memorandum from Director of Finance Scott P. Johnson, dated June 3, 2008, recommending approval of an award for supplies and services for FY 2007-2008 #12. (3) Letter from Reed & Graham, Inc., dated June 13, 2008, voicing objections to bid process. (4) Letter from Patricia Mahan, Treatment Plan Advisory Committee, dated June 12, 2008, submitting TPAC recommendation for Council action.

Action: Awards of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #11 and #12 and authorization for the Director of Finance to execute the purchase orders, was approved. (10-0-1. Absent: Constant.)

- 2.22 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2008-2009 #1 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration’s memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 4, 2008, recommending approval of an award for supplies and services for FY 2007-2008.

Action: Awards of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #1 and authorization for the Director of Finance to execute the purchase orders, was approved. (10-0-1. Absent: Constant.)

- 2.23 Adoption of a resolution authorizing the Director of Finance to execute the sixth amendment to the Agreement for the Lease and Maintenance of Airport Shuttle buses with Penske Truck Leasing Co., L.P. to extend the term of the lease for an additional three month period, from July 1, 2008 to September 30, 2008, and increasing total compensation by \$350,000 from \$16,847,145 to a not-to-exceed amount of \$17,197,145. CEQA: Resolution Nos. 67380 and 71451, File No. PP08-077. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74480, entitled “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a Sixth Amendment to the Agreement with Penske Truck Leasing Company, L.P. for Lease and Maintenance of Airport Shuttle Buses”, was adopted. (10-0-1. Absent: Constant.)

- 2.24 Adoption of a resolution authorizing the City Manager to negotiate and execute the seventh amendment to the operation agreement with History San José, as directed by Council on December 18, 2007, to increase the compensation for Fiscal Year 2008-09 from \$335,085 to \$875,000, subject to appropriations. CEQA: Not a Project. Council District 7. (General Services)**

Documents Filed: Memorandum from Director of General Services Peter Jensen, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74481, entitled “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Seventh Amendment to the Agreement with History San José to Increase the Annual Operating Subsidy for the 2008 – 2009 Fiscal Year from \$335,085 to \$875,000”, was adopted. (10-0-1. Absent: Constant.)

2.25 Adoption of a resolution:

- (a) Approving a change in the use of \$150,223 of Workforce Housing Reward Program funds from providing permanent supportive housing for the homeless, to creating a free childcare center for homeless and at risk families.**
- (b) Approving a grant of \$150,223 of Workforce Housing Reward Program funds to InnVision the Way Home for the rehabilitation of the Georgia Travis Center to create a State licensed day care center for homeless and at-risk families. CEQA: Exempt, File No. CP02-052. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74482, entitled “A Resolution of the Council of the City of San José Approving a Change in Use of Workforce Housing Reward Program Funds to Create a Free Childcare Center for Homeless and At Risk Families, and Approving a Grant of Workforce Housing Reward Program Funds to InnVision the Way Home for the Rehabilitation of the Georgia Travis Center to Create a State Licensed Day Care Center for Homeless and At Risk Families”, was adopted. (10-0-1. Absent: Constant.)

- 2.26 Adoption of a resolution approving a \$400,000 increase in the predevelopment loan, for a total of \$500,000, to First Community Housing, or its designated affiliate, for the North Fourth Street Family Apartments project located at 1470 North Fourth Street to be made available to extremely low-income, very low-income and low-income households. CEQA: EIR Resolution No. 72768. File No. PDC06-022. Council District 3. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74483, entitled “A Resolution of the Council of the City of San José Approving a \$400,000 Increase in the Predevelopment Loan for a Total of \$500,000 to First Community Housing for the North Fourth Street Family Apartments Project”, was adopted. (10-0-1. Absent: Constant.)

2.27 Adoption of a resolution:

- (a) Approving a funding commitment for a loan of up to \$1,800,000 of HOME Investment Partnership (HOME) program funds to Charities Housing Development Corporation, a Community Housing Development Organization (“CHDO”), for the future development of a rental housing project affordable to lower-income households;**
- (b) Approving \$75,000 in HOME funds to subsidize the administrative costs of operating a CHDO.**

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74484, entitled “A Resolution of the Council of the City of San José Approving a Funding Commitment for a Loan of up to \$1,800,000 of Home Investment Partnership Program Funds to Charities Housing Development Corporation for the Future Development of a Rental Housing Project and Approving \$75,000 in Home Funds to Subsidize the Administrative Costs of Operating a Community Housing Development Organization”, was adopted. (10-0-1. Absent: Constant.)

2.28 Adoption of a resolution:

- (a) Approving a 3-month extension to the Housing Services Partnership contracts to provide homeless services on behalf of the City from July 1, 2008 through September 30, 2008;**
- (b) Approving an increase in the Housing Services Partnership contract amount from \$3,532,822 to \$3,854,058 to cover the cost of services provided through September 30, 2008;**
- (c) Authorizing the Director of Housing to negotiate and execute all necessary documents.**

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated June 2, 2008, recommending adoption of a resolution.

2.28 (Cont'd.)

Action: Resolution No. 74485, entitled “A Resolution of the Council of the City of San José Approving a 3-Month Extension and Increase in the Contract Amount to the Housing Services Partnership Contracts, and Authorizing the Director of Housing to Negotiate and Execute all Necessary Documents”, was adopted. (10-0-1. Absent: Constant.)

2.29 Approval of an agreement with Marsh USA, Inc. to provide Property and Casualty Insurance Broker and Loss Control Services for the period of July 1, 2008 through June 30, 2011, with two one-year options for extension through June 30, 2013 for the City of San José. The annual cost is \$252,160, and the cost for three years of service is not-to-exceed \$756,480, year four and five will be negotiated. CEQA: Not a Project. (Human Resources)

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated June 2, 2008, recommending approval of an agreement.

Action: An agreement with Marsh USA, Inc. to provide Property and Casualty Insurance Broker and Loss Control Services for the period of July 1, 2008 through June 30, 2011 with two one-year options. (10-0-1. Absent: Constant.)

2.30 Adoption of a resolution:

- (a) **Accepting a \$200,000 donation from the Happy Hollow Corporation, a non-profit corporation for the purpose of funding the Endangered Species Carousel, a new attraction as part of the Happy Hollow Park and Zoo bond funded improvements, and to negotiate and execute grant agreements and any documents necessary to accept the donation.**
- (b) **Authorizing the City Manager to accept a future planned donation of \$400,000 from Happy Hollow Corporation for the purpose of funding the Endangered Species Carousel, a new attraction as part of the Happy Hollow Park and Zoo bond funded improvements, and to negotiate and execute grant agreements and any documents necessary to accept the donation.**

CEQA: Mitigated Negative Declaration, File No. PP05-142. SNI: Tully/Senter. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 2, 2008, recommending adoption of a resolution and acceptance of a future planned donation. (2) Supplemental Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 16, 2008, clarifying the terms of the donation.

Action: Resolution No. 74486, entitled “A Resolution of the Council of the City of San José Accepting Donations from Happy Hollow Corporation to be Used for the Endangered species Carousel at Happy Hollow Park and Zoo”, was adopted. (10-0-1. Absent: Constant.)

- 2.31 Adoption of a resolution authorizing the City Manager to accept up to \$150,000 in grant funding and to negotiate and execute all documents related to the grant funding from the California Coastal Conservancy for the Penitencia Creek Trail Reach 6 (King Road to Mabury Avenue) project. CEQA: Mitigated Negative Declaration, File No. PP03-04-134. Council District 4. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74487, entitled “A Resolution of the Council of the City of San José Authorizing the City Manager to Accept a Grant for the Penitencia Creek Trail Reach 6 (King Road to Mabury Avenue) in an Amount not to exceed \$150,000 and to Negotiate and Execute all Related Documents ”, was adopted.(10-0-1. Absent: Constant.)

- 2.32 Approval of the second amendment to the Parkland Agreement for Tentative Map No. PT04-015 between the City of San José and Jackson Square, LLC to extend the completion date from June 21, 2008 to June 30, 2009 to construct and dedicate Madden Park. CEQA: Mitigated Negative Declaration, File No. PDC03-036. Council District 5. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 2, 2008, recommending approval of a second amendment.

Action: The second amendment to the Parkland Agreement for Tentative Map No. PT04-015 between the City of San José and Jackson Square, LLC to extend the completion date from June 21, 2008 to June 30, 2009 to construct and dedicate Madden Park, was approved. (10-0-1. Absent: Constant.)

