9/30/08
2.1 (d)

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA **TUESDAY, JUNE 10, 2008**

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

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

Absent: Council Members - Constant. (Excused)

Upon motion unanimously adopted, Council recessed at 9:02 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code Subsection (a) of Section 54956.9: (1) Ibanez, et al. v. City of San José, et al.; Names of Parties Involved: Sarah Ibanez, a minor, by and through Aida Ibanez, her Guardian Ad Litem, City of San José, Alum Rock Union Elementary School District, Michelle Gilbert and Does 1 through 30; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV-082048; Amount of Money or other Relief Sought: In excess of $25,000, according to proof; (2) Persons, et al. v. City of San José, et al; Names of Parties Involved: Gary Persons, Garciela Persons and City of San José Appeals Hearing Board, Department of Planning, Building and Code Enforcement; Case No: 1-02-CV-812366; Court: Superior Court of California, County of Santa Clara; Amount of Money or other Relief Sought: Writ for Administrative Mandamus filed challenging the Appeals Hearing Board decision; (3) San José Mercury News v. City of San José, et al.; Court: Superior Court of California, County of Santa Clara; Case No: 1-05-CV034183; Amount of Money or other Relief Sought: Writ of Mandate seeking City personnel information; (4) In Re Talbot; Court: Administration Appeal. (B) to confer with Legal Counsel with respect to anticipated litigation pursuant to Government Code Subsection (c) of Section 54956.9 in one (1) matter. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Organization or Name and Title of Unrepresented Employees: San José Police Officers' Association; Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (2) Organization or Name and Title of Unrepresented Employees: Municipal Employees Federation, AFSCME Local 101, AFL/CIO; Wages/Salaries, Hours, Working

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CLOSED SESSION (Cont'd.)

Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and Municipal Employees Federation, AFSCME Local 101, AFL/CIO. (3) Organization or Name and Title of Unrepresented Employees: City Association of Management Personnel Agreement; Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Benefit and Compensation Summary between City of San José and City Association of Management Personnel Agreement. How to obtain a copy of existing contract or MOA: web: **http://www.sanjoseca.gov/employeerelations/moa.asp**; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:01 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

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

Absent: Council Members - Constant. (Excused)

INVOCATION

Father Marcelo Navarro, St. Leo the Great Church, presented an inspirational prayer. (District 6)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Items 3.2 and 3.3 were deferred to June 17, 2008.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of June 10, 2008:

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

Case Name: San José Parking v. RDA

Adverse Party: San José Parking.

CLOSED SESSION REPORT (Cont'd.)

Substance of Litigation:	San José Parking sued the Redevelopment Agency for breach of contract.
Council Vote: Ayes:	Campos, Chirco, Chu, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.
Noes:	None.
Disqualified:	None.
Absent:	Constant. (Excused)
Vacant:	None.

B. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The name of the action and the defendants, as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is formally commenced.

Council Vote: Ayes:	Campos, Chirco, Chu, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.
Noes:	None.
Disqualified:	None.
Absent:	Constant. (Excused)
Vacant:	None.

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the San José Environmental Business Cluster for receiving the National Business Incubation Association's 2008 Randall M. Whaley Incubator of the Year award. (Mayor/Redevelopment Agency)

Action: Mayor Reed and Redevelopment Agency Executive Director Harry S. Mavrogenes recognized and commended the San José Environmental Business Cluster for receiving the National Business Incubation Association's 2008 Randall M. Whaley Incubator of the Year award.

1.2 Presentation of a proclamation to the Filipino American community in honor of the Philippine Independence Day Celebration & Fil-Am Friendship Month. (Mayor/Cortese/ Chu/Liccardo)

Action: Mayor Reed, Vice Mayor Cortese and Council Members Chu and Liccardo recognized the Filipino American community in honor of the Philippine Independence Day Celebration & Fil-Am Friendship Month. Mayor Reed and Vice Mayor Cortese invited everyone to the Flag Raising on Thursday, June 12, 2008, 11:00 a.m. City Hall Plaza.

1.3 Presentation of a commendation to Parks Maintenance District 6 for being the recipients of the Golden Shovel Award as well as Parks, Recreation and Neighborhood Services' Collaboration Award. (Williams)

Action: Mayor Reed and Council Member Williams recognized and commended the Parks Maintenance District 6 for being the recipients of the Golden Shovel Award and the Parks, Recreation and Neighborhood Services' Collaboration Award.

