



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 12, 2008

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

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel – Anticipated Litigation (Claim not Filed): Significant exposure to litigation pursuant to subsection (b) of Section 54956.9 of the Government Code: Number of matter(s) to be discussed: 1; (B) to confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8 with respect to existing litigation: (1) WPCP site, northeast corner of intersection of Highway 237 and Zanker Road; APN: 015-44-011, 014, 015, 016, 017; Negotiating Parties: Chief Development Officer Paul Krutko and Ze'ev Drori, President and CEO for Tesla Motors; (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organization: (1) 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.

By unanimous consent, Council recessed from the Closed Session at 10:32 a.m. and reconvened at 1:31 p.m. in the Council Chambers.

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

Absent: Council Members - None.

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.

INVOCATION

Iola Williams Chinese Senior Dancers performed a traditional dance. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Council Member Liccardo requested a deferral of Item 11.3. Discussion ensued. Speaking in opposition to deferring the item were Steve Hunt, Robert Emami, Jonathon Emami, Herb Fielden (Roem Development Corporation) and Pat Dando (San José/Silicon Valley Chamber of Commerce). A motion to hear the item as scheduled failed.

Upon motion by Council Member Nguyen, seconded by Council Member Constant and carried unanimously, the Orders of the Day and the Amended Agenda were approved with Items 5.2 and 11.3 deferred to 8/26/08. Mayor Reed added Item 3.9 to the Agenda and indicated the need for urgency.

CEREMONIAL ITEMS

1.1 Presentation of commendations to Alyssa Andrade and Emilio Esteban Cortez for being awarded 2008 HACE Scholarships. (Campos)

Action: Mayor Reed and Council Member Campos recognized and commended Alyssa Andrade and Emilio Esteban Cortez for being awarded 2008 HACE Scholarships.

CONSENT CALENDAR

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

2.3 Adoption of a resolution authorizing the City Manager to submit four grant applications to the California Department of Conservation totaling \$1,300,000 to support the Environmental Services Department's efforts to expand recycling programs at City venues, parks, public spaces, and schools, to accept the grants if awarded and to execute any documents necessary to effectuate the grant. CEQA: Exempt, File No. PP08-162. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated July 21, 2008, recommending adoption of a resolution.

Council Member Pyle pulled item to highlight the Jazz Fest recycling efforts.

2.3 (Cont'.d)

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, Resolution No. 74529, entitled “A Resolution of the Council of the City of San José Authorizing the City Manager to Submit Four Applications to the California Department of Conservation for Grants to Support Efforts to Expand Recycling Programs at City Venues, Parks, Public Spaces and Schools, in an amount not to exceed \$1.3 Million, to Accept the Grants if Awarded, and to Execute all Related Documents”, was adopted. (11-0.)

2.4 Adoption of a resolution:

- (a) **Initiating proceedings to consider the single-family house located at 940 Plaza Drive 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 consideration of the report and recommendation at a public hearing.**
- (c) **Setting a public hearing on Tuesday, October 7, 2008 at 1:30 p.m. for Council consideration of City Landmark designation of the structures noted above.**

CEQA: Not a Project. Council District 6. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement, Joseph Horwedel, dated July 21, 2008, recommending adoption of a resolution.

Action: Resolution No. 74537, entitled “A Resolution of the Council of the City of San José Initiating Proceeding on its own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, to Designate the L.D. Bohnett House, Presently Located at 940 Plaza Drive, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, was adopted. (11-0.)

2.5 Adoption of a resolution to consider the establishment of a Rule 20A Underground Utility District along Aborn Road, between Pumpherston Way and White Road, and setting a public hearing on September 16, 2008 at 1:30 p.m. CEQA: Exempt, File No. PP08-128. Council District 8. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated July 21, 2008, recommending adoption of a resolution.

Action: Resolution No. 74538, entitled “A Resolution of the Council of the City of San José Setting the time and Place for a Public Hearing to Consider the Establishment of a Rule 20A Underground Utility District along Aborn Road, between Pumpherston Way and White Road, on September 16, 2008 at 1:30 p.m.”, was adopted. (11-0.)