- 2.33 Direction to the Administration to continue negotiations for a joint use partnership with San José State University, with the mutual goal of producing an agreement to facilitate the development and long-term joint use of a sports field complex on San José State University south campus land. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 2, 2008, recommending approval of joint use sports complex project with San José State University.

This item was pulled for questions by Council Member Liccardo. Director of Parks, Recreation and Neighborhood Services Albert Balagso responded.

Action: Upon motion my Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, direction to the Administration to continue negotiations for a joint use partnership with San José State University to facilitate the development and long-term joint use of a sports field complex on San José State University south campus land, was approved. (9-0-2. Absent: Campos, Constant.)

2.34 Adoption of a resolution:

- (a) **Initiating proceedings to consider the residential buildings located at 202 S. 14th Street and 198 S. 13th Street as landmarks of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.**
- (b) **Referring the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.**
- (c) **Setting a public hearing on Tuesday, September 9, 2008 at 1:30 p.m. for Council consideration of City landmark designation of the structures.**

CEQA: Not a Project. Council District 3. SNI: University. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, recommending adoption of a resolution initiating proceedings to consider historical landmark designations.(2) Affidavit of Routing issued on July 8, 2008 and distributed by the City Clerk's Office.

Action: Resolution No. 74488, entitled "A Resolution of the Council of the City of San José Initiating Proceedings on its Own Motion Pursuant to the Provisions of Chapter 13.48 of title 13 of the San José Municipal Code, to Designate the Slettedahl House at 202 S. 14th Street and the Foster House at 198 S. 13th Street as City Landmarks of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature", was adopted. (9-0-2. Absent: Campos, Constant.)

2.35 Adoption of a resolution authorizing the City Manager to:

- (a) **Execute an agreement with the County of Santa Clara establishing cooperative efforts and cost sharing regarding the Santa Clara County Children's Interview Center for the period of July 1, 2008 to June 30, 2009 in an amount not-to-exceed \$132,691,**
- (b) **Execute up to four (4) additional one-year options to renew the agreement with the County of Santa Clara, subject to annual appropriation, and**
- (c) **Negotiate and amend the provisions of the agreement concerning the amount of the agreement and the financial contributions of the City and County for each of the four (4) additional one-year options to renew.**

CEQA: Not a Project. (Police)

Documents Filed: Memorandum from Chief of Police Robert L. Davis, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74489, entitled "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with the County of Santa Clara for Cooperative Efforts and Cost Sharing Regarding the Santa Clara County Children's Interview Center", was adopted. (9-0-2. Absent: Campos, Constant.)

- 2.36 Approval of the second amendment to the consultant agreement with HMM Engineers for the Edenvale Sanitary Sewer Supplement Phase V Project increasing the amount of compensation by \$150,000, for a total agreement amount not-to-exceed \$1,525,000. CEQA: Mitigated Negative Declaration, File No. PP01-03-055. Council District 2. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 2, 2008, recommending approval of a second amendment.

Action: The second amendment to the consultant agreement with HMM Engineers for the Edenvale Sanitary Sewer Supplement Phase V Project, was approved.

(9-0-2. Absent: Campos, Constant.)

- 2.37 Approval of amendments to three consultant master agreements to extend their terms for 2 years and increase the maximum compensation as follows:**

- (a) **Kitchell CEM for a variety of program, project and construction management services to supplement in-house resources from the date of execution of the master agreement through December 31, 2010, increasing compensation by \$150,000, for a total agreement amount not-to-exceed \$500,000.**
- (b) **Gilbane Building Company for a variety of program, project and construction management services to supplement in-house resources from the date of execution of the master agreement through December 31, 2010, increasing compensation by \$150,000, for a total agreement amount not-to-exceed \$500,000.**
- (c) **URS Corporation for a variety of program, project and construction management services to supplement in-house resources from the date of execution of the master agreement through December 31, 2010, increasing compensation by \$250,000, for a total agreement amount not-to-exceed \$500,000.**

CEQA: Not a Project. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 2, 2008, recommending approval of an amendment to master agreements.

Action: The amendments to three consultant master agreements with Kitchell CEM, Gilbane Building Company and URS Corporation to extend their terms for 2 years and increase the maximum compensation, was approved.

(9-0-2. Absent: Campos, Constant.)

2.38 Approval of an ordinance repealing Ordinance No. 27971 and establishing a corrected legal description for the public right-of-way on Taylor Street between Anita and Walnut Streets. CEQA: Exempt, File No. PP06-038. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 2, 2008, recommending adoption of an ordinance.

Action: Ordinance No. 28351, entitled “An Ordinance of the City of San José Repealing Ordinance No. 27971 and Establishing a New, Accurate Legal Description of the Expanded Public Right of Way on Taylor Street Between Anita and Walnut Streets”, was adopted. (9-0-2. Absent: Campos, Constant.)

2.39 Approval of the second amendment to the Gilbane Building Company master agreement, increasing the total compensation of the original agreement by \$957,000 from \$2,048,000 to \$3,005,000 for a continuation of program management services supporting Happy Hollow Park & Zoo construction activities. CEQA: Mitigated Negative Declaration, File No. PP05-142. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 2, 2008, recommending approval of a second amendment.

Action: The second amendment to the Gilbane Building Company master agreement, increasing the total compensation of the original agreement, was approved. (9-0-2. Absent: Campos, Constant.)

2.40 Report on bids and award of contract for the Silver Creek Valley Road Pavement Resurfacing/Rehabilitation project to the low bidder, Granite Construction Company in the amount of \$2,795,048, and approval of a contingency in the amount of \$139,753. CEQA: Exempt, File No. PP06-066. Council District 8. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated June 2, 2008, recommending approval of a report and bids and award of a contract. (2) Supplemental Memorandum from Director of Public Works Katy Allen, dated June 17, 2008, providing additional bid information.

Action: The report on bids and award of contract for the Silver Creek Valley Road Pavement Resurfacing/Rehabilitation project to Granite Construction Company in the amount of \$2,795,048, and approval of a contingency, was approved. (9-0-2. Absent: Campos, Constant.)

- 2.41 Adoption of a resolution summarily vacating a 25-foot Building Set Back Line Easement at 2517 South Bascom Avenue, recorded June 23, 1965 as part of Tract No. 3970 in Book 196 of Maps at Pages 18 and 19 of Official Records, Office of the Recorder, County of Santa Clara. CEQA: Mitigated Negative Declaration, File No. CP07-101. Council District 9. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74490, entitled “A Resolution of the Council of the City of San José Summarily Vacating a 25-Foot Building Set Back Line Easement at 2517 South Bascom Avenue”, was adopted. (9-0-2. Absent: Campos, Constant.)

- 2.42 Adoption of a resolution authorizing the Director of Public Works to negotiate and execute a Construction Agreement with Westrust San José, LLC (“Developer”), for certain public improvements at the northeast corner of Monterey Road and Curtner Avenue with a reimbursement to the Developer of an amount not-to-exceed \$979,616. CEQA: EIR Resolution No. 72771, File No. PDC04-029. Council Dist. 7.**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 2, 2008, recommending adoption of a resolution to negotiate and execute a construction agreement.

Action: Resolution No. 74491, entitled “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute an Agreement with Westrust San José LCC for the Construction of Certain Public Improvement at the Northeast Corner of Monterey Road and Curtner Avenue Including a Reimbursement for Such Work to Westrust San José LLC in an Amount Not to Exceed \$979,616”, was adopted. (9-0-2. Absent: Campos, Constant.)

- 2.43 (a) Approval of a five-year lease period with Civic Center Office Investors, LLC, for 4,901 rentable square feet of office space for the Police Gaming Unit, on the 10th floor of 675 North First Street in San José, at a monthly rental rate, including tenant improvements, of \$9,556.95 for a total amount of rentals not-to-exceed \$615,173.52, and including tenant improvements for a total not-to-exceed \$130,000.00.**
- (b) Adopt a resolution authorizing the City Manager to execute the office lease document contingent upon adoption of the FY 2008 – 2009 budget and an appropriation therefore. CEQA: Not a Project. Council District 3.**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 2, 2008, recommending adoption of a resolution and approval of a five-year lease.

Action: A five-year lease with Civic Center Office Investors was approved, and Resolution No. 74492, entitled “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Civic Center Office Investors, LLC for Office Space at 675 North First Street for the Police Gaming Unit”, was adopted. (9-0-2. Absent: Campos, Constant.)

