

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, OCTOBER 21, 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 - Chirco, Chu, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - Campos. (Excused)

Upon motion unanimously adopted, Council recessed at 9:00 a.m. to a Closed Session in Room W133, (A) Public Employee Performance Evaluation Pursuant to Government Code Section 54957: (1) Title: Independent Police Auditor; Name: Barbara Attard; (2) Title: City Clerk; Name: Lee Price. (B) to confer with Legal Counsel with respect to anticipated litigation (Claim Filed) pursuant to Government Code subsection (c) of Section 54956.9 in one (1) matter. (C) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code Subsection (a) of Section 54956.9: (1) Morgan v. City of San José; Names of Parties Involved: Michael Morgan, City of San José, Tyler Krauel, Kirk Niemeyer. Court: United States District Court, Northern District of California, San José Division; Case No: C06-06315 HRL; Amount of Money or other Relief Sought: Damages according to proof; (2) Rios v. City of San José, et al. Names of Parties Involved: City of San José, Ian Cooley, Steve Guggiana, Paul Castillo, Shane Leuddeke, Kirk Niemeyer, DOES 1 through 50; Court: United States District Court, Northern District of California, San José Division; Case No: C06-07036 RS; Amount of Money or other Relief Sought: In excess of \$25,000, according to proof; (3) La Blanc v. City of San José, et al; Names of Parties Involved: Julie La Blanc, City of San José and DOES 1 through 100; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV111250; Amount of Money or other Relief Sought: In excess of \$25,000, according to proof; (4) San José Silicon Valley Chamber of Commerce Political Action Committee, et al. v. City of San José; Names of Parties Involved: San José Silicon Valley Chamber of Commerce Political Action Committee, COMPAC issues Fund, sponsored by the San José Silicon Valley Chamber, City of San José, San José Elections Commission, DOES 1 through 10; Court: United States Court of Appeals for the Ninth Circuit; Case No: 06-17001; Amount of Money or other Relief Sought: Reverse judgment in U.S. District for the Northern District of California. (D) to confer with Labor

CLOSED SESSION (Cont'd.)

Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association; Nature of Negotiations: 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) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI; (3) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (4) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (5) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP; (6) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (7) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP; (8) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. 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 10:30 a.m. and reconvened at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - Campos. (Excused)

INVOCATION

Branham High School Choir sang "Barter" and "The National Anthem". Barbara West directed the Choir. (District 9)

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, and Items 3.2, 3.7 and 6.2 were deferred to October 28, 2008. (10-0-1. Absent: Campos.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation honoring Don Johnson for his retirement of over 30 years of leadership and commitment in providing outstanding junior tennis programs to the youth of San José. (Liccardo)**

Action: Dropped.

- 1.2 Presentation of a proclamation declaring October 19 through October 25, 2008 as “National Teen Safe Driving Week” in the City of San José and a commendation to Martin and Jo Harding for founding the Maxwell’s Pledge Program. (Mayor/Pyle/Police/Transportation)**

Action: Mayor Reed, Council Member Pyle, Police Chief Robert Davis and Director of Transportation James Helmer recognized October 19 through October 25, 2008 as “National Teen Safe Driving Week” in the City of San José.

Mayor Reed and Council Member Pyle recognized and commended Martin and Jo Harding for founding the Maxwell’s Pledge Program.

- 1.3 Presentation of the “Most Secure City” award to the City Council on behalf of Farmers Insurance. (Mayor)**

Action: Jeff Solis, Farmers Insurance, presented the “Most Secure City” award to Mayor Reed and the City Council.

- 1.4 Presentation of a proclamation declaring October 2008 as “Domestic Violence Awareness Month” in the City of San José. (Williams/Campos/City Manager’s Office) (Deferred from 10/7/08 – Item 1.5)**

Action: Mayor Reed, Council Member Williams and City Manager Debra Figone recognized the month of October 2008 as “Domestic Violence Awareness Month” in the City of San José. Council Member Campos was not present.

- 1.5 Presentation of a commendation recognizing Joey Chestnut for successfully and decisively defeating his competition on July 4,2008 at the “Nathan’s Hot Dog Eating Contest” in Coney Island, New York, while representing the City of San José. (Williams) (Rules Committee referral 10/15/08)**

1.5 (Cont'd.)

Action: Mayor Reed and Council Member Williams recognized and commended Joey Chestnut for successfully and decisively defeating his competition on July 4, 2008 at the "Nathan's Hot Dog Eating Contest" in Coney Island, New York, while representing the City of San José.