2.6 Adoption of a resolution summarily vacating a portion of the Public Service Easement lying within lot 6 and 7 of Tract 2887, APN 486-38-048, on the southside of Story Road, between Jackson Avenue and Leeward Drive. CEQA: Exempt, File No. H08-015. Council District 5. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated July 21, 2008, recommending adoption of a resolution.

Action: Resolution No. 74539, entitled “A Resolution of the Council of the City of San José Summarily Vacating the Public Service Easement Lying within Lot 6 and 7 of Tract 2887, APN 486-38-048 located on the South Side of Story Road between Jackson Avenue and Leeward Drive”, was adopted. (11-0.)

2.7 (a) Adoption of the following 2008-2009 Appropriation Ordinance amendments in the State Drug Forfeiture Fund (Fund 417):

(1) Increase the appropriation to the Police Department for Non-personal/Equipment by \$25,888;

(2) Decrease the Ending Fund Balance by \$25,888.

(b) Approve the use of the remaining FY 2000-2001 and FY 2001-2002 California Law Enforcement Equipment Program Grant funds for the purchase of facility security equipment in the amount of \$83,643 and \$80,685, respectively.

(c) Report on bids and award of contract for the Police Administration Building Site Security and Fencing project to the low bidder, Golden Bay Fence Plus Iron Works, Inc., in the amount of \$614,972, and approval of a contingency in the amount of \$30,000.

CEQA: Exempt, File No. PP07-266. Council District 3. (Public Works/Police/City Manager’s Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Chief of Police Robert L. Davis and Budget Director Jennifer Maguire, dated July 21, 2008, recommending adoption of appropriation amendments and approval of a contract.

Action: Ordinance No. 28363, entitled “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the State Drug Forfeiture Fund to the Police Department for Non-Personal/Equipment; and Providing that this Ordinance shall become effective immediately upon adoption”, was adopted. (11-0.)

**2.8 Adoption of a resolution declaring the results of the June 3, 2008 Municipal Election pursuant to Elections Code Section 15400. (City Clerk)
(Deferred from 6/24/08 – Item 2.6 and 8/5/08 – Item 2.3)**

Documents Filed: Memorandum from City Clerk Lee Price, dated August 6, 2008, recommending adoption of a resolution.

Action: Resolution No. 74540, entitled “Resolution of the Council of the City of San José Reciting that a Regular Municipal Election was Held in the City of San José on Tuesday, June 3, 2008; Stating the Offices to be filled at the Election; Finding and Declaring that the Registrar of Voters of the County of Santa Clara has Canvassed the Returns of the Election and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast, the Names of the Persons Voted for, the Offices the Persons were Voted for, the Number of Votes given at each Precinct to each Person; and Finding and Declaring Who Received the Highest Number of the Votes Cast”, was adopted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone.

Action: The City Manager provided an oral update on additional impacts to the City anticipated with adoption of the State Budget.

3.4 (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2008-2009:

- (1) Increase Beginning Fund Balance by \$3,322,095.
- (2) Increase the estimate for Earned Revenue by \$15,000.
- (3) Increase the appropriation to the Department of Public Works for the Roundtable Pedestrian Light project (PSM 500, Amendment 1) in the amount of \$322,095. CEQA: Exempt, File No. PP06-105.
- (4) Establish an appropriation to the Office of Economic Development for the California Theatre Orchestra Side Platforms project (PSM 540) in the amount of \$70,000. CEQA: Not a Project.
- (5) Establish an appropriation to the Department of Public Works for the Fire Station 2 - Rebuild project (PSM 541) in the amount of \$2,700,000. CEQA: Exempt, File No. PP05-220.
- (6) Establish an appropriation to the Department of Transportation for the KONA – Traffic Calming Phase I project (PSM 542) in the amount of \$50,000. CEQA: Exempt, File No. PP06-171.
- (7) Increase the appropriation to the Department of Transportation for Additional Contingency Services (PSM 545) in the amount of \$30,000. CEQA: Not a Project.

3.4 (Cont'd.)