CONSENT CALENDAR

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

2.3 Adoption of a resolution authorizing the City Auditor to negotiate and execute a Second Amendment to the Agreement with Macias Gini & Company LLP to provide annual financial audits of the use of Libraries and Parks bond funds (Measures O and P) for FY 2001-02 through FY 2007-08, the use of the Library Parcel Tax (Measure S) for FY 2005-06 through FY 2007-08, and a compliance audit of the City's investment program for a total one-time fee not to exceed $149,600; and authorization to proceed with audits of these funds for FY 2008-09 for a fee not to exceed $65,200 subject to annual appropriation of funds by the City Council for a potential total maximum compensation amount not to exceed $2,905,340 for the term of the contract. (City Auditor)

Documents Filed: Memorandum from City Auditor Sharon Erickson, dated Mary 27, 2008, recommending adoption of a resolution.

Action: Resolution No. 74409, entitled: "A Resolution of the Council of the City of San José Authorizing the City Auditor to Negotiate and Execute a Second Amendment to the Agreement with Macias Gini & Company, LLP to Perform Annual Financial and Compliance Audit Services for Fiscal Years 2001-2002 through 2007-2008, for a Total One Time Fee Not To Exceed $149,600; and to Authorize Performance of These Audit Services for Fiscal Year 2008-2009, for a Fee Not To Exceed $65,200, Subject to Annual Appropriation of Funds by the City Council for a Potential Total Compensation Amount Not To Exceed $2,905, 340 for the Term of the Contract", was adopted. (10-0-1. Absent: Constant.)

2.4 Approval of an award of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #10 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)

2.4 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated may 19, 2009, recommending approval of the open purchase orders. (2) Supplemental memorandum from Director of Finance Scott Johnson, dated June 3, 2008, correcting the requested award amount for ImageX from $75,000 to $200,000 and for Artisan Printing from $50,000 to $100,000.

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

2.5 Adoption of a resolution approving the transfer of 35 affordable units or 143 beds from the site of the existing San José Family Shelter at 1590 Las Plumas Avenue to the site of the New San José Family Shelter Project located at 686 North King Road. CEQA: Resolution No. 74196, File No. PDC07-015. Council District 3. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated May 19, 2008, recommending adoption of a resolution.

Action: Resolution No. 74410, entitled: "A Resolution of the Council of the City of San José Approving the Transfer of 35 Affordable Units or 143 Beds from the Existing San José Family Shelter at 1590 Las Plumas Avenue to the Site of the New San José Family Shelter Located at 686 North King Road", was adopted. (10-0-1. Absent: Constant.)

2.6 Adoption of a resolution:

(a) Accepting an Internet Crimes Against Children Grant award from the Governor's Office of Emergency Services (OES) in the amount of $250,000;

(b) Authorizing the City Manager to execute the Grant Award Agreement;

(c) Delegating authority to the City Manager to accept and execute additional Internet Crimes Against Children Grant Awards from the Governor's Office of Emergency Services for the next five years, if awarded.

CEQA: Not a Project. (Police)

Documents Filed: Memorandum from Police Chief Robert Davis, dated May 19, 2008, recommending adoption of a resolution.

Action: Resolution No. 74411, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept an Internet Crimes Against Children Grant from the Governor's Office of Emergency Services in an Amount Not To Exceed $250,000, To Execute Related Documents and to Accept Additional Grant Awards", was adopted. (10-0-1. Absent: Constant.)

2.7 (a) Approval of Contract Change Order No. 30 with West Coast Contractors, Inc. for the Roosevelt Community Center Package II Project in the amount of $180,000 for the telecom, data, MATV (Master Antenna Television) and voice tie cablings, and installation of data patch panels.

(b) Increase the project funding by $163,000, and contingency authorization from 5% to slightly over 6% for a total project contingency of $853,450.

(c) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund 375:

(1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of $163,000 for the Roosevelt Community Center- Multi Service Project;

(2) Decrease the: Roosevelt Center Gymnasium Design Project by $161,000;

(3) Decrease the Reserve: Future PDO/PIFO Projects by $2,000.