2.44 Approval of the first amendment to the agreement with HNTB Corporation, for design services for the Happy Hollow Park & Zoo Pedestrian Bridge project increasing the total compensation by \$650,000 from \$99,000 to \$749,000. CEQA: Mitigated Negative Declaration, File No. PP05-142. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 2, 2008, recommending approval of a first amendment.

Action: The first amendment to the agreement with HNTB Corporation, for design services for the Happy Hollow Park & Zoo Pedestrian Bridge project increasing the total compensation by \$650,000 from \$99,000 to \$749,000, was approved.

(9-0-2. Absent: Campos, Constant.)

2.45 (a) Adoption of a resolution:

(1) **Determining that the public interest and necessity requires acquisition of two blanket easements over parcels located at Silverstone Place, San José, CA (Assessors Parcel Numbers 486-39-029 and 486-30-100) from PG&E.**

(2) **Authorizing and directing 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.**

(b) Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 5 (Fund 382):

(1) **Increase the appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$100,000 for the Trail: Lower Silver Creek/Silverstone Place project;**

(2) **Decrease the Ending Fund Balance by \$100,000.**

CEQA: Mitigated Negative Declaration, File No. PP07-106. (Public Works/City Manager's Office)

Documents Filed: (1)Memorandum from Director of Public Works Katy Allen and Budget Director Jennifer Maguire, dated June 2, 2008, recommending adoption of a resolution and appropriation ordinance amendments. (2) Supplemental Memorandum from Director of Public Works Katy Allen, dated June 19, 2008, submitting corrections from the original memorandum. (3) Notice of Intent to Adopt Resolution of Necessity to Condemn Real Property and Improvements and Opportunity to be Heard Thereon", submitted by the City Clerk, dated June 5, 2008.

2.45 (Cont'd.)

Action: Resolution No. 74467, entitled “ A Resolution of Necessity of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part of the California Code of Civil Procedure for the Following Project: The Acquisition of Two Surface Easements for the Lower Silver Creek Trail Project, over Real and Personal Property on Vacant Land Owned by Pacific Gas and Electric Company, a California Corporation, Located at the West Side of Silverstone Place, San José, California (APN NOS. 486-39-029 and 486-30-100; and Authorizing and Empowering the City Attorney to File Suit in Eminent Domain to Acquire Such Property Interest, to Apply for an Order of Possession before Judgment, and to Prosecute Said Action to Final Judgment, and Authorizing the Deposit of Money in the State Treasury Condemnation Fund for Possession of Said Property from the Funds Lawfully Available therefore”, and Ordinance No. 28345, entitled “An Ordinance Of The City Of San Jose Amending Ordinance No. 28071 to Appropriate Moneys In The Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 5 For The Trail: Lower SilverCreek/Silverstone Place Project; And Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted.
(9-0-2. Absent: Campos, Constant.)

- 2.46 (a) Approval of an agreement with FCS Group for consultant services for the City’s Storm Drainage, Sanitary Sewer Connection, and Sewage Treatment Plant Connection Fee Study, from the date of execution to June 30, 2009, in a total amount not to exceed \$308,000.**
- (b) Adoption of the following Appropriation Ordinance amendments in the Storm Sewer Capital Fund (469):**
- (1) Increase the Storm Drainage Fee Study appropriation in the Storm Sewer Capital Fund by \$25,000; and**
 - (2) Decrease the Ending Fund Balance in the Storm Sewer Capital Fund by \$25,000.**
- (c) Adoption of the following Appropriation Ordinance amendments in the Sewage Treatment Plant Connection Fee Fund (539):**
- (1) Increase the Connection Fee Study appropriation in the Sewage Treatment Plant Connection Fee Fund by \$101,000; and**
 - (2) Decrease the Ending Fund Balance in the Sewage Treatment Plant Connection Fee Fund by \$101,000.**

CEQA: Not a Project. (Public Works/Environmental Services/City Manager’s Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Environmental Services John Stufflebean, and Budget Director Jennifer Maguire, dated June 2, 2008, recommending approval of an agreement for consultant services and adoption of appropriation ordinance amendments.

2.45 Action: An agreement with FCS Group for consultant services for the City's Storm Drainage, Sanitary Sewer Connection, and Sewage Treatment Plant Connection Fee Study was approved, and Ordinance No. 28346, entitled "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Storm Sewer Capital Fund for the Storm Drainage Fee Study; and Providing that this Ordinance Shall become Effective Immediately Upon Adoption", and Ordinance No. 28347, entitled "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Sewage Treatment Plant Connection Fee Fund for the Connection Fee Study; and Providing that this Ordinance Shall become Effective Immediately Upon Adoption" was adopted. (9-0-2. Absent: Campos, Constant.)

2.47 (a) Approval of:

- (1) An increase in the contingency budget for the Alma Community Center Improvement project in the amount of \$60,000 for a total contingency budget of \$77,000.**
- (2) Contract Change Order Number 2 in an amount of \$82,550 for a total contract amount of \$420,250 with Joseph J. Albanese, Inc. for the Alma Community Center Improvement project.**
- (3) An increase in the project delivery budget for the Alma Community Center Improvement project in the amount of \$5,000 for a total project delivery budget of \$175,000.**

(b) 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 \$86,250.**
- (2) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Alma Community Center Improvement project (PSM 524, Amendment 1) in the amount of \$86,250.**

CEQA: Exempt, File No. PP07-049. Council District 7. SNI: Washington. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso, and Budget Director Jennifer Maguire, dated June 2, 2008, recommending approval of a contract change order, increases to a contract contingency amount and adoption of appropriation ordinance and funding sources resolution amendments.

Action: Contract Change Order Number 2 and Increases to the Contract Contingency and Project Delivery Budgets for the Alma Community Center Phase 1 Improvements Project were approved, and Adoption of Ordinance No. 28348, 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 Alma Community Center Improvement Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 74460, 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 Services for Redevelopment Capital Projects Fund", were adopted. (9-0-2. Absent: Campos, Constant.)

2.48 Report on bids and award of contract for the STP Street Resurfacing/ Rehab Project – Round 3, Federal Project No. STPL-5005(090) to the low bidder, Top Grade Construction, Inc. in the amount of \$9,503,006, and approval of a contingency in the amount of \$475,000. CEQA: Exempt, File No. PP06-066. Council Districts 1, 4, 5, 6, 7, 8 and 9. (Public Works/Transportation)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Director of Transportation, James R. Helmer, dated June 2, 2008, recommending approval of STP Street Resurfacing/Rehab Project. (2) Supplemental memorandum from Director of Public Works Katy Allen and Director of Transportation, James R. Helmer, dated June 17, 2008, providing additional information following opening of bids.

This item was pulled for questions by Council Member Chirco.

Director of Transportation, James R. Helmer responded to questions regarding bike lane resurfacing.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the report on bids and award of contract for the STP Street Resurfacing/ Rehab Project to the low bidder, Top Grade Construction, Inc. in the amount of \$9,503,006, and approval of a contingency in the amount of \$475,000, were approved, with a request to Staff that the bicycle lane master plan be reissued. (9-0-2. Absent: Campos, Constant.)

2.49 Approval of an increase of the construction contingency for the Oakland Road Widening Project (Segment 1 & 2) from \$129,000 to \$168,000. CEQA: Mitigated Negative Declaration, File No. PP03-06-209. Council District 4. (Public Works/Transportation)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Transportation, James R. Helmer, dated June 2, 2008, recommending approval of an increase of a construction contingency.

Action: An increase of the construction contingency for the Oakland Road Widening Project (Segment 1 & 2) from \$129,000 to \$168,000, was approved. (9-0-2. Absent: Campos, Constant.)

2.50 Adoption of a resolution:

- (a) **Approving the Downtown San José Property-Based Business Improvement District Annual Report for Fiscal Year 2008-2009 as filed or modified by Council.**
- (b) **Confirming the individual assessments as proposed or modified by Council, including the assessment on City owned property of approximately \$296,000 and the assessment on Redevelopment Agency property of approximately \$63,000.**
- (c) **Directing that the City baseline services contribution in the amount of \$340,000, and assessment payment be made.**
- (d) **Directing the Director of Finance to deliver the assessment roll to the County for collection with the property taxes.**

CEQA: Exempt: File No. PP08-095. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Transportation, James R. Helmer, dated June 3, 2008, recommending approval of the downtown San José Property-Based Business Improvement District Annual Report.