- (a) (8) **Establish an appropriation to the General Services Department for the Variable Speed Fan Drive Systems at the Tech Museum project (PSM 536) in the amount of \$150,000. CEQA: Exempt, File No. PP08-152.**
- (9) **Increase the appropriation to the Planning, Building and Code Enforcement Department for the California Environmental Quality Act (CEQA) project (PSM 365, Amendment 3) in the amount of \$15,000. CEQA: Not a Project.**
- (b) **Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:**
 - (1) **The California Theatre Orchestra Side Platforms project as more specifically described in the memorandum from the Redevelopment**
 - (2) **The Fire Station 2 - Rebuild project as more specifically described in the memorandum from the Redevelopment Agency dated June 10, 2008;**
 - (3) **The KONA – Traffic Calming Phase I project as more specifically described in the memorandum from the Redevelopment Agency dated June 9, 2008;**
 - (4) **The Variable Speed Fan Drive Systems at the Tech Museum project as more specifically described in the memorandum from the Redevelopment Agency dated May 21, 2008.**

CEQA: See above CEQA references. Council Districts 2, 3, and 8. SNI: Edenvale/ Great Oaks/Market Gateway/K.O.N.A./Julian/Stockton. (Public Works/Economic Development/Transportation/General Services/Planning, Building and Code Enforcement/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Chief Development Officer Paul Krutko, Director of Transportation Jim Helmer, Director of General Services Peter Jensen, Director, Planning, Building and Code Enforcement, Joseph Horwedel and Budget Director Jennifer Maguire, dated July 21, 2008, recommending adoption of appropriation ordinances and funding sources resolution amendments.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, Ordinance No. 28364, entitled "An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the roundtable Pedestrian Light Project, for the California Theatre Orchestra Side Platforms Project, for the Fire Station 2 Rebuild Project, for the KONA Traffic Calming Phase I Project, for the Department of Transportation Additional contingency Services, for the Variable Speed Fan Drive

3.4 (Cont'd.)

Systems at the Tech Museum Project, and for the California Environmental Quality Act (CEQA) Clearance Project; and Providing that this Ordinance shall become effective immediately upon adoption”, Resolution No. 74541, 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 Services for Redevelopment Capital Projects Fund”, Resolution No. 74542, entitled “A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in Market Gateway Redevelopment Project Area”, Resolution No. 74543, entitled “A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Alum Rock Business District and the Surrounding Strong Neighborhood Initiative Project Areas”, Resolution No. 74544, entitled “A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the KONA Neighborhood of the Strong Neighborhood Initiative Redevelopment Project Area”, and Resolution No. 74545, entitled “A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Park Center Plaza Redevelopment Project Area”, were adopted. (11-0.)

3.5 **As recommended by the Rules and Open Government Committee of August 6, 2008, adopt a position of support for H.R. 5772 (Murphy) – Frank Melville Supportive Housing Investment Act of 2008. S. 2666 (Cantwell) – Affordable Housing Investment Act has already been passed and is law, therefore no position is necessary. (Housing)**

[Rules Committee referral 8/6/08 – Item C(2)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, dated August 8, 2008, submitting a recommendation by the Rules and Open Government Committee of August 6, 2008.

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and carried unanimously, it was determined a position of support for H.R. 5772 has already been passed and is law; therefore, no position is necessary. (11-0.)

- 3.6 As recommended by the Rules and Open Government Committee of August 6, 2008, approve the proposed designation of Councilmember Judy Chirco as the voting delegate, and Councilmember Kansen Chu as the alternate voting delegate at the September 27, 2008 Annual Business Meeting for the League of California Cities (LOCC). (City Manager's Office)
[Rules Committee referral 8/6/08 – Item G(2)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated August 8, 2008, submitting proposed designations of 2008 League of California Cities voting and alternative voting delegates.

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously, the proposed designation of Councilmember Judy Chirco as the voting delegate, and Councilmember Kansen Chu as the alternate voting delegate at the September 27, 2008 Annual Business Meeting for the League of California Cities was approved. (11-0.)