CEQA: Mitigated Negative Declaration, File No. PP03-12-397. Council District 3. SNI: Five Wounds/Brookwood. (Public Works/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Acting Budget Director Jennifer Maguire, dated May 19, 2008, recommending approval of the contract change order, increase project funding and contingency and adoption of appropriation ordinance amendments.

Action: The Contract Change Order No. 30 with West Coast Contractors, Inc. for the Roosevelt Community Center Package II Project was approved, the project funding and related contingency were increased and Ordinance No. 28329, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Subdivision Park Trust Fund for the Roosevelt Community Center – Multi Serve Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" adopted. (10-0-1. Absent: Constant.)

2.8 Approval of Contract Change Order No. 13 with Zolman Construction and Development, Inc. for the removal of approximately 880 lineal feet of asbestos containing underground pipes discovered during site excavation for the Mayfair Community Center Project, in the amount of $190,000 for a total construction contract amount of $14,026,218. CEQA: Mitigated Negative Declaration, File No. PP06-024. Council District 5. SNI: Mayfair. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 19, 2008, recommending approval of the contract change order.

Action: The Contract Change Order No. 13 with Zolman Construction and Development, Inc. for the removal of approximately 880 lineal feet of asbestos containing underground pipes discovered during site excavation for the Mayfair Community Center Project, in the amount of $190,000 for a total construction contract amount of $14,026,218 was approved. (10-0-1. Absent: Constant.)

2.9 Request for excused absences for Councilmember Constant.

(a) Request for an excused absence from the Closed Session and City Council Meeting of June 10, 2008 due to Authorized City Business: Federated City Employees' Retirement Services Education Training in Chicago, IL.

(b) Request for an excused absence from the Rules and Open Government Committee Meeting of June 11, 2008 due to Authorized City Business: Federated City Employees' Retirement Services Education Training in Chicago, IL.

(Constant)
(Rules Committee referral 5/28/08)

Documents Filed: Memoranda from Council Member Constant, both dated May 20, 2008, requesting excused absences due to authorized City business.

Action: The absences were excused. (10-0-1. Absent: Constant.)

2.10 Approval of a contract for consultant survey services with Fairbank, Maslin, Maullin & Associates, for a three-year term from time of execution, in an amount not-to-exceed $300,680, subject to appropriation of funding. CEQA: Not a Project. (City Manager's Office)
(Deferred from 6/3/08 – Item 2.7)

Documents Filed: (1) Memorandum from Director of Communications Tom Manheim, dated May 13, 2008, recommending approval of the contract. (2) Supplemental memorandum from Director of Communications Tom Manheim, dated June 2, 2008, correcting an error in the total dollar value for this contract.

Council Member Campos pulled Item 2.10 for clarification and requested that Staff provide opportunity for Council to review the survey questions and to provide input.

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously, the contract for consultant survey services with Fairbank, Maslin, Maullin & Associates, for a three-year term from time of execution, in an amount not-to-exceed $300,680, subject to appropriation of funding was approved, with Staff directed to provide opportunity for Council to review survey questions and provide input. (10-0-1. Absent: Constant.)

2.11 Adoption of a resolution authorizing the Director of Finance to donate five surplus Brush Patrol Vehicles (1988 Ford F350 Cab and Chassis with a Brush Patrol body) with a cumulative estimated value of $25,000 as follows: one vehicle to the Spring Valley Fire District, a volunteer fire department; two vehicles to San José Search and Rescue, a non-profit organization; one vehicle to Central County Occupational Center, an educational organization; and one surplus Brush Patrol to the Eves Volunteer Fire Department. CEQA: Not a Project. (Finance)
(Deferred from 6/3/08 – Item 2.10)

Action: Deferred to June 17, 2008 per Rules and Open Government Committee.

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – May 21, 2008
Mayor Reed, Chair

Action: Deferred to June 17, 2008 per Orders of the Day.

3.3 Report of the Rules and Open Government Committee – May 28, 2008
Mayor Reed, Chair

Action: Deferred to June 17, 2008 per Orders of the Day.

TRANSPORTATION & AVIATION SERVICES

6.2 (a) Consideration of appeal by Pacific Gateway Concessions, regarding the Airport Food & Beverage and Retail Concessions Program Request for Proposals and adoption of a resolution setting forth the decision of the City Council.