CONSENT CALENDAR

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

2.1 Approval of an amendment to the City Council Minutes of June 3, 2008. (City Clerk)

Documents Filed: Memorandum from City Clerk Lee Price, dated October 7, 2008, recommending approval of an amendment to the City Council Minutes of June 3, 2008.

Action: The amendment on Page 17 of the City Council Meeting Minutes of June 3, 2008 to more accurately reflect the Council's direction to the City Manager in relation to the 2007 Independent Police Auditor Year End Report (Item 8.1) was approved. (10-0-1. Absent: Campos.)

2.2 Final adoption of ordinances:

- (a) **ORD NO. 28419** – Amending Section 7.20.520 of Chapter 7.20 of Title 7 of the San José Municipal Code to allow residents who obtained a cat or dog license from another jurisdiction and are annexed into the City to transfer the remainder of the license period.
- (b) **ORD NO. 28420** – Rezoning certain real property situated on the east side of Saratoga Avenue, 300 feet southerly of Los Felice Drive to CO Commercial Office Zoning District. C08-0041
- (c) **ORD NO. 28421** – Rezoning certain real property situated on the west side of Piedmont Road approximately 220 feet north of Suncrest Avenue to A(PD) Planned Development Zoning District. (PDC07-021
- (d) **ORD NO. 28423** – Rezoning certain real property situated at the east side of Entrada Cedros, approximately 200 feet south of Giuffrida Avenue to A(PD) Planned Development Zoning District. (PDC07-012)

Action: Ordinances to be adopted on November 4, 2008.

2.3 Report on Request for Proposal for the purchase of Mobile Identification Interface Services and adoption of a resolution authorizing the Director of Finance to:

- (a) **Execute an agreement with 3i Infotech Corporation (Edison, NJ) for professional services for the interface design, development, integration and implementation of Phase 1 implementation of the mobile identification project (remote real-time finger print identification) including software licenses and three years of maintenance and support, for a not-to-exceed amount of \$360,867 and to exercise options to initiate the following phases subject to appropriation of funds:**
 - (1) **Phase 2 - Search and Return Mugshot Photo - \$250,000.**
 - (2) **Phase 3 - Search through State CLETS database - \$109,100.**
 - (3) **Phase 4 - Search through State AFIS database - \$241,110.**
- (b) **Execute options to renew software maintenance and support after the initial three year term subject to the annual appropriation of funds.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated October 6, 2008, recommending adoption of a resolution.

Action: [Resolution No. 74629](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with 3i Infotech, Inc. for Mobile Identification, Interface Services and Software Licenses", was adopted. (10-0-1. Absent: Campos.)

2.4 Adopt a resolution:

- (a) **Initiating proceedings to consider the single-family house located at 120 Arroyo Way as a landmark 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, December 2, 2008 at 1:30 p.m. for Council consideration of City Landmark designation of the structure noted above.**

CEQA: Not a Project. Council District 3. SNI: University. HL08-174. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 29, 2008, recommending adoption of resolutions. (2) Affidavit of Routing executed on October 24, 2008, and distributed by the City Clerk.

Council Member Liccardo pulled Item 2.4 to thank Staff and noted that Mr. Renzel was a former Mayor of San José.

2.4 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 74630](#), 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 Renzel House, Presently Located at 120 Arroyo Way, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”, was adopted. (10-0-1. Absent: Campos.)

2.5 Adopt a resolution:

- (a) **Initiating proceedings to consider the single-family house located at 675 S. Sixth Street as a landmark 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, December 2, 2008 at 1:30 p.m. for Council consideration of City Landmark designation of the structure noted above.**

CEQA: Not a Project. Council District 3. SNI: University. HL08-175. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 29, 2008, recommending adoption of resolutions. (2) Affidavit of Routing executed on October 24, 2008, and distributed by the City Clerk.

Action: [Resolution No. 74631](#), 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 Somers House, Presently Located at 675 South First Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature” adopted. (10-0-1. Absent: Campos.)

2.6 **Request for an excused absence for Vice Mayor Cortese from the Special Rules and Open Government Committee Meeting and the Special City Council Meeting on October 14, 2008 due to authorized City Business: Serving on a panel for the Silicon Valley Education Foundation. (Cortese)** **(Rules Committee referral 10/08/08)**

Documents Filed: Memorandum from Vice Mayor Cortese, dated October 3, 2008, requesting an excused absence due to authorized City Business.

Action: The absence for Vice Mayor Cortese was excused. (10-0-1. Absent: Campos.)

2.7 Accept the Santa Clara County Registrar of Voters' Certificate of Sufficiency of Petition of Recall Petition and place on the City Council November 4, 2008 Agenda a resolution calling a Special Recall Election on March 3, 2009. (City Clerk)

Documents Filed: Memorandum from City Clerk Lee Price, dated October 10, 2008, recommending acceptance of the Santa Clara County Voters' Certificate of Sufficiency of Petition of Recall.