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

Documents Filed: The Rules and Open Government Committee Report dated June 11, 2008.

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

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

Documents Filed: The Rules and Open Government Committee Report dated June 18, 2008.

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of June 18, 2008 were accepted. (11-0.)

- 3.9 (a) Adopt a Resolution establishing provisions for Rebuttal Arguments for the November Ballot measures.
(Mayor)**

Documents Filed: Memorandum from Mayor Reed, dated August 8, 2008, recommending allowance of November ballot measure rebuttal arguments.

3.9 (Cont'd.)

Action: Upon motion by Council Member Chu, seconded by Council Member Constant and carried unanimously, the 10-day Sunshine Notice Requirement was waived. (11-0.)

City Attorney Doyle provided an overview of the proposed resolution. City Clerk Lee Price clarified the window of opportunity for submittal of rebuttal arguments to the Registrar of Voters and the cost of placing them on the ballot.

Action: Upon motion by Council Member Chirco, seconded by Council Member Oliverio and carried unanimously, Resolution No. 74546, entitled “A Resolution of the Council of the City of San José Repealing the Determination in Resolution Numbers 74459, 74527, 74528 and 74530 that Rebuttal Arguments will not be Allowed and Adopting instead the Provisions of Elections Code Section 9285 to Allow Rebuttal Arguments and Authorizing Members of the City Council to Author and Submit Ballot Arguments in Favor of Measures”, was adopted, with the clarification that a member or members of the City Council may write and submit ballot arguments. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – June 23, 2008 Councilmember Pyle, Chair

Documents Filed: The Report of the Community & Economic Development Committee of June 23, 2008.

Action: Upon motion by Council Member Chirco, seconded by Council Member Nguyen and carried unanimously, the Community & Economic Development Committee Report and the actions of June 23, 2008 were accepted. (11-0.)

NEIGHBORHOOD SERVICES

- 5.2 (a) Conduct a hearing to determine whether the low bid submitted by Zolman Construction & Development, Inc. for the Bascom Library and Community Center Project should be rejected on the ground that Zolman was not qualified to submit a bid.
- (b) Award the construction contract for the project to the low bidder, John Plane Construction, Inc., to include the base bid and add alternative Nos. 1 and 3, in the amount of \$17,974,000 and approve a contingency in the amount of \$1,797,000.

CEQA: Exempt, File No. PP07-081. Council District 6. SNI: Burbank/Del Monte. (Parks, Recreation and Neighborhood Services/Library/Public Works) (Deferred from 6/10/08 – Item 5.3 and et. al., and 8/5/08 – Item 5.2)

Action: Deferred to August 26, 2008 per Orders of the Day.

TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) Approval of a Baseline Agreement with California Department of Transportation to accept a grant of \$15 million in Proposition 1B Traffic Light Synchronization Program funds for the City's Traffic Signal Communications and Synchronization Project.
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Building and Structure Construction Tax Fund:
- (1) Increase the estimate for Earned Revenue by \$5,809,000.
 - (2) Establish an appropriation to the Department of Transportation for the Traffic Signal Communications and Synchronization project by \$7,574,000.
 - (3) Decrease the Traffic Signals – Flow Management project by \$265,000.
 - (4) Decrease the Ending Fund Balance by \$1,500,000.

CEQA: Resolution Nos. 60197 and 63179, File No. PP08-154. (Transportation/City Manager's Office)

Documents Filed: Memorandum from Director of Transportation Jim Helmer and Budget Director Jennifer Maguire dated July 21, 2008 recommending approval of an agreement and program grant.

Assistant Director of Transportation Jim Ortbal presented an overview of the traffic light synchronization program and responded to questions from Council.

6.2 (Cont'd.)