(b) Adoption of a resolution authorizing the City Manager to:

(1) Negotiate and execute Concession Agreements between the City of San José and the following entities, effective from the date of execution by the City Manager through June 30, 2020:

(a) Host International, Inc., for the construction and operation of retail concessions at the Airport listed as Package 1 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of $1,620,000.

(b) AMS-SJC JV, for the construction and operation of retail concessions at the Airport listed as Package 2 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of $2,000,000.

(c) Areas USA SJC, LLC, for the construction and operation of food and beverage concessions at the Airport listed as Package 3 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of $1,726,200.

(d) Host International, Inc., for the construction and operation of food and beverage concessions at the Airport listed as Package 4 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of $2,860,000.

(2) Terminate negotiations with any of the recommended proposers for Packages 1 through 4 and negotiate Concession Agreements with lower-ranked proposers in order of their ranking for each package, in the event that the City Manager determines that the City and the recommended proposer cannot agree upon the terms of the Concession Agreement by August 1, 2008.

6.2 (b) (3) Negotiate and execute amendments to the Concessions Agreements for expansion or contraction of locations and modification or replacement of concepts and subtenants during the overall term of the Concession Agreements, so long as no changes are made in the provisions in the Concession Agreements regarding percentage rent or MAG to be paid to the City.

CEQA: Resolutions Nos. 67380 and 71451, File No. PP08-060. (Airport)
(Deferred from 6/3/08 – Item 6.2)

Documents Filed: (1) Memorandum from Director of Aviation William Sherry and Director of Finance Scott Johnson, dated May 19. 2008, recommending adoption of a resolution, terminate negotiations per discretion of the City Manager and negotiate and execute amendments to the concessions agreements. (2) Supplemental memorandum from Director of Aviation William Sherry and Director of Finance Scott Johnson, dated May 28, 2008, transmitting staff's response to the appeal from Pacific Gateway Concessions. (3) Supplemental memorandum from Director of Aviation William Sherry and Director of Finance Scott Johnson, dated May 29, 2008, providing questions and responses as additional issues, perspectives and/or details to the issues/allegations contained in Pacific Gateway Concessions' appeal letter. (4) Memorandum from City Attorney Richard Doyle to Brown & Ramirez, LLP, dated June 2, 2008, responding to the May 29, 2008 letter from Mr. Javier Vega requesting that the City Council defer its consideration of the appeal by Pacific Gateway Concession to allow them time to review documents. (5) Statement and Declaration of Conflict of Interest Form from Council Member Chu, dated May 20, 2008, disclosing conflict of interest regarding source of income within one year of sale of Harbor Express. (6) Supplemental memorandum from Director of Aviation William Sherry and Director of Finance Scott Johnson, dated June 6, 2008, transmitting staff's response to Pacific Gateway Concessions' supplemental submission. (7) PowerPoint presentation dated June 10, 2008 regarding the Appeal of Pacific Gateway Concessions (CD included). (8) Letter from Daniel Fenton, Team San José, dated June 10, 2008, regarding the Airport Food, Beverage and Retail Concession Agreement to Host International. (9) Copy of the Chamber Advocate, dated May 2008.

Council disclosures were made by Mayor Reed. Council Member Chu abstained due to a potential conflict of interest (source of income).

Director of Aviation William Sherry provided the Staff report.

Lawrence Ramirez, Brown & Ramirez, LLP, representing the appellant, Pacific Gateway Concessions, summarized points of the bid protest.

Director of Finance Scott Johnson presented Staff's rebuttal to the appeal. Deputy Director of Finance Walter Rossman spoke specifically to allegations.

Director of Finance Scott Johnson recommended that Council deny the appeal by Pacific Gateway Concessions.

6.2 (Cont'd.)

Public Comments: Javier Vega and Frank De La Cruz (Pacific Gateway Concessions) complained about the bid process.