Action: The Santa Clara County Registrar of Voters' Certificate of Sufficiency of Petition of Recall Petition was accepted and a resolution calling a Special Recall Election on March 3, 2009 will be placed on the November 2, 2008 Agenda. (10-0-1. Absent: Campos.)

2.8 Request for an excused absence from the Regular Meeting of the Neighborhood Services and Education Committee on October 9, 2008 due to an illness. (Pyle) (Rules Committee referral 10/15/08)

Documents Filed: Memorandum from Council Member Pyle, dated October 9, 2008, requesting an excused absence due to an illness.

Action: The absence for Council Member Pyle was excused. (10-0-1. Absent: Campos.)

2.9 Request for excused absences from the following meetings due to authorized City Business, attending the Federated City Employees' Retirement Services Educational Training in San Antonio, Texas:

- (a) **The Redevelopment Agency Budget Study Session scheduled on November 17, 2008.**
- (b) **The Executive and Regular City Council Meeting on November 18, 2008.**
- (c) **The Rules and Open Government Committee Meeting on November 19, 2008.**

**(Constant)
(Rules Committee referral 10/15/08)**

Documents Filed: Memorandum from Council Member Constant, dated October 9, 2008, requesting excused absences due to authorized City business.

Action: The absences for Council Member Constant were excused. (10-0-1. Absent: Campos.)

2.10 As recommended by the Parks and Recreation Commission, name a new park located near the intersection of Rivers Oaks Parkway and Zanker Road in North San José as "River Oaks Park". (City Clerk) (Rules Committee referral 10/15/08)

Documents Filed: Memorandum from City Clerk Lee Price, dated October 14, 2008, transmitting the recommendations of the Parks and Recreation Commission.

2.10 (Cont'd.)

Action: The new park located near the intersection of Rivers Oaks Parkway and Zanker Road in North San José was named “River Oaks Park”. (10-0-1. Absent: Campos.)

**2.11 As recommended by the Parks and Recreation Commission, name a new park located along the Guadalupe River at the terminus of Rivers Oaks Parkway in North San José as “Riverview Park”. (City Clerk)
(Rules Committee referral 10/15/08)**

Documents Filed: Memorandum from City Clerk Lee Price, dated October 14, 2008, transmitting the recommendations of the Parks and Recreation Commission.

Action: The new park located along the Guadalupe River at the terminus of Rivers Oaks Parkway in North San José was named “Riverview Park”. (10-0-1. Absent: Campos.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.2 Report of the Rules and Open Government Committee – October 1, 2008
Mayor Reed, Chair**

Action: Deferred to October 28, 2008 per Orders of the Day.

3.6 Adoption of Appropriation Ordinance amendments in the General Fund to pay the City’s outstanding loan with Comerica Bank related to the Dolce Hayes Mansion operations:

- (a) Decrease the Hayes Mansion Conference Center Line of Credit Security Earmarked Reserve by \$5,000,000.**
- (b) Establish a City-Wide appropriation for the Hayes Mansion Conference Center Line of Credit Payment in the amount of \$5,000,000.**

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

Documents Filed: Memorandum from Director of Finance Scott Johnson and Budget Director Jennifer Maguire, dated October 2, 2008, recommending adoption of appropriation ordinance amendments.

Director of Finance Scott Johnson provided a brief update about the Dolce Hayes Mansion operations and responded to Council questions.

Vice Mayor Cortese requested as part of the discussion on the asset management plan that the City Manager return with options for paying down the debt on the conference center.

3.6 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams and carried, [Ordinance No. 28424](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the General Fund for the Hayes Mansion Conference Center Line of Credit Payment; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" was adopted, and the City Manager was directed to bring back, as part of the discussion on the asset management plan, options for paying down the debt on the conference center. (9-1-1. Noes: Oliverio. Absent: Campos.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Council/Redevelopment Agency convened at 2:47 p.m. to consider Items 9.2 and 9.3 in a Joint Session.

- 9.1 (a) **Adopt a resolution finding that creation of a Smart Start Center at 1560 Berger Drive will be of Primary Benefit to the Rincon de Los Esteros Redevelopment Project Area; and,**
- (b) **Approve an agreement with the San José Conservation Corps & Charter School (SJCC&CS), a California Non-Profit Corporation, in the amount of \$600,000, for improvements to the property located at 1560 Berger Drive for the creation of a Smart Start Center providing 82 childcare spaces to be operated under Smart Start San José standards.**

CEQA: Mitigated Negative Declaration, File No. CP06-004. (City Manager's Office/Redevelopment Agency)

Action: Item 9.1 will be heard at the October 28, 2008 Redevelopment Agency Meeting.