Action: Resolution No. 74493, entitled “A Resolution of the Council of the City of San José Approving the Downtown San José Property-Based Business Improvement District Annual Report for Fiscal Year 2008-2009 as Filed or Modified by the City Council, Confirming the Individual Assessments as Proposed or Modified by the City Council, Including the Assessment on City-Owned Property of Approximately \$296,000 and the Assessment on Redevelopment Agency Property of Approximately \$63,000 Directing that the City Baseline Services Contribution in the Amount of \$340,000 and Assessment Payment be Made, and Directing the Director of Finance to Deliver the Assessment Roll to the County of Santa Clara for Collection with the Property Taxes”, was adopted.
(9-0-2. Absent: Campos, Constant.)

2.51 Repeal Resolution No. 74114 related to the establishment of speed limits in the City of San José, and adopt a resolution to establish speed limits on the following roadways:

- (a) **Hellyer Ave., between Fontanoso Way and Silicon Valley Blvd., 45 MPH**
- (b) **Canoas Garden Ave., between Almaden Rd. and Almaden Expy., 25 MPH**
- (c) **Canoas Garden Ave., between Almaden Expy. and Curtner Ave., 30 MPH**
- (d) **Canoas Garden Ave., between Curtner Ave. and Sands Dr., 35 MPH**

CEQA: Exempt, File No. PP05-030. Council District 2 and 6. (Transportation)

Documents Filed: Memorandum from Director of Transportation, James R. Helmer, dated June 2, 2008, recommending adoption of a resolution.

Action: Resolution No. 74494, entitled “A Resolution of the Council of the City of San José establishing Speed Limits on Sections of Hellyer Avenue and Canoas Garden Avenue; Reestablishing, Without Change, speed Limits on Other Streets Within the City of San José; and Repealing Resolution No. 74114”, was adopted.
(9-0-2. Absent: Campos, Constant.)

- 2.52 Approve the first amendment to the cooperative agreement between the City of San José and the Santa Clara Valley Transportation Authority for the Interstate 280/880 and Stevens Creek Boulevard Interchange Improvement Project extending the term of the agreement from June 30, 2008 to December 31, 2010 at no additional cost to the City. CEQA: Not a Project. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Jim Helmer, dated June 3, 2008, recommending approval of a first amendment.

Action: The first amendment to the cooperative agreement between the City of San José and the Santa Clara Valley Transportation Authority for the Interstate 280/880 and Stevens Creek Boulevard Interchange Improvement Project, was approved. (9-0-2. Absent: Campos, Constant.)

- 2.53 Adoption of a resolution authorizing the installation of bike lanes on the following street segments; and repealing Resolution 73913:**
- (a) **Aborn Road (Towers Lane to Silver Creek Road)**
 - (b) **Cunningham Avenue (Capitol Expressway to White Road)**
 - (c) **Hamilton Avenue (Hicks Avenue to Meridian Avenue)**
 - (d) **Ruby Avenue (Tully Road to Quimby Road)**
 - (e) **Tully Road (Glen Hanleigh Drive to Ruby Avenue)**
 - (f) **Yerba Buena Road (Silver Creek Road to Silver Creek Valley Road)**
- CEQA: Exempt, File No. PP08-112. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Jim Helmer, dated June 5, 2008, recommending adoption of a resolution.

Action: Resolution No. 74495, entitled “A Resolution of the Council of the City of San José Designating Bicycle Lanes on those Portions of Streets Specified Herein, Pursuant to the Authority of California Vehicle Code Section 21207; and Repealing Resolution No. 73913”, was adopted. (9-0-2. Absent: Campos, Constant.)

- 2.54 Request for an excused absence for Councilmember Constant from the Community and Economic Development Committee meeting on June 23, 2008 due to Authorized City Business: Federated City Employees’ Retirement Services Education Training in San Francisco, CA. (Constant) (Rules Committee referral 6/11/08)**

Documents Filed: Memorandum from Council Member Constant, dated June 4, 2008, requesting an excused absence for June 23, 2008

Action: Council Member Constant’s absence from the Community & Economic Development Committee Meeting on June 23, 2008 due to authorized City business was excused. (9-0-2. Absent: Campos, Constant.)

- 2.55 (a) **Approval of the Carolyn Norris Park Master Plan Report.**
(b) **Approval of a Turnkey Park Agreement with Summerhill Parkwood, LLC to construct turnkey park improvements on the Carolyn Norris Park site and to reimburse Summerhill Parkwood, LLC in an amount not to exceed \$198,328 for park improvements above its Parkland Dedication Obligations on the Carolyn Norris Park site associated with Planned Development Permit PD05-082 and Tentative Map No. PT05-103.**
(c) **Adoption of the following Appropriation Ordinance in the Subdivision Park Trust Fund (Fund 375):**
(1) **Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$97,000 for Norris Park Turnkey Project Design Review and Inspection**
(2) **Decrease the Reserve: Future PDO/PIO Projects by \$97,000.**

CEQA: Exempt, File No. PP07-263. Council District 9. (Parks, Recreation and Neighborhood Services)

(Deferred from 6/17/08 – Item 2.15)

Documents Filed: (1) Replacement Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 16, 2008 recommending approval of the Master Plan Report, the Turnkey Park Agreement, and adoption of a resolution. (2) Memorandum from Senior Deputy City Attorney, Karin Murabito canceling resolution requirement.

Action: The Carolyn Norris Master Plan Report and Turnkey Agreement with Summerhill Parkwood, LLC were approved, and Ordinance No. 28354, entitled “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Subdivision Park Trust Fund for the Norris Park Turnkey Project Design Review and Inspection; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted.

(9-0-2. Absent: Campos, Constant.)

- 2.56 **Approval of travel by Councilmember Nguyen to Chicago, IL on October 1-3, 2008 for the San José/Silicon Valley Chamber of commerce City to City Trip 2008. Source of Funds: Mayor & Council Travel Fund. (Nguyen) (Rules Committee referral 6/18/08)**

Documents Filed: Memorandum from Council Member Nguyen, dated June 11, 2008, requesting approval for travel.

Action: Council Member Nguyen’s request for travel to Chicago, Illinois, from October 1 through October 3, 2008, to attend the San José/Silicon Valley Chamber of Commerce City- to-City Trip, was approved. (9-0-2. Absent: Campos, Constant.)

- 2.57 Approval of travel by Councilmember Williams to Dublin, Ireland on July 19-25, 2008 to foster the important civic and government linkages that have been built during the 22-year San José-Dublin Sister City relationship. The four day official trip will include meetings with the City of Dublin and Irish National Government, Dublin area businesses and university officials.. Source of Funds: District 2 Funds. (Williams) (Rules Committee referral 6/18/08)**

Documents Filed: Memorandum from Council Member Williams, dated June 19, 2008, requesting approval for travel.

Action: Council Member William's request for travel to Dublin, Ireland, on official City business from July 19 to July 25, 2008, was approved. (9-0-2. Absent: Campos, Constant.)

- 2.58 Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending December 31, 2007. (City Auditor) (Rules Committee referral 6/18/08)**

Documents Filed: Memorandum from City Auditor Sharon Erikson, dated June 16, 2008, submitting the finding report from Kafoury, Armstrong & Company.

Action: The finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending December 31, 2007, were approved. (9-0-2. Absent: Campos, Constant.)

- 2.59 Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
(a) Increase the Council District 5 appropriation by \$176.
(b) Increase the revenue estimate for Other Revenue by \$176.
(City Clerk/City Manager's Office)
[Rules Committee referral 6/18/08 – Item A(1)(a)(1)]

Documents Filed: Memorandum from City Clerk Lee Price and Budget Director Jennifer Maguire, dated June 13, 2008, recommending adoption of an Appropriation Ordinance and Funding Sources Resolution Amendments.

Action: Ordinance No. 28355, entitled "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund for the Council District No. 5 Appropriation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 74497, entitled "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 General Fund", were adopted. (9-0-2. Absent: Campos, Constant.)

- 2.60 (a) Approval of the CommUnity Resource Fair on June 29, 2008 and the use of the Mayor’s Special Events Account.**
- (b) Approval and acceptance of donations from various businesses and community groups to support the CommUnity Resource Fair on June 29, 2008.**
- (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendment in the Gift Trust Fund:**
- (1) Establish a gift appropriation to the City Clerk’s Office for the CommUnity Resource Fair in the amount of \$20,800; and**
 - (2) Increase the Earned Revenue estimate by \$20,800.**

(City Clerk/City Manager’s Office)

[Rules Committee referral 6/18/08 – Item A(1)(a)(2)]

Documents Filed: Memorandum from City Clerk Lee Price and Budget Director Jennifer Maguire, dated June 16, 2008, recommending approval of the use of a special events account for the community resource fair and adoption of an appropriation ordinance and funding sources resolution amendment.