Speaking in support of the Staff's recommendations the bid to Host International were: B.J. Strickland, Patrick Banducci (HMS Host), Peter Favre (Mojo Burger), Carlos Ramirez (Martini Monkey), Joe Davis, Jambi Mugai (Hudson Group), Sonya Paz (Sonya Paz, Inc.), Valieri Lewis (Hicklebee's), Deborah Olson (C.J. Olson Cherries), Carolyn Allen (Paolo's Restaurant), Tom Muller (San José Rocks), Louis Chiaramonte Jr. (Chiaramonte's Deli & Sausage), Jeff Starbeck (Sonoma Chicken Coop), Don Gralnek, Executive Vice President/General Counsel (San José Sharks), Joan Emslie, Mary Creasman (South Bay Labor Council), Ron Lind, Neil Struthers (Building Trades Council), Eduardo Uribe (Areas USA), Dan Brunelle (Le Boulanger, Inc.), Javier Perez, Ruben Garcia, Dennis King (Hispanic Chamber of Commerce Silicon Valley), Meghan Horrigan (San José Convention Center and Visitors Bureau), Pat Dando (San José Silcon Valley Chamber of Commerce and Ross Signorino.

Extensive Council discussion followed. City Attorney Richard Doyle and Deputy Director of Finance Walter Rossman responded to Council questions.

Council disclosures were made by Vice Mayor Cortese, Council Members Campos, Oliverio, Williams, Nguyen, Chirco and Pyle.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Williams and carried unanimously, the appeal from Pacific Gateway Concessions was denied. (9-0-1-1. Disqualified: Chu. Absent: Constant.)

Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, Resolution No. 74412, entitled: "A Resolution of the Council of the City of San José Denying the Appeal by Pacific Gateway Concession of the Denial of Its Protest Regarding the Norman Y. Mineta San José International Airport Food and Beverage and Retail Concessions Program Request for Proposals" and Resolution No. 74413, entitled: "A Resolution of the Council of the City of San José Approving Proposer Rankings for the Airport Food and Beverage and Retail Concession Program and Authorizing the City Manager to Negotiate and Execute Concession Agreements and Amendments", were adopted and the City Manager was authorized to negotiate and execute amendments to the Concessions Agreements for expansion or contraction of locations and modification or replacement of concepts and subtenants during the overall term of the Concession Agreements, so long as no changes are made in the provisions in the Concession Agreements regarding percentage rent or MAG to be paid to the City. (9-0-1-1. Disqualified: Chu. Absent: Constant.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Consideration of designation of the Former Main Library as a City Historical Landmark, located on the southside of West San Carlos Street between Market Street and Almaden Boulevard. CEQA: Not a Project. Director of Planning, Building and Code Enforcement recommends that the City Council decline to proceed with landmark designation of the former Main Library building as a City Landmark. The Historic Landmarks Commission voted (5-1-1, Cunningham opposed, Lavelle absent) to recommend that the City Council adopt a resolution to initiate proceedings to consider the former MLK Main Library building as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature; set a public hearing on August 26, 2008 at 1:30 p.m.; and refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation. Council District 3. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 23, 2008, recommending Council decline to proceed with the landmark designation. (2) Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated May 30, 2008, recommending Council decline to proceed with the landmark designation. (3) Letter from the Preservation Action Council of San José, dated June 4, 2008, in support of initiating landmark proceedings.

Director of Planning, Building and Code Enforcement Joseph Horwedel presented the staff report about the consideration of the designation of the Former Martin Luther King Library as a City Historical Landmark. Director Horwedel added that Staff's recommendation is not to proceed with the process.

City Attorney Richard Doyle and Director of Planning, Building and Code Enforcement Joseph Horwedel responded to Council questions and concerns about the proceedings.

Public Comments: Dana Peak (Historic Landmarks Commission) and Brian Grayson (Preservation Action Council) urged Council to proceed with the nomination of MLK Library as an historic landmark. William Garbett spoke off topic.

Neil Struthers (Building Trades Council) spoke in opposition to the historic designation because it would put a stop to the expansion of the Convention Center. Scott Knies (San José Downtown Association) also expressed opposition to a landmark status for MLK Library.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Cortese and carried unanimously, The Historic Landmark Process was initiated and Resolution No. 74418 was adopted. The City Attorney and City Manager directed to return to the Rules and Open Government Committee with a proposal to revise the process to enable the Council to have the discretion to decline at the initial step. (9-0-2. Absent: Campos, Constant.)

STRATEGIC SUPPORT SERVICES

3.5 As referred by the Rules and Open Government Committee:

(a) Accept staff's response to questions raised at the April 16, 2008 Rules and Open Government Committee and approve staff's recommendation to adopt a position of support for SB 1137 (Perata) and AB 2586 (Torrico), and adopt a position of support if amended for AB 2509 (Galgiani).