- 9.2 (a) **City Council and Redevelopment Agency Board to approve a loan agreement between the Redevelopment Agency and the City of San José to use the Sanitary Sewer Connection Fee Fund, in an amount of \$34.46 million, with a term of up to 72 hours, for the purpose of paying Agency obligations, such as capital, operating and other expenses in the adopted 2008-2009 Agency Budget, including the State-mandated Educational Revenue Augmentation Fund payment and the pass-through obligation to the County of Santa Clara.**
- (b) **City Council to adopt the following 2008-2009 appropriation ordinance and funding sources resolution amendments in the Sewer Service and Use Charge Capital Improvement Fund (545):**
- (1) **Establish a Loan to the Redevelopment Agency appropriation in the amount of \$26,394,000.**
- (2) **Decrease the Edenvale Sanitary Sewer Supplement, Phase VA and VB appropriation in the amount of \$20,051,000.**

- 9.2 (b) (3) **Decrease the 30" Old Bayshore Supplement appropriation in the amount of \$3,494,000.**
- (4) **Decrease the Spreckles Sanitary Sewer Force Main Supplement appropriation in the amount of 2,849,000.**
- (5) **Reestablish the Edenvale Sanitary Sewer Supplement, Phase VA and VB appropriation in the amount of \$20,051,000.**
- (6) **Reestablish the 30" Old Bayshore Supplement appropriation in the amount of 3,494,000.**
- (7) **Reestablish the Spreckles Sanitary Sewer Force Main Supplement appropriation in the amount of 2,849,000.**
- (8) **Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$26,394,000.**
- (c) **City Council to adopt the following 2008-2009 appropriation ordinance and funding sources resolution amendments in the Sanitary Sewer Connection Fee Fund (540):**
- (1) **Establish a Loan to the Redevelopment Agency appropriation in the amount of \$8,066,000.**
- (2) **Decrease the Edenvale Sanitary Sewer Supplement, Phase VA and VB appropriation in the amount of \$8,066,000.**
- (3) **Reestablish the Edenvale Sanitary Sewer Supplement, Phase VA and VB appropriation in the amount of \$8,066,000.**
- (4) **Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$8,066,000.**

(City Manager's Office/Redevelopment Agency)

Documents Filed: (1) Memorandum from Council Member Williams, dated September 19, 2008, recommending approval of the design, construction and transfer of the proposed Edenvale Community Center. (2) Memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated September 8, 2008, recommending conducting a public hearing, approval of a cooperation agreement, adoption of resolutions and appropriation amendments, a construction contract and second amendments to two agreements. (3) Supplemental memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated September 22, 2008, providing additional information about public art budgeting for the proposed Edenvale Community Center. (4) Memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated October 10, 2008, recommending approval of a loan agreement and adoption of appropriation ordinances and funding sources resolution amendments.

Redevelopment Agency Chief Financial Officer David Baum provided a Staff Report.

City Attorney Richard Doyle responded to Council questions.

9.2 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, a loan agreement between the Redevelopment Agency and the City of San José to use the Sanitary Sewer Connection Fee Fund, in an amount of \$34.46 million, with a term of up to 72 hours, for the purpose of paying Agency obligations, such as capital, operating and other expenses in the adopted 2008-2009 Agency Budget, including the State-Mandated Educational Revenue Augmentation Fund payment and the pass-through obligation to the County of Santa Clara was approved; [Ordinance No. 28425](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Sewer Service and Use Charge Capital Improvement Fund for the Edenvale Sanitary Sewer Supplement, Phase VA and VB, for the 20” Old Bayshore Supplement and for the Spreckles Sanitary Sewer Force Main Supplement; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 74633](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2008-2009 to Adjust Revenues in the Sewer Service and Use Charge Capital Improvement Fund”; [Ordinance No. 28426](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Sanitary Sewer Connection Fee Fund for the Edenvale Sanitary Sewer Supplement, Phase VA and VB; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 74634](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2008-2009 to Adjust Revenues in the Sanitary Sewer Connection Fee Fund”, were adopted. (10-0-1. Absent: Campos.)

9.3 **Adopt a resolution of the Redevelopment Agency Board amending and restating the original Resolution authorizing the issuance of two series of Merged Area Redevelopment Project Tax Allocation Bonds in the aggregate principal amount of not-to-exceed \$119,000,000 in order to authorize a true interest cost for the Series 2008A-T Bonds of not-to-exceed 8.5% and a true interest cost of the Series 2008B Bonds shall not exceed 7.0%. (Redevelopment Agency)**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated October 9, 2008, recommending adoption of a resolution.