Action: The use of a special events account for the community resource fair was approved, and Ordinance No. 28356, entitled “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Gift Trust Fund for the Community Resource Fair; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 74498, 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: Campos, Constant.)

STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)

Action: City Manager Debra Figone confirmed the appointment of Darryl Von Raesfeld to the position of Fire Chief. (9-1-1. Noes: Campos. Absent: Constant.)

3.2 Report of the Rules and Open Government Committee – June 11, 2008 Mayor Reed, Chair

Action: Deferred to August 5, 2008.

- 3.4 Adoption of a resolution authorizing the City Attorney to execute the third amendment to the legal services agreement with Nossaman, Guthner, Knox & Elliott, LLP, to increase the compensation by \$600,000, for a total amount not to exceed \$1,600,000. CEQA: Not a Project. (City Attorney's Office/Board of Administration for Police & Fire Department Retirement Plan)**

Documents Filed: Memorandum from City Attorney Doyle and Russell Crosby (Board of Administration for the Police & Fire Department Retirement Plan), dated June 2, 2008, requesting adoption of a resolution.

Action: Upon motion by Council Member Williams, seconded by Council Member Nguyen and carried unanimously, Resolution No. 74499, entitled "A Resolution of the Council of the City of San José Authorizing the City Attorney to Execute the Third Amendment to the Agreement with Nossaman Guthner Knox & Elliott LLP for Legal Services in connection with the Real Estate Portfolio of the Police and Fire Department Retirement Boards", was adopted. (9-0-2. Absent: Campos, Constant.

3.5 Adoption of a resolution to:

- (a) **Amend the City of San José Pay Plan to:**
- (1) **Change the titles effective June 29, 2008 for the classifications of:**
 - (a) **Crime & Intelligence Analyst (1187) (formerly Crime Data Specialist)**
 - (b) **Senior Crime & Intelligence Analyst (1186) (formerly Senior Crime Data Specialist)**
 - (c) **Supervising School Crossing Guard (2443) (formerly School Safety Coordinator)**
 - (d) **Environmental Laboratory Supervisor (5118) (formerly Research Chemist/Research Microbiologist (5119)**
 - (e) **Environmental Laboratory Manager (5117) (formerly Laboratory Supervisor)**
 - (2) **Change the salary ranges effective June 29, 2008 for the classifications of:**
 - (a) **Animal Shelter Veterinarian PT (3256)**
 - (b) **Program Manager I (8073)**
 - (c) **Program Manager II (8076)**
- (b) **Amend the City of San José Pay Plan to:**
- (1) **Provide general salary increases of 3.75% effective June 29, 2008 for unrepresented employees in Units 81, 82 and 99, excluding Temporary Employees and unclassified employees in the Office of the City Auditor.**
 - (2) **Change the salary ranges effective June 29, 2008, for the classifications:**
 - (a) **Assistant City Clerk U (1613)**
 - (b) **Temporary Employee U PT (9985)**

3.5 (Cont'd.)

- (3) **Change the salary ranges and titles effective June 29, 2008 for the classifications of:**
 - (a) **Analyst I, Independent Police Auditor (7664) (formerly Police Data Analyst I)**
 - (b) **Analyst II, Independent Police Auditor (7665) (formerly Police Data Analyst II)**
- (4) **Create the following classification effective June 29, 2008:**
 - (a) **Sr. Analyst, Independent Police Auditor (7666)**
- (c) **For unrepresented employees in Units 81, 82 and 99, excluding Temporary Employees, amend the employees' health plan cost-sharing formula for medical plan coverage to 10% of the lowest priced plan currently available to City employees effective December 14, 2008.**
- (d) **Amend the City of San José Pay Plan to provide general salary increases of 3.75% effective June 29, 2008 for Council Appointees.**
- (e) **For Council Appointees, amend the employees' health plan cost-sharing formula for medical plan coverage to 10% of the lowest priced plan currently available to City employees effective December 14, 2008.**

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

Documents Filed: (1) Memorandum from Mayor Reed, dated June 10, 2008 recommending adoption of a resolution. (2) Memorandum from City Manager Debra Figone, dated June 6, 2008, recommending adoption of a resolution. (3) Supplemental memorandum from City Auditor Sharon Erikson, dated June 20, 2008, modifying the City of San José Pay Plan.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, amendments to the City's pay plan and employees' health plan and cost-sharing formulae were accepted, and Resolution No. 74500 entitled "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan to Provide General Salary Increases, to Change Titles and Salary Ranges for Various Classifications Effective June 29, 2008 and Amending the Employees' Health Plan Cost Sharing Formula for Medical Plan Coverage Effective December 14, 2008", was adopted. (10-0-1. Absent: Constant.).

- 3.6 (a) **Approval of 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Attachments A (General Fund), B (Special Funds) and C (Capital Funds) of the memorandum.**
- (b) **Approval of 2007-2008 Appropriation Ordinance amendments in various funds as detailed in Attachment B - Supplemental (Special Funds) in addition to the recommendations in Attachment B (Special Funds) detailed in the original memorandum dated June 10, 2008.**
- (c) **Approval of 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments as detailed in Attachment C – Supplemental (Capital Funds) in-lieu of the recommendations detailed in pages 1 and 2 of Attachment C (Capital Funds) in the original memorandum dated June 10, 2008 for the following funds in the Airport Capital Program: Airport Capital Improvement Fund, Airport Revenue Bond Improvement Fund, Airport Renewal and Replacement Fund, and Airport Passenger Facility Charge Fund.**

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

Documents Filed: (1) Memorandum from Budget Director Jennifer Maguire, dated June 10, 2008, recommending adoption of amendments to the Annual Appropriating Ordinance and Funding Sources Resolution. (2) Supplemental memorandum from Budget Director Jennifer Maguire, dated June 18, 2008, providing additional recommendations.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, Ordinance No. 28350, entitled “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in Various Capital Funds to Reflect Estimated 2007-2008 Revenue Receipts, Expenses and Encumbrances; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, Ordinance No. 28353, entitled “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund, Various special Funds, and Various Capital Funds to Reflect Estimated 2007-2008 Revenue Receipts, Expenses and Encumbrances; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, Ordinance No. 28360, entitled “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in Various Special Funds to Reflect Estimated 2007-2008 Revenue Receipts, Expenses and Encumbrances; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, Resolution No. 74463, entitled “A Resolution of the Council of the City of San José Amending Resolution No. 73862 to Implement the 2007-2008 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Funds”, and Resolution No. 74519, entitled “A Resolution of the Council of the City of San José Amending Resolution No. 73862 to Implement the 2007-2008 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Funds”, were adopted. (10-0-1. Absent: Constant.)

- 3.8 Conduct a public hearing and adopt a resolution approving the report of the Director of Finance on the Cost of Sidewalk Repairs, confirming the assessments contained in the Report and directing the recording of liens on the property tax roll for the cost of sidewalk repairs. CEQA: Not a Project. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson, dated June 13, 2008, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Finance Scott P. Johnson, dated June 19, 2008, updating the final report on the results of the Sidewalk Repair Administrative Hearings.

Director of Finance Scott P. Johnson offered an update of liens on the property tax roll and responded to questions from Council.

Action: Resolution No. 74501, entitled “A Resolution of the Council of the City of San José Accepting the Report of the Director of Finance on the Cost of Sidewalk Repairs, Confirming the Assessments Contained in the Report, and Directing the Recording of Liens”, was adopted. (10-0-1. Absent: Constant.).

- 3.9 (a) Adoption of a resolution authorizing the City Attorney to execute a settlement and release agreement with Housing and Development Software, LLC, pursuant to the settlement authorization approved by Council in Closed Session on October 30, 2007, that provides in part for the entering into a separate “Agreement for the Implementation of a Housing Development System”.**
- (b) Adoption of a resolution authorizing the Director of Finance to:**
- (1) Execute an agreement with Housing and Development Software, LLC (HDS) for the purchase of Funds Management, Single Family, Multifamily, and Loan Servicing software, for a total amount not-to-exceed \$400,400 including first year maintenance, installation, implementation, training and applicable tax.**
 - (2) Execute change orders not-to-exceed 20% contingency in the amount of \$80,000 to cover unanticipated changes or requirements.**
 - (3) Exercise four one-year options for ongoing maintenance and support subject to appropriation of funds.**
- (c) Adoption of the following Appropriation Ordinance Amendments in the Low and Moderate Income Housing Fund (443) for 2007-2008:**
- (1) Increase the Housing Non-Personal/Equipment appropriation by \$480,400.**
 - (2) Decrease the Ending Fund Balance by \$480,400.**

CEQA: Not a Project. (Housing/Finance/Information Technology/City Manager’s Office)

Action: Item Dropped per Administration.