(b) Approve a general set of "guiding principles" for the support of legislation related to the foreclosure crisis.

(City Clerk)

[Rules Committee referral 5/21/08 – Item C(1)(c)]

Documents Filed: Memorandum from City Clerk Lee Price, dated May 29, 2008, transmitting the recommendations of the Rules and Open Government Committee.

Director of Housing Leslye Krutko responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, staff's response to questions raised at the April 16, 2008 Rules and Open Government Committee and approve staff's recommendation to adopt a position of support for SB 1137 (Perata) and AB 2586 (Torrico), and adopt a position of support if amended for AB 2509 (Galgiani) was accepted and a general set of "guiding principles" for the support of legislation related to the foreclosure crisis was approved, as amended: Encourage language in legislation that would require first lenders to notify the jurisdiction when foreclosing on properties for tracking and monitoring purposes. (10-0-1. Absent: Constant.)

3.6 (a) Adopt a resolution:

(1) Approving the Sunshine Reform Task Force Recommendations on Public Meetings as amended by the Rules and Open Government Committee and directing staff to proceed with implementation on a pilot basis.

(2) Approving staff recommendations on the definition of Agenda and Public Review File and directing staff to proceed with implementation on a pilot basis.

(3) Approving the Sunshine Reform Task Force Recommendations on Closed Session as amended by the Rules and Open Government Committee and directing staff to proceed with implementation on a pilot basis.

Documents Filed: Memorandum from Director of Communications Tom Manheim, dated May 12, 2008, transmitting the recommendations on the Sunshine Reform Task Force's remaining Phase I Provisions.

3.6(a) (Cont'd.)

Director of Communications Tom Manheim provided a brief overview of the remaining Sunshine Reform Task Force Phase I Provisions.

City Attorney Richard Doyle and Senior Deputy City Attorney Lisa Herrick responded to Council questions. Extensive Council discussion followed.

Public Comments: Speaking in support of the Sunshine Reform Task Force Phase I Recommendations regarding public subsidies were: Helen Chapman, Bob Brownstein (SRTF Member), Neil Struthers (Building Trades Council), Ed Rast (Sunshine Reform Task Force Chair) and James Chadwick (San José Mercury News).

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Nguyen and carried, Resolution No. 74414, entitled: "A Resolution of the Council of the City of San José was adopted: (1) approving (a) the Sunshine Reform Task Force's Recommendations on Public Meetings and Closed Session, as amended by the Rules and Open Government Committee and (b) Staff's Recommendations on the Definitions of Agenda" and "Public Review File"; and (2) Directing Staff to proceed with implementation on a pilot basis"; Staff was directed: (a) to return in January 2009 with an update on all of the "sunshine" pilot programs, including the on-going cost benefit analysis pilot, and (b) City Council and Redevelopment Agency Real Estate negotiations in Closed Session will be recorded only for the purpose of preparing and releasing a redacted transcript upon request if a Brown Act violation has been alleged. Redacted transcripts will be released within 30 days of the request. (9-1-1. Noes: Oliverio. Absent: Constant.)

(b) Approve a minor amendment to the Calendar Disclosure requirements approved by the Council in August 2007.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, a minor amendment to the Calendar Disclosure requirements approved by the Council in August 2007 was approved. (10-0-1. Absent: Constant.)

(c) Discuss and decide whether to record Closed Session.
CEQA: Not a Project. (City Manager's Office)

Action: See action in (a) above.

NEIGHBORHOOD SERVICES

5.2 Review and Recommendation of the Strong Neighborhoods Initiative Washington Neighborhood Improvement Plan Amendment to the City Council. CEQA: Strong Neighborhoods Initiative Program EIR, Resolution No. 71045. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). Council Districts 3 and 7. SNI: Washington. (Planning, Building and Code Enforcement)

5.2 (Cont'd.)

Documents Filed: (1) Memorandum from Deputy Executive Director Redevelopment Agency John Weis and Deputy City Manager Norberto Duenas, dated April 28, 2008, recommending acceptance of the SNI Improvement Plan Amendment. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 15, 2008, transmitting the Planning Commission recommendation.

Public Comments: Speaking in support to the SNI Improvement Plan Amendment were Rosa Pereida (Alma Neighborhood Association), Justin Enriquez, Mary Guzman (Tamien) and Steve Barrientos (Alma/Washington).