Redevelopment Agency Executive Director Harry S. Mavrogenes responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, [Redevelopment Agency Resolution No. 5861](#), entitled: “A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing the Issuance of Two Series of Merged Area Redevelopment Project Tax Allocation Bonds in the Aggregate Principal Amount of Not To Exceed \$119,000,000 in Connection with the Financing of Redevelopment Activities, Authorizing and Directing Execution of an Eleventh Supplemental Indenture, Authorizing the Competitive Sale of Bonds, Approving an Official Statement and Authorizing Other Related Actions”, was adopted. (10-0-1. Absent: Campos.)

STRATEGIC SUPPORT SERVICES

- 3.3 Adopt a resolution approving the terms of a Memorandum of Agreement with the Confidential Employees' Organization (CEO), AFSCME Local 101, and authorizing the City Manager to execute the agreement with a term of September 21, 2008 to September 17, 2011. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated October 3, 2008, recommending adoption of a resolution.

Public Comments: Trish Glassey (Confidential Employees' Organization) expressed her support to the terms of the Memorandum of Agreement.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, [Resolution No. 74635](#), entitled: "A Resolution of the Council of the City of San José Approving an Agreement Between the City of San José and the Confidential Employees' Organization (CEO) AFSCME Local No. 101, AFL-CIO with a Term of September 21, 2008 to September 17, 2011", was adopted. (9-0-2. Absent: Campos, Nguyen.)

- 3.4 (a) Accept the 2007-2008 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter Section 701 (F).**
- (b) Adopt Appropriation Ordinance and Funding Sources Resolution amendments in various operating and capital funds to implement the 2007-2008 Annual Report recommendations, including appropriate technical adjustments, as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions).**
- (c) Adopt a resolution approving amendments to City Council Policy 1-18 entitled Operating Budget and Capital Improvement Program Policy to add a subsection on the treatment of Interfund Loans to address a recommendation included in the Audit of the Management of the City's Tax-Exempt Bond Program and Use of Interfund Loans to Provide Financing for Capital Projects.**
- (d) Adopt a resolution making certain determinations regarding the expenditure of Redevelopment Agency funds on certain public improvements specifically described in the memorandum from the Redevelopment Agency dated August 7, 2008, included in the Appendix section of this report. These funds pay for eligible capital projects, making funds available for the San José BEST program and to support the addition of eight Police Officers.**

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

Documents Filed: The 2007-2008 Annual Report dated September 2008 from the Office of the City Manager.

Acting Budget Director Jennifer Maguire provided a brief overview of the 2007-2008 Annual Report and responded to Council questions and comments. Discussion followed.

Vice Mayor Cortese requested that Staff return with a level of reserve for all funds.

3.4 (Cont'd.)

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the 2007-2008 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter Section 701 (F) was accepted, [Ordinance No. 28422](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Various Funds to Implement 2007-2008 Annual Report Recommendations and Make Appropriate Technical Adjustments; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 74626](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 74461 to Implement 2007-2008 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in the Various Operating Funds"; [Resolution No. 74627](#), entitled: "A Resolution of the Council of the City of San José Approving a Revised Council Policy 1-18 Entitled Operating Budget and Capital Improvement Program Policy" and [Resolution No. 74628](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency on Certain Public Improvements", were adopted. The Budget Staff was directed to return with a level of reserve for all funds. (10-0-1. Absent: Campos.)

- 3.5 (a) **Discuss the Status of the Three-Year General Fund Structural Deficit Elimination Plan.**
(b) **Review and accept progress report on the Six-Month Strategic Objectives.**
(c) **Discuss the "Beyond Budget Cuts" organizational improvement effort.**
CEQA: Not a Project. (City Manager's Office)

Documents Filed: (1) Memorandum from City Manager Debra Figone, dated September 30, 2008, recommending discussion of the plan, review and accept the progress report and discuss beyond budget cuts. (2) Supplemental memorandum from City Manager Debra Figone, dated October 10, 2008, providing a draft report prepared by Public Strategies Group entitled Assessment of Strengths and Challenges.

City Manager Debra Figone provided opening comments and stated that the plan will identify strategies to eliminate the budget deficit in three areas: Revenue Strategies, including Economic Development; Service Reductions/Eliminations and Cost Savings, Service Delivery Model Changes/Expenditure Controls and Shifts.