3.10 Public hearing and approval of an ordinance to establish a Rule 20A Underground Utility District along White Road, between Rose Avenue and 150 feet north of Alum Rock Avenue. CEQA: Exempt, File No. PP08-042. Council District 5. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 2, 2008, recommending adoption of an ordinance.

Action: Upon motion by Council Member Chirco, seconded by Cortese and carried unanimously, Ordinance No. 28357, entitled “An Ordinance of the City of San José Establishing a Rule 20A Underground Utility District Along White Road, Between Rose Avenue and 150 Feet North of Alum Rock Avenue”, passed for publication. (10-0-1. Absent: Constant.)

3.11 Consider nominating petitions and the recommendation of the Federated Retirement Board for appointment of one employee member from a department other than Public Works to fill a vacancy for a term expiring November 30, 2009. (City Clerk/Federated Retirement Board)

Note: renumbered from Item 2.7

Documents Filed: (1) Memorandum from the Board of Administration – Federated City Employees’ Retirement System, dated June 12, 2008, approving a recommendation to the Board. (2) Supplemental memorandum from City Clerk Lee Price, dated June 17, 2008, submitting the recommendation of the Federated Retirement Board. (3) Letter from Daniel Finn (City Labor Alliance Spokesperson), dated June 24, 2008, encouraging support of the board’s recommendation.

Public Comment: Arn Andrews introduced himself as a candidate for the Federated Retirement Board and noted he had been unable to attend the Retirement Board Meeting for an interview. Gay Gale (CAMP President) thanked the Council for the appointment of Patrick Skillsky. Patrick Skillsky expressed his appreciation for the opportunity to serve on the Federated Retirement Board.

Action: Upon motion by Council Member Williams, seconded by Council Member Oliverio and carried unanimously, the appointment of Patrick Skillsky to the Federated Retirement Board to fill a vacancy for a term expiring November 30, 2009, was approved. (10-0-1. Absent: Constant.)

- 3.12 (a) **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 Uvas Volunteer Fire Department.**
- (b) **Direction to the City Manager and City Attorney to draft revisions to the Council Policy requiring that all requests for donation of surplus personal property including from foreign governmental bodies come directly from the donee to the Director of Finance or other City Manager designee, that the equipment benefits the donee, and that the donee use the donated equipment for the benefit as stated in the request for the donation.**

CEQA: Not a Project. (Finance)

(Deferred from 6/3/08 – Item 2.10, 6/10/08 – Item 2.11 and 6/17/08 – Item 2.22)

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson, dated May 12, 2008, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Finance Scott P. Johnson, dated June 18, 2008, clarifying donation requirements of surplus vehicles.

Director of Finance Scott P. Johnson offered a brief report on the current donation policy for surplus property including recommendations for a timetable for revisions. Chief Purchasing Officer Walter C. Rossman responded to questions from Council.

Council discussion ensued.

Public Comment: John Diquisto expressed gratitude for Council's support.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos and carried unanimously, Resolution No. 74502, entitled "A Resolution of the Council of the City of San José Approving the Donation of Five Surplus Fire Brush Patrol Vehicles", was adopted. (10-0-1. Absent: Constant.)

- 3.13 **As recommended by the Rules and Open Government Committee of June 18, 2008 adopt a position of support for SB 1407 (Perata) – Courthouse Construction. (Cortese)**
[Rules Committee referral 6/18/08 – Item C(1)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, dated June 20, 2008, submitting a recommendation by the Rules and Open Government Committee.

Director of Intergovernmental Relations Betsy Shotwell responded to questions from Council on site designation.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, a position of support was adopted for SB 1407 (Perata) – Courthouse Construction.

**3.14 Report of the Rules and Open Government Committee – June 4, 2008
Mayor Reed, Chair**

Documents Filed: Rules and Open Government Committee Report dated June 4, 2008.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Chirco and carried unanimously, the Rules and Open Government Committee Report and actions of June 4, 2008 were accepted. (10-0-1. Absent: Constant.)

**3.15 Report of the Rules and Open Government Committee – June 18, 2008
Mayor Reed, Chair**

Action: Deferred to August 5, 2008 per Orders of the Day.

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Approval of the Arts Commission recommendation, subject to approval of the 2008-2009 Proposed Operating Budget, to:

- (a) **Allocate 2008-2009 funds to the Office of Cultural Affairs' arts and cultural programs, projects, grants, activities and support in a total amount not-to-exceed \$4,551,239.**
- (b) **Adoption of a resolution authorizing the City Manager to negotiate and execute 2008-2009 grant agreements as follows:**
 - (1) **Festival, Parade and Celebration Grant Agreements with 26 organizations for 35 events in a total amount not-to-exceed \$457,749; and**
 - (2) **Arts Grant Agreements with 58 organizations in a total amount not-to-exceed \$2,747,392.**

CEQA: Not a Project. (Economic Development)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated June 2, 2008, recommending adoption of a resolution.

Cultural Affairs Division Manager Irene Ray, responded to questions regarding review of the cultural funding and competitive grant programs.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Resolution No. 74503, entitled "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Festival, Parade and Celebration Grant Agreements and Arts Grant Agreements for Fiscal Year 2008-2009", was adopted. (10-0-1. Absent: Constant.)

- 4.3 Adoption of a resolution approving a funding commitment of up to \$3,940,000 of 20% Housing Funds to Charities Housing Development Corporation (“Charities Housing”), or its designated affiliate, for a land acquisition/construction/ permanent loan for the development of the 42-unit 90 Archer Street Apartments Project, that is located at 90 Archer Street, to be made available to extremely low-income and very low-income households. CEQA: EIR Resolution No. 72768. File No. PDC06-085. Council District 3. (Housing)**

Action: Item dropped per Administration.

- 4.5 (a) Conduct a Tax Equity and Fiscal Responsibility Act (TEFRA) hearing for the issuance of up to \$31,000,000 in tax-exempt public activity bonds to refund a portion of the City’s \$31,000,000 of City of San José Variable Rate Demand Multifamily Housing Revenue Bonds (Evans Lane Apartments) Series 2002H;**
- (b) Adoption of a resolution of:**
- (1) Authorizing the issuance of tax-exempt multifamily housing revenue refunding bonds designated as "City of San José Variable Rate Demand Multifamily Housing Revenue Refunding Bonds (Las Ventanas Apartments) Series 2008B" in a principal amount not-to-exceed \$31,000,000 (the "Refunding Bonds");**
 - (2) Approving a loan of Refunding Bond proceeds to Evans Lane Apartments, L.P., a California limited partnership, to fund a permanent loan for Las Ventanas Apartments (formerly known as Evans Lane Apartments) located at 1848 Evans Lane in San José (the “Development”);**
 - (3) Approving in substantially final form the Bonds, Trust Indenture, Financing Agreement, First Amendment to Regulatory Agreement, Intercreditor Agreement and Bond Purchase Agreement;**
 - (4) Authorizing the City Manager, Director of Finance, Deputy Director of Finance, and Director of Housing to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary;**
- (c) Adoption of a resolution approving an increase of \$687,108 in the City’s permanent loan amount resulting in a total permanent loan amount of \$16,232,773 to Evans Lane Apartments, L.P. (the “Borrower”) for the Las Ventanas Apartments.**

CEQA: Mitigated Negative Declaration, File No. PDC01-096. Council District 6. (Housing/Finance)

Documents Filed: Memorandum from Director of Housing Leslye Krutko and Deputy Director of Finance Julia H. Cooper, dated June 2, 2008, recommending adoption of a resolution.

Director of Housing Leslye Krutko clarified issues regarding “loan to value ratio” that had not been addressed in the Staff report and requested approval to expedite completion of the project.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Nguyen and carried unanimously, Resolution No. 74465, entitled “A Resolution of the Council of the City of San José Authorizing the Issuance, Sale and Delivery of Variable Rate Demand Multi-Family Housing Revenue Refunding Bonds in an Aggregate Principal Amount not to exceed \$31,000,000 for the Purpose of Making a Loan to Provide Refinancing for Las Ventanas Apartments; Determining and Prescribing Certain Matters Relating Thereto; and Approving and Authorizing Related Actions and the Execution and Delivery of Related Documents”, and Resolution No. 74464, entitled “A Resolution of the Council of the City of San José Approving an Increase of \$687,108 in the Permanent Loan Amount Resulting in a Total Permanent Loan of \$16,232,773 to Evans Lane Apartments, L.P. for the Las Ventanas Apartments and Approving a Loan to Value (LTV) of Approximately 110% as an exception to the City Council Policy Limiting LTV to 100%”, were adopted. (10-0-1. Absent: Constant.).