Action: Upon motion by Council Member Constant, seconded by Council Member Chirco and carried unanimously, Ordinance No. 28365, entitled “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Building and Structure Construction Tax Fund for the Traffic Signal Communications and Synchronization Project; and Providing that this Ordinance shall become effective immediately upon adoption”, and Resolution No. 74547, 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 Building and Structure Construction Tax Fund”, were adopted, with Staff directed to provide information about the project, including project schedule and updates, to Council offices to share with constituents. (11-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 (a) **Placing a moratorium of the installation and relocation of freestanding news racks within the Downtown Core and the Civic Plaza Redevelopment Project Area; and,**
- (b) **Establishing a consolidated pedestal mounted news rack pilot program within the Downtown Core and the Civic Plaza Redevelopment Project Area for a period of September 30, 2008 to August 31, 2010.**

CEQA: Resolution No. 72767. Council District 3. (City Manager’s Office/ Redevelopment Agency)
(Deferred from 6/17/08 – Item 9.3)

Action: Dropped. To be renoticed.

OPEN FORUM

David Wall expressed concerns about water conservation efforts and illegal encampments in the riverbed.

RECESS/RECONVENE

The City Council recessed at 2:45 p.m. from the afternoon Council Session and reconvened at 7:04 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the southwest corner of San Felipe Road and Aborn Road (3303 San Felipe Road) from CP commercial Pedestrian Zoning District to CN Commercial Neighborhood zoning district to allow commercial uses on a 0.75 gross acre site. CEQA: EIR Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C08-026 – District 8

(Continued from 6/17/08 – Item 11.1(f))

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C08-026, dated May 28, 2008. (2) Memorandum from the Planning Commission Secretary Joseph Horwedel, dated May 27, 2008, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearings, executed on May 16, 2008.

Director, Planning, Building and Code Enforcement Joseph Horwedel corrected CEQA reference on the agenda and the Council memorandum transmitting the recommendation changing “Exempt” status to “conventional rezoning” as covered under the General Plan 2020 Environmental Impact Report.

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 Chu, seconded by Council Member Chirco and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 28368, entitled “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of San Felipe Road and Aborn Road (3303 San Felipe Road) to CN Commercial Neighborhood Zoning District”, passed for publication. (11-0.)

- (b) **Consideration of an ordinance rezoning the real property located on the east side of Seaboard Avenue, approximately 300 feet southerly of Trimble Road (2586 Seaboard Avenue) from A(PD) Planned Development Zoning District to LI Light Industrial Zoning District to allow religious assembly uses in the vacant portion of an existing industrial building on a 0.78 gross acre site (Temothy C and Hee O Cho Trustee, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).**
C08-009 – District 4

Council Member Chu pulled item 11.1(b) to disclose meeting with Applicant.

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C08-009, dated July 9, 2008. (2) Memorandum from the Planning Commission Secretary Joseph Horwedel, dated July 21, 2008, transmitting the Planning Commission recommendations of approval. (3) Proof of Publication of Notice of Public Hearings, executed on June 24, 2008.

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 Chu, seconded by Council Member Chirco and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 28369, entitled “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the East Side of Seaboard Avenue, Approximately 300 Feet Southerly of Trimble Road (2586 Seaboard Avenue) to LI Light Industrial Zoning District”, passed for publication. (11-0.)

- (c) **Consideration of an ordinance rezoning the real property located on the southeast corner of Monterey Road and Old Tully Road (2400 Monterey Road) from LI Light Industrial Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses on a 0.61 gross acre site (Local Motive Development LLC, Owner). . Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).**
C08-027 – District 7

11.1 (Cont'd.)

- (c) Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C08-027, dated July 8, 2008. (2) Memorandum from the Planning Commission Secretary Joseph Horwedel, dated July 21, 2008, transmitting the Planning Commission recommendations of approval. (3) Proof of Publication of Notice of Public Hearings, executed on June 27, 2008.