Director of Library Department Jane Light and Deputy City Manager Deanna J. Santana presented the status report. City Manager Debra Figone responded to Council questions and comments.

David Osborne, Public Strategies Group, presented an overview of Beyond Budget Cuts and introduced Beverly Stein, President of Public Strategies Group and the Project Manager.

3.5 (Cont'd.)

City Manager Debra Figone briefly highlighted the six strategies for further development: busting bureaucracy, employee empowerment, organizational culture/engagement, information technology, budget reform and Council/Administration work load management.

City Manager Debra Figone introduced Dan Finn, City's Labor Alliance.

Public Comments: Speaking in support to the six strategies were Yolanda Cruz (AFSCME 101), Gay Gale (City Association of Management Personnel) and Mary Creasman (South Bay Labor Council).

Council discussion and comments followed.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Nguyen and carried unanimously, the progress report on the Six Month Strategic Objectives was accepted. (9-0-2. Absent: Campos, Cortese.)

3.7 **Report of the Rules and Open Government Committee – September 24, 2008** **Mayor Reed, Chair**

Action: Deferred to October 28, 2008 per Orders of the Day.

3.8 **As recommended by the Rules and Open Government Committee, approve the appointment of Jorge Zavala as a business/private industry representative on the Work2Future Board of Directors. (Reed)** **(Rules Committee referral 10/15/08)**

Documents Filed: Memorandum from Mayor Reed, dated October 9, 2008, recommending approval of the appointment.

Action: Upon motion by Council Member Constant, seconded by Council Member Williams and carried unanimously, the appointment of Jorge Zavala as a business/private industry representative on the Work2Future Board of Directors was approved. (9-0-2. Absent: Campos, Cortese.)

NEIGHBORHOOD SERVICES

5.1 **Report of the Neighborhood Services and Education Committee – October 9, 2008** **Council Member Chirco, Chair**

Documents Filed: The Neighborhood Services and Education Committee Report dated October 9, 20098.

5.2 (Cont'd.)

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the Report of the Neighborhood Services and Education Committee and the actions of October 9, 2008 were accepted. (9-0-2. Absent: Campos, Cortese.)

- 5.3 (a) Approval of the Healthy Neighborhoods Venture Fund's implementation of the Results Based Accountability Model, including the following:**
- (1) Healthy Neighborhoods Strategic Work Plan.**
 - (2) HNMF Allocation Plan.**
 - (3) HNMF Rules of Order.**
 - (4) HNMF Policies.**
- (b) Acceptance of the Neighborhood Services and Education Committee's October 9, 2008, actions regarding the Report on HNMF Migration to RBA Model.**

(Parks, Recreation and Neighborhood Services)

[Neighborhood Services & Education Committee (NSE) referral 10/9/08 – Item (e)]

Documents Filed: (1) Memorandum from Senior Executive Analyst Vilcia Rodriguez, dated October 10, 2008 transmitting the report on Healthy Neighborhoods Venture Fund Migration to Results Based Accountability Model to the NSE Committee. (2) Staff presentation of the Healthy Neighborhoods Venture Fund's implementation of the Results Based Accountability Model, dated October 21, 2008. (3) Comment cards dated October 21, 2008, in support of the implementation plan were received from Joanne Seakey-Holtquist (First 5 Santa Clara County), Dana Burnett (Kids in Common) and Aila Malik (Fresh Lifelines for Youth).

Director of Parks, Recreation and Neighborhood Services Albert Balagso responded to Council questions.

Action: Upon motion by Council Member Chirco, seconded by Council Member Nguyen and carried unanimously, the Healthy Neighborhoods Venture Fund's implementation of the Results Based Accountability Model and the Neighborhood Services and Education Committee's October 9, 2008, actions regarding the Report on HNMF Migration to RBA Model were accepted. (9-0-2. Absent: Campos, Pyle.)

TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – October 6, 2008 Council Member Williams, Chair

Documents Filed: The Transportation and Environment Committee Report dated October 6, 2008.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the Report of the Transportation and Environment Committee and the actions of October 6, 2008 were accepted. (9-0-2. Absent: Campos, Pyle.)

6.2 (a) Adopt a resolution:

- (1) **Amending the Schedule of Fees and Charges at the Norman Y. Mineta San José International Airport contained in Resolution No. 74536 to establish a Taxicab Minimum Rate of Fare from the Airport of \$15, which will include the \$1.50 Airport Trip Fee and which will cover the first three miles of travel.**
- (2) **Readopting all other Rates, Fares and Tariffs in Resolution No. 74536 not revised above.**
- (3) **Repealing Resolution No. 74536.**

(b) Approve an ordinance:

- (1) **Amending Chapter 6.64 of Title 6 of the San José Municipal Code to authorize the Director of Transportation (“Director”) to set and adjust taxicab rates, fares and surcharges based on industry indicators on a biennial basis, or sooner, as the Director deems appropriate;**

CEQA: Not a Project. (Airport/Transportation)

Action: Deferred to October 28, 2008 per Orders of the Day.