Council Member Nguyen moved approval of the staff recommendation. Council Member Liccardo seconded the motion.

Council Member Liccardo requested to add a reference to Rocketship Charter School in the Plan. The amendment was accepted by Council Member Nguyen.

Action: On a call for the question, the motion carried unanimously, the Strong Neighborhoods Initiative Washington Neighborhood Improvement Plan Amendment was approved, with direction to add a reference to the Rocketship Charter School in the Plan. (10-0-1. Absent: Constant.)

STRATEGIC SUPPORT SERVICES

3.7 Report on bids and award the purchase of four combination sewer cleaning trucks and optional equipment to the low bidder, Coast Counties Truck & Equipment Co., for a total amount not-to-exceed $1,118,589.24, including taxes and fees, and authorize the Director of Finance to:

(a) Execute the purchase order for the initial purchase of quantity four combination sewer cleaning trucks and optional equipment;

(b) Amend the initial purchase order to purchase additional quantities of combination sewer cleaning trucks and optional equipment, on an as-required basis, at the same unit pricing subject to appropriation of funding;

(c) Execute purchase orders to acquire additional quantities of combination sewer cleaning trucks and optional equipment, on an as-required basis, for four additional years subject to annual manufacturer's price increases added to the initial bid price and appropriation of funding.

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 19, 2008, recommending ward of the purchase to the low bidder.

3.7 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, the award the purchase of four combination sewer cleaning trucks and optional equipment to the low bidder, Coast Counties Truck & Equipment Co., for a total amount not-to-exceed $1,118,589.24, including taxes and fees was approved and the Director of Finance was authorized to proceed. (10-0-1. Absent: Constant.)

3.8 Adoption of a resolution authorizing the Director of Finance to execute:

(a) An agreement and purchase order for the cooperative purchase of office supplies with Corporate Express through the cooperative contract offered by the National Intergovernmental Purchasing Alliance starting July 1, 2008 until June 30, 2012 in an amount not-to-exceed $1,200,000 for the initial year of the agreement.

(b) Amendments to the initial purchase order to adjust the not-to-exceed compensation subject to annual appropriation of funding.

(c) Execute subsequent annual Purchase Orders subject to annual appropriation of funding.

CEQA: Not a Project. (Finance)
(Deferred from 5/20/08 – Item 3.5 and 6/3/08 – Item 3.4)

Action: Deferred to June 17, 2008 per Administration.

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Acceptance of Report on making the Special Tenant Improvement Industrial Tool Installation programs permanent with certain modifications. CEQA: Not a Project. (Planning, Building and Code Enforcement/Economic Development)

Action: Deferred to June 17, 2008 per Administration.

4.4 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Tom Otterness to design, fabricate and install public artwork for the Happy Hollow Park and Zoo in a total amount not-to-exceed $932,500. CEQA: Exempt, File No. PP05-184. (Economic Development)
(Deferred from 6/3/08 – Item 2.8)

Action: Deferred to June 17, 2008 per Administration.

4.5 Adoption of a resolution:

(a) Approving an increase to the City permanent loan to Cinnabar Commons, a California limited partnership, or an affiliated entity for up to $506,652 to capitalize interest on the City's loan for the Cinnabar Commons Family Apartments project, located on Stockton Avenue between Cinnabar Street and Lenzen Avenue.

4.5 (b) Approving up to 120% Loan-to-Value (LTV) as an exception to the City Council policy limiting LTV to 100%.
CEQA: EIR Resolution No. 71174. Council District 6. (Housing)
(Deferred from 5/20/08 – Item 2.9 and 6/3/08 – Item 4.3)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated May 1, 2008, recommending adoption of a resolution.

Director of Housing Leslye Krutko responded to Council questions. Council Member Williams requested an update in 6 months.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Williams and carried unanimously, Resolution No. 74415, entitled: "A Resolution of the Council of the City of San José Approving an Increase of Up to $506,652 to the Permanent Loan and an Exception to the City Policy to Allow Increase in Loan to Value Ratio for the Cinnabar Commons Apartment Project", was adopted, with the City Manager requested to update Council in 6 months via an information memorandum. (10-0-1. Absent: Constant.)