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 Chu, seconded by Council Member Chirco and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 28370, entitled "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of Monterey Road and Old Tully Road (2400 Monterey Road) to CN Commercial Neighborhood Zoning District", passed for publication. (11-0.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.7 Consideration of a Director Initiated rezoning from County of Santa Clara to R-1-2 Single-Family Residence Zoning as to approximately 8.4 gross acres, R-1-5 Single-Family Residence Zoning as to approximately 99.1 gross acres, R-1-8 Single-Family Residence Zoning as to approximately 38.4 gross acres, CN Commercial Neighborhood Zoning as to approximately 0.3 gross acres, and CO Commercial Office Zoning as to approximately 0.6 gross acres (all as more specifically set forth in the Staff Report) on an approximately 147 gross acre County island consisting of 455 parcels between Hamilton Avenue and Dry Creek Road; west of Meridian Avenue and east of the City of Campbell boundary (Multiple Owners). CEQA: EIR Resolution No. 65459 (Related Annexation Meridian No. 73). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
C08-020 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C08-020, dated July 9, 2008, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 21, 2008, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on August 1, 2008 submitted by the City Clerk.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 28381, entitled “An Ordinance of the City of San José Rezoning Certain Real Property Situated North of Dry Creek Road and South of Campbell Avenue, Westerly of Meridian Avenue from County of Santa Clara to R-1-2 Single Family Residence Zoning District”, Ordinance No. 28382, entitled “An Ordinance of the City of San José Rezoning Certain Real Property Situated North of Dry Creek Road, West of Meridian Avenue, East of Leigh Avenue, and South from the Properties along the North Side of McBain Avenue from County of Santa Clara to R-1-5 Single Family Residence Zoning District”, Ordinance No. 28383, entitled “An Ordinance of the City of San José Rezoning Certain Real Property Situated East of Hurst Avenue, West of Meridian Avenue, North from the Properties along the South Side of Montemar Avenue, and South from the Properties along the North Side of Willowhurst Avenue from County of Santa Clara to R-1-8 Single Family Residence Zoning District”, Ordinance No.28384, entitled “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Meridian Avenue and Willowhurst Avenue from County of Santa Clara to CN Commercial Neighborhood Zoning District, and Ordinance No. 28385, entitled “An Ordinance of the City of San José Rezoning Certain Real Property Situated West of Meridian Avenue, approximately 120 feet Southerly of Willowhurst Avenue and South of Willowhurst Avenue, approximately 180 feet Westerly of Meridian Avenue from County of Santa Clara to CO Commercial Office Zoning District”, passed for publication. (11-0.)

- 11.2 Consideration of an ordinance rezoning the real property located at/on the southeast corner of South 2nd Street and Keyes Street (1140 S 2nd Street) from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 135 affordable housing multi-family attached residential units and approximately 11,101 square feet for retail commercial uses on a 1.16 gross acre site (Patel Shantaben N and Naranji V. Owner; First Community Housing, Developer). SNI: Spartan/Keyes. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-0-1). PDC07-086 – District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-086, dated June 3, 2008, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 21, 2008, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on May 30, 2008 submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. Rita Torres and Aurelia Sanchez expressed concerns about density, traffic impacts and design characteristics. Carolyn Roose (Greenbelt Alliance), Matt Regan (Bay Area Council), and Tamon Norimoto endorsed the project. Mayor Reed closed the public hearing.

Motion: Council Member Liccardo moved approval of the rezoning with three conditions as outlined in the “Action” below. Vice Mayor Cortese seconded the motion.

Action: On a call for the question the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 28371, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of South Second Street and Keys Street (1140 South 2nd Street) to A(PD) Planned Development Zoning District”, was passed for publication, as amended, by the adding the following conditions: (1) Require developer to arrange a meeting with his architect and neighborhood leaders and local resident artists to hear and address concerns regarding building design issues; such a meeting shall take place prior to any hearing on the development permit before the Director of Planning. (2) Allow off-sale of alcohol only if the primary use of the business is retail sales of food and groceries. Such off-sale use shall still be subject to a planned development permit and any applicable determination of public convenience or necessity. Off-sale of alcohol as a stand-alone use, or in conjunction with any other use shall be prohibited. (3) Require that segregation of the individual retail sites within the 9,669 square feet of contiguous retail space along Keyes and South Second be sufficiently flexible in construction to allow a single tenant to be able to occupy that space, if market conditions should so dictate. (11-0.)