ENVIRONMENTAL & UTILITY SERVICES

7.1 Report on bids and award of contract for Installation of Potable and Non-Potable Water Services and Mains: 2008-2009 to the lowest responsive bidder, West Valley Construction, for the estimated term of January 2009 to February 2010, for an agreement amount not to exceed \$663,220. CEQA: Exempt, File No. PP05-130. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated September 29, 2008, recommending award of the contract to the lowest responsive bidder. (2) Letter from the Treatment Plant Advisory Committee, dated October 9, 2008, stating concurrence with the Staff recommendation.

7.1 (Cont'd.)

Action: Upon motion by Council Member Nguyen, seconded by Council Member Chirco and carried unanimously, the award of contract for installation of potable and non-potable water services and mains (2008-2009) to the lowest responsive bidder, West Valley Construction, for the estimated term of January 2009 to February 2010, for an agreement amount not to exceed \$663,220 was approved. (9-0-2. Absent: Campos, Pyle.)

OPEN FORUM

- (1) Andrew Garret urged the Council to order the Police Department's Internal Affairs unit to accept and file complaints against individual police officers.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 5:29 p.m.

RECESS/RECONVENE

The City Council recessed at 5:29 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Campos. (Excused)

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Chirco, seconded by Council Member Liccardo, and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Campos.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Adopt a resolution by the City Council:

- (a) **Stating its intention to form a Community Benefit and Improvement District in Willow Glen.**
- (b) **Preliminarily approving the Willow Glen Management Plan and Engineer's Report.**
- (c) **Setting a public hearing on December 16, 2008 at 7:00 p.m.**
- (d) **Calling an election for tabulation of the ballots for December 16, 2008 at 7:00 p.m.**

CEQA: Exempt, File PP08-097. Council District 6. (Public Works)

Action: Deferred to October 28, 2008 per Administration.

4.3 **Conduct a public hearing and adopt a resolution ordering the reorganization/annexation of the territory designated as Winchester No. 42, which involves the annexation to the City of San José of approximately 85 gross acres of land located west of Winchester Boulevard between Stevens Creek Boulevard and Highway 280 and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 1. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 29, 2008, recommending adoption of a resolution.

4.3 (Cont'd.)

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

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 74636](#), entitled: "A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Uninhabited Territory Designated as Winchester No. 42, Subject to Liability for General Indebtedness of the City", was adopted. (8-0-3. Absent: Campos, Cortese, Oliverio.)

4.4 **Conduct a public hearing and adopt a resolution ordering the reorganization/annexation of the territory designated as Buena Vista No. 2, which involves the annexation to the City of San José of approximately 40 gross acres of land located south of West San Carlos Street, west of Meridian Avenue and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, Burbank Sanitary District, Sunol Sanitary District, and Area No. 01 (Library Services). CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 29, 2008, recommending adoption of a resolution.

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

Action: Upon motion by Council Member Pyle, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 74637](#), entitled: "A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Uninhabited Territory Designated as Buena Vista No. 2, Subject to Liability for General Indebtedness of the City", was adopted. (9-0-2. Absent: Campos, Cortese.)

4.5 **Conduct a public hearing and adopt a resolution ordering the reorganization/annexation of the territory designated as Riverside No. 51 which involves the detachment of 3.4 gross acres of land located along Santa Teresa Boulevard, 100 feet southeast of Bayliss Drive from the South Santa Clara Fire Protection District. CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 29, 2008, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on September 9, 2008, submitted by the City Clerk.

4.5 (Cont'd.)

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

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74638](#), entitled: "A Resolution of the Council of the City of San José Making Determinations and Ordering the Detachment from a Certain Special District of Certain Uninhabited Territory Designated as Riverside No. 51, Subject to Liability for General Indebtedness of the City", was adopted. (9-0-2. Absent: Campos, Cortese.)

NEIGHBORHOOD SERVICES

- 5.2 (a) **Accept the Strong Neighborhoods Initiative (SNI) *West Evergreen Neighborhood Improvement Plan Amendment* as the renewed community vision for the future of the West Evergreen SNI Planning Area.**
- (b) **Encourage West Evergreen area residents, property owners and community members to continue to dedicate their time, energy and resources towards the *Plan* and this *Amendment* while continuing with their community-building activities.**

CEQA: Resolution No. 71045. Council Districts 7 and 8. SNI: West Evergreen. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). (Parks, Recreation and Neighborhood Services/City Manager's Office/ Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 29, 2008, transmitting the Planning Commission recommendation. (2) West Evergreen Strong Neighborhoods Initiative Improvement Plan dated November 2001.