4.6 Conduct a public hearing and adoption of a resolution ordering the reorganization of territory designated as Burbank No. 40, which involves the annexation to the City of San José of approximately 2.78 acres of land located at the northwest corner of West San Carlos Street and Brooklyn Avenue and public right-of-way along West San Carlos Street, Brooklyn Avenue, and Topeka Avenue, and the detachment of the same from the appropriate special districts, including Central Fire Protection, Area No. 01 (Library Services) County Service, Burbank Sanitary and County Lighting County Services. CEQA: EIR Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated May 27, 2008, recommending adoption of a resolution. (2) Letter from Steven Machida (Burbank Sanitary District) expressing concerns regarding the proposed boundary of the annexation.

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, Resolution No. 74505, entitled “A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Burbank No. 40, Subject to Liability for General Indebtedness of the City”, was adopted. (10-0-1. Absent: Constant.)

4.7 Approval of 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)
(Deferred from 6/3/08 – Item 2.8, 6/10/08 – Item 4.4 and 6/17/08 – Item 4.5)

Documents Filed: (1) Memorandum from Chief Development Officer Paul Krutko, dated May 12, 2008, recommending adoption of a resolution. (2) Supplemental memorandum from Chief Development Officer Paul Krutko, dated June 18, 2008, providing additional information on the proposed agreement. (3) Letter from Barbara Coats (Artist Selection Committee Member) opposing selection of artist's work. (4) Emails from Heather Lerner (Happy Hollow Corporation) and Brenda Brown supporting the public art proposal.

Public Comment: Michael Martin (Public Arts Commission) expressed support for the proposed artwork by Tom Otterness.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Williams, and carried unanimously, the agreement with Tom Otterness to design, fabricate and install public artwork for the Happy Hollow Park and Zoo, was approved. (9-1-1. Noes: Campos. Absent: Constant.)

4.8 Conduct a public hearing and consider a resolution approving 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. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). Council District 6. (Planning, Building and Code Enforcement)

CA08-001 – District 6

[Continued from 6/3/08 – Item 4.9 and 6/17/08 – Item 11.1(a)]

Documents Filed: (1) Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated May 29, 2008, transmitting the Staff Reports for the expansion of the current boundaries of the Hanchett and Hester Park Conservation Area. (2) Proof of Publication of Notice of Public Hearing, executed on May 2, 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 Pyle, and carried unanimously, Resolution No. 74506, entitled “A Resolution of the Council of the City of San José Amending Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Existing Boundaries of the Hanchett and Hester Park Conservation Area to Include the following Properties: 23, 26, 27, 28, 31, 34, and 36 Tillman Avenue, and Providing Related Direction to the City Clerk” was adopted. (10-0-1. Absent: Constant.)

NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – June 12, 2008 Councilmember Chirco, Chair

Documents Filed: the Neighborhood Services & Education Committee Report dated June 12, 2008.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the Neighborhood Services & Education Committee Report and the actions of June 12, 2008 were accepted. (10-0-1. Absent: Constant.)

- 5.3
- (a) **Approval of the Martin Park Master Plan Report.**
 - (b) **Approval of a Turnkey Parkland Agreement with KB Home South Bay Inc. (“Developer”) for Tentative Map No. PT04-091, Tract No. 9644 to:**
 - (1) **Relieve Developer of its prior written Interim Parkland Agreement to construct the expansion of Martin Park (“Martin Park Landfill site”) as a turnkey park project;**
 - (2) **Credit the Developer in the amount of up to \$424,135 for costs associated with development of the Martin Park Landfill site;**
 - (3) **Construct minor turnkey park improvements on Martin Park and Forestdale Tot Lot; and**
 - (b) (4) **Collect parkland in-lieu fees in the amount of \$1,151,715 to satisfy Developer’s Parkland Dedication Obligation for the project.**
 - (c) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund (Fund 375):**
 - (1) **Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Preliminary Studies-Turnkey Parks by \$4,350; and**
 - (2) **Increase the Earned Revenue estimate by \$4,350.**

CEQA: Exempt, File No. PP08-026. Council District 3. SNI: Five Wounds/Brookwood Terrace. (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 June 2, 2008, recommending approval of the Martin Park Master Plan Report.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, Ordinance No. 28352, entitled “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Subdivision Park Trust Fund for the Preliminary Studies – Turnkey Parks; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 74466, 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. (10-0-1. Absent: Constant.).

- 5.4 Report on bids and take appropriate action based on the evaluation of bids for the Bascom Library and Community Center Project. CEQA: Exempt, File No. PP07-081. Council District 6. SNI: Burbank/Del Monte. (Parks, Recreation and Neighborhood Services/Library/Public Works)**
(Deferred from 6/10/08 – Item 5.3 and 6/17/08 – Item 5.3)

Action: Deferred to August 5, 2008 per Administration.

- 5.5. Approval of the Resource Allocation Plan of the San José Bringing Everyone's Strengths Together (B.E.S.T.) Program for FY2008-2009. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**
[Neighborhood Services and Education Committee referral 06/12/08 – Item (e)]

Documents Filed: (1) Memorandum from Agenda Services Manager Nadine Nader, dated June 18, 2008, submitting the Neighborhood Services & Education Committee report on B.E.S.T. Resource Allocation Strategy. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 20, 2008 providing additional information as requested by Council.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Resource Allocation Plan of the San José Bringing Everyone's Strengths Together (B.E.S.T.) Program for FY2008-2009, was approved. (10-0-1. Absent: Constant.)

- 5.2 Adoption of a resolution authorizing the following actions related to Fiscal Year 2008-09 Parks, Recreation and Neighborhood Services agreements:**
- (a) Authorizing the City Manager to negotiate and execute all agreements and amendments for Parks, Recreation and Neighborhood Services Department programs identified on Attachment A of the staff memorandum that have environmental clearance.**
 - (b) Authorizing the Director of Parks, Recreation and Neighborhood Services to negotiate and execute 2008-2009 contracts and amendments that have environmental clearance consistent with adopted budgeted amounts for the following grant programs:**
 - (1) Bringing Everyone's Strengths Together (BEST)**
 - (2) Healthy Neighborhoods Venture Fund Grant (HNVF)**
 - (3) San José After School Program (SJAS)**
 - (c) Authorizing the City Manager to negotiate and execute agreements and amendments that have environmental clearance to accept grant funds from the Corporation for National Community Services for the Senior Companion program, County of Santa Clara (County) for provision of mental health services and senior nutrition programs consistent with the 2008-2009 Adopted Budget;**
 - (d) Authorizing a three-month extension of the agreement with the County of Santa Clara of the Senior Nutrition Agreement into the first three months of 2008-2009 and to accept grant funds for that period in amounts consistent with budgeted amount in the 2008-2009 Adopted Budget, until a new agreement for 2008-2009 is finalized with the County.**

5.2 (Cont'd.)

CEQA: Mexican American Community Services Corporation – Construction and joint use of an outdoor sports facility: Exempt, File No. PP08-103; Guadalupe Gardens Demonstration Garden: Mitigated Negative Declaration, File No. PP02-033; all remaining items on Attachment A: Not a Project. (Parks, Recreation and Neighborhood Services)

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

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, Resolution No. 74507, entitled “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Various Agreements and Amendments to Agreements, and to Accept Grant Funds for Parks, Recreation and Neighborhood Services Programs; and Authorizing the Director of Parks, Recreation and Neighborhood Services to Negotiate and Execute Amendments to Agreements Related to Certain Grant Programs, all Consistent with the Amounts Budgeted for these Programs in the Adopted Budget for Fiscal Year 2008-2009 Provided that such Agreements do not Require Additional Environmental Clearance”, was adopted. (10-0-1. Absent: Constant.).

PUBLIC SAFETY SERVICES

8.1 **Adoption of a resolution authorizing the City Manager to award the Fire Station No. 19 Relocation project to the low bidder, and approval of a five percent contingency in a combined amount not-to-exceed \$3,675,000.00. CEQA: Exempt, File No. PP06-116. (Public Works/Fire)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Acting Chief of Fire Department Darryl Von Raesfeld, dated June 2, 2008, recommending adoption of a resolution.