- 11.3 Consideration of an ordinance rezoning the real property located on the southeast corner of North First Street and East Rosemary Street to allow 290 multi-family residential units on a 4.045 gross acre site (Metro Eight Properties, LLC, Owner; ROEM Development Corporation, Developer). CEQA: Resolution No. 72768 and addendum thereto. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC07-101 – District 3**

Action: Deferred to August 26, 2008 per Orders of the Day.

- 11.4 Consideration of an ordinance rezoning the real property located on the northeast corner of River Oaks Parkway and Zanker Road (199 River Oaks Parkway) from the IP – Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 300 multi-family attached residential units and up to 1,500 square feet of retail on a 3.69 gross acre site (Applejack 199 LP, Owner). CEQA: Resolution No. 72768 and addendum thereto. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC07-102 – District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-102, dated July 21, 2008, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 21, 2008, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on June 6, 2008 submitted by the City Clerk.

Meeting disclosures were made by Mayor Reed.

Public Comment: Mayor Reed opened the public hearing. Carolyn Roose (Greenbelt Alliance) expressed support for the project. Mayor Reed closed the public hearing.

Action: Upon motion Council Member Chu, seconded by Council Member Liccardo and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 28366, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Zanker Road and River Oaks Parkway (199 River Oaks Parkway) to the A(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

**11.5 Consideration of a Director Initiated rezoning from County of Santa Clara to R-1-5 Single-Family Residence Zoning as to approximately 107.6 gross acres, R-2 Two-Family Residence, Zoning as to approximately 5.7 gross acres CN Commercial Neighborhood Zoning as to approximately 6.1 gross acres, and CO Commercial Office Zoning as to approximately 10.6 gross acres (all as more specifically set forth in the Staff Report) on an approximately 131 gross acre County island consisting of 450 parcels between Meridian Avenue and Leigh Avenue, north of Hamilton Avenue (Multiple Owners). CEQA: EIR Resolution No. 65459 (Related Annexation Hamilton No. 59). Director of Planning, Building and Code Enforcement and Planning commission recommend approval (6-0-1).
C08-021 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C08-021, dated July 9, 2008, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 21, 2008, transmitting the Planning Commission recommendation. (3) Supplemental memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel dated July 31, 2008, submitting letter from residents in support of the Staff's recommendation. (4) Proof of Publication of Notice of Public Hearing, executed on July 15, 2008 submitted by the City Clerk. (5) Petition signed by residents of Willow Glen opposing proposed rezoning.

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

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, Ordinance No. 28372, entitled "An Ordinance of the City of San José Rezoning Certain Real Property situated on both sides of Norman Avenue, Willow Street, Santa Lucia Drive, Santa Inez Drive, and St. Anthony Drive, as well as the Area Bounded by these Streets to the North of Keesling Avenue from County of Santa Clara to R-1-5 Single-Family Residence Zoning District", Ordinance No. 28373, entitled "An Ordinance of the City of San José Rezoning Certain Real Property situated on the South Side of Keesling Avenue, on both sides of Grace Avenue South of Keesling Avenue, West of Phantom Avenue, approximately 100 feet Northerly of Hamilton Avenue, and West of Meridian Avenue, on both sides of Isabel Drive and North of Blackford Lane from from County of Santa Clara to R-2 Two-Family Residence Zoning District", Ordinance No. 28374, entitled "An Ordinance of the City of San José Rezoning Certain Real Property situated on the West Side of Meridian Avenue, between Hamilton Avenue and Blackford Lane, from County of Santa Clara to CN Commercial Neighborhood Zoning District", and Ordinance No. 28375, entitled "An Ordinance of the City of San José Rezoning Certain Real Property situated on the North Side of Hamilton Avenue, from approximately 350 feet West of Meridian Avenue to the West Side of Norman Avenue, and West of Meridian Avenue, approximately 100 feet North of Isabel Drive from County of Santa Clara to CO Commercial Office Zoning District", passed for publication. (11-0.)