Deputy City Manager Norberto Duenas provided the Staff Report.

Public Comments: Speaking about safe walkways, street improvements, a community center, a safe neighborhood and quality parks and trails were Khanh Nguyen, Robert Sandoval, Gricelda Heredia, Carlos DaSilva (West Evergreen SNI NAC) and Gracie Ramos (Meadowfair Neighborhood Association).

Action: Upon motion by Council Member Nguyen, seconded by Vice Mayor Cortese and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, the Strong Neighborhoods Initiative West Evergreen Neighborhood Improvement Plan Amendment as the renewed community vision for the future of the West Evergreen SNI Planning Area was accepted. (10-0-1. Absent: Campos.)

PUBLIC HEARINGS ON CONSENT CALENDAR

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

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the northwest corner of Tully Road and Kenesta Way (1935 Tully road) from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District to allow all commercial uses (McDonalds) on a 0.88 gross acre site (Franchise Realty Interstate Corporation, Owner). SNI: KONA, West Evergreen. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-099 – District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-099, dated September 29, 2008, recommending approval. (2) Proof of Publication of Notice of Public Hearing, executed on September 19, 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: The recommendation of the Planning Director was approved, [Ordinance No. 28427](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Tully Road and Kenesta Way (1935 Tully Road) to CN Commercial Neighborhood Zoning District”, was passed for publication. (10-0-1. Absent: Campos.)

- (b) Consideration of an ordinance rezoning the real property located at/on the south side of Blossom Hill Road, approximately 300 feet westerly of Snell Avenue (456 Blossom Hill Road) from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District to allow commercial uses on a 0.53 gross acre site (Gregory K. Bloom Trustee, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C08-028 – District 10**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C08-028, dated September 26, 2008, recommending approval. (2) Proof of Publication of Notice of Public Hearing, executed on September 30, 2008, submitted by the City Clerk.

11.1 (b) (Cont'd.)

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

Action: The recommendation of the Planning Director was approved, [Ordinance No. 28428](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Blossom Hill Road, Approximately 300 Feet Westerly of Snell Avenue to CN Commercial Neighborhood Zoning District", was passed for publication. (10-0-1. Absent: Campos.)

- (c) **Consideration of a Street Renaming for Tract 9881 from Tierra Encantada Court to Bob Hansen Way, located on the south side of Tierra Encantada Way, approximately 220 feet east of McCreery Avenue (Tierra Encantada Development, LLP, Owner). SNI: Mayfair. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
ST08-002 – District 5**

Action: Deferred to November 18, 2008 per Council Member Campos.

END OF PUBLIC HEARINGS ON CONSENT CALENEAR

OPEN FORUM

Documents Filed: Thirty seven comment cards dated October 21, 2008 expressing support about the recall, urging a combined election and objecting to an all-mail ballot election.

Speaking in support of the recall of Council Member Nguyen, urging a combined election to fill the vacancy if the recall is successful and objecting to an all-mail ballot election were:

Paul Le, Loan Pham, Steven Do, Richard Nguyen, Cuong Dang, Huong Dang, Henry Phan, Lang Do, Tinh Cao, To Nguyen, Dien Ta, Leha Dang, Tran Hanh, Chau Nguyen (The Little Saigon News), Bernard Wong (Vietnamese Veteran Association), Louisiana Pham, Tammy Nguyen, Tuc Nguyen, Sam Castillo, Thomas Nguyen, Tiep Ngo, Randy Schneider, Tim Nguyen, Phuong Tran, Daonguyen Nguyen, Anthony Tam, Danny Vinh Le, Long Vu, Chan Do, De Duong, Que N. Phan, Tina Nguyen, Son Bui, Dung Huynh, Connie Dang, Luong Do (Aborn Compound Pharmacy), Thomas Nguyen, Thuc Tri Nguyen, Minh Ti Nguyen, Nhan Ho and Daley Nguyen.

ADJOURNMENT

The Council of the City of San José was adjourned at 8:09 p.m. in memory of Pastor Jeffery S. Heard, who passed away suddenly on October 4, 2008. Pastor Heard was the founding Pastor of Rohi Temple of Reconciliation and President of Rohi Alternative Community Outreach, Inc., a non-profit organization dedicated to providing positive programs for youth in San José. (Campos)

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/10-21-08 MIN

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.