Action: Upon motion by Council Member Chu, seconded by Council Member Chirco and carried unanimously, Resolution No. 74508, entitled “A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Construction Contract for the Fire Station No. 19 Relocation Project to the Low Bidder, and Approval of a Five Percent Contingency, in a Total Amount Not to Exceed \$3,675,000.00”, was adopted. (10-0-1. Absent: Constant.).

4.4 Adoption of a resolution approving a funding commitment of up to \$6,300,000 to CORE Affordable Housing LLC, or its designated affiliate, of which up to \$5,953,242 will finance land acquisition, for the development of the 53-unit 10th and Hedding Family Townhomes located at 851 and 899 North 10th Street, to be made available to extremely low-, very low- and low-income households. CEQA: Mitigated Negative Declaration, File No. PDC07-025. Council District 3. SNI: 13th Street. (Housing)

Documents Filed: (1) Memorandum from Council Member Liccardo dated June 20, 2008, approving Staff recommendations with additional direction. (2) Memorandum from Director of Housing Leslye Krutko dated June 2, 2008, recommending adoption of a resolution.

Public Comments: Residents of Viridian at Bernal Park, Victory and Grace Maestas requested that the proposal be tabled citing a lack of public outreach.

Director of Housing Leslye Krutko responded to questions from Council.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, Resolution No. 74504, entitled “A Resolution of the Council of the City of San José Approving a Funding Commitment of up to \$6,300,000 to CORE Affordable Housing LLC for the Land Acquisition and Development of the 10th and Hedding Family Townhomes” was adopted, and Staff’s recommendations were approved with further direction as outlined in Council Member Liccardo’s memorandum dated June 20, 2008: (1) Direct City Manager to have staff and the developer engage the community in a discussion on the project that includes outreach to the 13th Street NAC and nearby homeowner associations, including Viridian. (2) Return to Community and Economic Development Committee with policy regarding what additional community outreach will be required in instances where all prior neighborhood notification regarding a market-rate, ownership project preceded a developer’s decision to seek government subsidies for rental affordable housing.

ADJOURNMENT

The Council of the City of San José adjourned at 4:16 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

rmk/6-24-08MIN

JOINT REDEVELOPMENT AGENCY

The Joint Redevelopment Agency Board convened at 11:22 a.m. to consider Items 8.1, 8.2, 8.3 and 8.4 in a Joint Session.

- 8.1**
- (a) Adoption of a resolution by the Redevelopment Agency Board approving an adjustment to FY 2007-08 Adopted Capital Budget by adding \$100,000 to the Edenvale Emerging Technology Fund project line in the Edenvale Redevelopment Project Area, and amending the FY 2007-2008 Agency appropriations resolution.**
 - (b) Approval by the Redevelopment Agency Board of a Reimbursement Agreement with SVTC Technologies, Inc., to provide financial assistance in an amount not to exceed \$100,000, for acquisition and installation of capital equipment to be installed in SVTC Technologies, Inc., industrial and manufacturing headquarters facility in the Edenvale Redevelopment Project Area.**
 - (c) Adoption of a resolution by the Redevelopment Agency Board making certain findings as required by Redevelopment Law.**
 - (d) Adoption of a resolution by the City Council directing the City Manager to pursue Employment Training Panel Funds, in an amount up to \$100,000, to support the workforce development efforts of SVTC Technologies, Inc.,**
CEQA: Resolution No. 67245, File No. HA82-269-01. [EDENVALE]

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes and City Manager Debra Figone, dated June 12, 2008, recommending adoption of resolutions and a reimbursement agreement with SVTC Technologies.

Public Comment: David Bergeron, SVTC Technologies, spoke in favor of the project.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, Resolution No. 74517, entitled "A Resolution of the Council of the City of San José Directing the City Manager to Pursue Employment Training Panel Funds, in an Amount up to \$100,000, to Support the Workforce Development Efforts of SVTC Technologies, LLC"; Redevelopment Agency Resolution Numbers. 5847 approving an adjustment to FY 2007-08 Adopted Capital Budget by adding \$100,000 to the Edenvale Emerging Technology Fund project line in the Edenvale Redevelopment Project Area, and amending the FY 2007-2008 Agency appropriations resolution, and Redevelopment Agency Resolution Numbers. 5848 making certain findings as required by Redevelopment Law were adopted. (10-0-1. Absent: Constant.)

8.2 Approval by the City Council and Redevelopment Agency Board of an Exclusive Negotiations Agreement (ENA) with Urban Markets, LLC to negotiate for a 180-day period for a planned urban market development in the San Pedro Square district of the Downtown core, generally bounded by West Santa Clara Street on the south, North Market Street on the east, West Saint John Street on the north and Almaden Avenue on the west. CEQA: Resolution No 72767, File No. PP08-114. [JULIAN-STOCKTON/SNI]

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes and City Manager Debra Figone, dated June 10, 2008, recommending a negotiation agreement with Urban Markets, LLC.

Executive Director of the Redevelopment Agency Harry S. Mavrogenes, and Deputy Executive Director of the Redevelopment Agency John Weis offered an overview of the proposal.

Public Comment: Tamara Alvarado (1st ACT Silicon Valley), Steve Borkenhagen, Alida Bray (History San José), Frank Cucuzza, and Martin Menne (Urban Market LLC) expressed their support of the project. Bob Brownstein and Ed Rast expressed concerns over this project's fiscal viability. Richard Zapelli spoke in support of the project, but expressed concerns over other outstanding Redevelopment Agency issues. Rajal Muharini urged the Council to keep the public informed of future decisions regarding San Pedro Square. Ross Signorino asked that more emphasis be given to San José's reputation as a safe city.

As part of the Administrative Hearing, meeting disclosures were made by Mayor Reed, Council Member Liccardo and Council Member Chu.

Motion: Council Member Liccardo made a motion to approve the Staff's recommendation.

Vice Mayor Cortese offered an amendment to the motion that Staff return in two months with a follow-up study session. Council Member Chu amended the motion to include a preliminary fiscal impact analysis report. Council Member Liccardo accepted the amendments to his motion, and the motion was seconded by Council Member Chu.

Extensive Council discussion followed.

Action: On a call for the question, the amended motion carried, and the Exclusive Negotiations Agreement (ENA) with Urban Markets, LLC to negotiate for a 180-day period for a planned urban market development in the San Pedro Square district of the Downtown core was approved, with motion to return in two months for a follow-up study session and fiscal impact analysis.

(9-1-1. Noes: Campos. Absent: Constant.)

- 8.3 (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Agency funding of the proposed improvements to the SoFA Sidewalk Demonstration Project; and,
- (b) Adoption of a resolution by the Redevelopment Agency Board delegating authority to the Executive Director to award a contract to the lowest responsive bidder and to authorize a construction contingency in an amount not to exceed 10% of the contract amount for construction of the SoFA Sidewalk Demonstration Project, for a total construction cost not to exceed \$600,000 including the contingency, to resolve bid protests and responsibility issues or reject all bids if an award cannot be made.

CEQA: Resolution No 72767, File No. PP08-119. [MARKET GATEWAY]

Action: Deferred to August 26, 2008 per Council.

- 8.4 (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Agency funding of the proposed improvements to the Civic Auditorium; and,
- (b) Adoption of a resolution by the Redevelopment Agency Board approving a contract with San Jose Boiler Works in the amount of \$1,290,000, for the Civic Auditorium Boiler System Replacement Project; authorizing a project contingency in the amount of \$129,000 for a total contract amount of \$1,419,000.

CEQA: Final EIR “San Jose Downtown Strategy 2000”, Resolution No 72767 and Addenda Thereto, File No. PP08-098. [PARK CENTER PLAZA]

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated June 10, 2008, recommending approval of a Contract.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Resolution No. 74518, entitled “A Resolution of the Council of the City of San José Making Certain Determinations Required by Redevelopment Law, Health and Safety Code Section 3345, for Agency funding of Public Improvements at the San José Civic Auditorium”, and Redevelopment Agency Resolution No. 5849, approving a contract with San José Boiler Works in the amount of \$1,290,000, for the Civic Auditorium Boiler Systems Replacement Project; authorizing a project contingency in the amount of \$129,000 for a total contract amount of \$1,419,000, were adopted. (10-0-1. Absent: Constant.)

The City of San José Redevelopment Agency Board was adjourned at 12:33 p.m.