4.6 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a lease agreement between the City of San Jose and the Tech Museum of Innovation for the use of Parkside Hall's roof and authorizing the City Manager to consent to the sublease of Parkside Hall's roof and the Tech Museum's roof to Solar Star or Solar Star's assignee for the purpose of constructing, installing, maintaining and operating a photovoltaic solar generation system.
(b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Tech Museum's installation of a photovoltaic solar generation system on the roof of Parkside Hall.
CEQA: Exempt, File No. PP08-039. Council District 3. (City Manager's Office)
(Deferred from 6/3/08 – Item 4.6)

Documents Filed: (1) Memorandum from Deputy City Manager Ed Shikada, dated May 12, 2008, recommending approval of the lease agreement and adoption of a resolution. (2) Supplemental memorandum from Deputy City Manager Ed Shikada, dated June 5, 2008, modifying the original staff recommendation to negotiate inclusion of prevailing wage as a provision in the lease agreement and make certain determinations regarding the expenditure of Redevelopment Agency funds on certain public improvements.

Council disclosures were made by Mayor Reed and Council Members Campos and Liccardo.

Public Comments: Neil Struthers, Building Trades Council, expressed support for prevailing wages.

4.6 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, Resolution No. 74416, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Lease Agreement with the Tech Museum of Innovation for the Use of the Roof on Parkside Hall and to Consent to the Sublease of the Roof of Parkside Hall and the Tech Museum to Solar Star or Solar Star's Assignee for a Photovoltaic Solar Generation System" and Resolution No. 74417, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Required by Redevelopment Law, Health and Safety ode Section 33445, for Agency Funding of Public Improvements with the Tech Museum's Installation of a Photovoltaic Solar Generation System on the Roof of the Parkside Hall", were adopted. (10-0-1. Absent: Constant.)

NEIGHBORHOOD SERVICES

5.3 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)

Action: Deferred to June 17, 2008 per Administration.

5.4 Approval of the first amendment to the master agreement with CH2M HILL, Inc. for engineering services for various City trail projects increasing the total compensation by $1,500,000, for a total agreement amount of $3,500,000, in order to fund services for the Lower Guadalupe River Trail.
CEQA: Not a Project. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 19, 2008, recommending approval of the first amendment to the master agreement.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the first amendment to the master agreement with CH2M HILL, Inc. for engineering services for various City trail projects increasing the total compensation by $1,500,000, for a total agreement amount of $3,500,000, in order to fund services for the Lower Guadalupe River Trail was approved. (10-0-1. Absent: Constant.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

Tract	Location	Council District	Developer	Lots/Units	Type
9477	SE corner of Fruitdale Ave/Southwest Expway	6	SW Expressway Investors LP	6 Lots / 502 Units	MFA/ Retail

and

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

In accordance with Council Resolution No. 73532, the construction Contract Process Streamlining Policy approved on December 5, 2006, the following is a list of projects that were awarded or rejected by the Director of Public Works in May 2008:

AWARD:

Project Name	Council District	Contractor	Contract Award Amount	Award Date
Dent Avenue Storm Drain Improvement	9	Wattis Construction Company, Inc.	$199,802	5/14/08
Homewood Drive Sanitary Sewer Rehabilitation	6	Veolia ES Industrial Services, Inc., dba J.F. Pacific Liners, Inc.	$266,375	5/14/08
St James and St John St Sanitary Sewer Rehab	3	Veolia ES Industrial Services, Inc., dba J.F. Pacific Liners, Inc.	$426,520	5/15/08
Selma Olinder Dog Park	3	Suarez and Munoz Construction, Inc.	$220,700	5/15/08

OPEN FORUM

(1) Ted Scarlett complained that the June 3, 2008 Election was mishandled.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:59 p.m. in memory of Vahid Hosseini, President of the Shia Association of the Bay Area (SABA), an individual of constant repose who worked tirelessly to promote awareness of Islam in the Bay Area as well as generously supporting various causes and individuals all over the Bay Area; and of Trac Vo, an activist in the Vietnamese community who work silently but tirelessly to help fellow Vietnamese residents achieve their professional and personal dreams in the Santa Clara Valley. (Cortese)

Access the video, the agenda and related reports for this meeting by visiting the City's website at http://www.sanjoseca.gov/clerk/agenda.asp or http:/www.sanjoseca.gov/clerk/MeetingArchive.asp. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.