- 11.6 Consideration of a Director Initiated rezoning from County of Santa Clara to R-1-8 Single-Family Residence Zoning as to approximately 11.0 gross acres, R-2 Two-Family Residence Zoning as to approximately 0.2 gross acres, R-M Multiple Family Residence Zoning as to approximately 0.8 gross acres, CP Commercial Pedestrian Zoning as to approximately 1.0 gross acres, and CO Commercial Office Zoning as to approximately 2.3 gross acres (all as more specifically set forth in the Staff Report) on an approximately 16 gross acre County island consisting of 53 parcels located on the north side of Stevens Creek Boulevard, west of Revey Avenue (Multiple Owners). CEQA: EIR Resolution No. 65459 (Related Annexation Burbank No. 41). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
C08-025 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C08-025, dated July 1, 2008, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 21, 2008, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on August 8, 2008 submitted by the City Clerk.

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

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 28376, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated along and within the Area Generally Bounded by Ciro Avenue, Di Salvo Avenue, Bailey Avenue, and Bellerose Drive, North of Stevens Creek Blvd., from County of Santa Clara to R-1-8 Single Family Residence Zoning District”, Ordinance No. 28377 entitled “An Ordinance of the City of San José Rezoning Certain Real Property situated on the East Side of Bellerose Drive, approximately 150 feet Northerly of Stevens Creek Blvd. from County of Santa Clara to R-2 two-family Residence Zoning District”, Ordinance No. 28378, entitled “An Ordinance of the City of San Jose Rezoning Certain Real Property situated on the East Side of Di Salvo Avenue, approximately 300 feet Northerly of Stevens Creek Blvd. from County of Santa Clara to R-M Multiple Residence Zoning District”, Ordinance No. 28379, entitled “An Ordinance of the City of San José Rezoning Certain Real Property situated on the Northwest Corner of Stevens Creek Blvd. and Revey Avenue from County of Santa Clara to CP Commercial Pedestrian Zoning District, and Ordinance No. 28380, entitled “An Ordinance of the City of San José Rezoning Certain Real Property situated North of O’Connor Drive on both sides of Di Salvo Avenue from County of Santa Clara to CO Commercial Office Zoning District”, were passed for publication. (11-0.)

- 11.8 Consideration of an ordinance rezoning the real property located at the north side of Elden Drive, approximately 500 feet easterly of South Bascom Avenue (679 & 681 Elden Drive) from R-1-5 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow up to six single-family detached residences (five new units and one existing unit to remain) on a 0.8 gross acre site (Richard McLeod and John A. & Rose Carol Giossa, Owner(s)). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). PDC06-082 – District 9**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-082, dated June 18, 2008, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 21, 2008, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on June 6, 2008 submitted by the City Clerk.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 28367, entitled “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Elden Drive, approximately 500 feet Easterly of South Bascom Avenue (679 and 681 Elden Drive) to a(PD) Planned Development Zoning District”, passed for publication. (11-0.)

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10013	Northeast corner of North King Road and Dobbin Drive	3	San José Transit Village Partners LLC	4 Lots	Multi-Family Attached and Commercial
10014	Southwest corner of Cinnabar Street and Stockton Avenue	6	Morrison Park Homes LLC	1 Lot / 250 Units	Multi-Family Attached

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 June and July 2008:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Norman Y. Mineta San Jose International Airport Building Trades Contract 07-08(B)	Citywide	Tucker Construction, Inc.	\$150,000	6/12/08
E. Julian Street Bridge at Coyote Creek Seismic Retrofit Project	3	William P. Young Construction, Inc.	\$512,160	6/23/08
E. William Street Bridge at Coyote Creek Seismic Retrofit Project	3	William P. Young Construction, Inc.	\$123,268.22	6/23/08
Police Administration Building, Interview Rooms Noise Control Tenant Improvements	Citywide	VNS Construction	\$152,500	6/24/08
Cahill Park Play Area Improvement Project	6	Maxicrete, Inc.	\$326,600	6/30/08
Southwest Expressway Bridge over Meridian Avenue Seismic Retrofit Project	6	Pleasanton Engineering Contractors, Inc.	\$275,095	7/3/08
Willow Glen Sanitary Sewer Rehabilitation (Rebid)	6	Veolia ES Industrial Services, Inc. dba J. F. Pacific Liners, Inc.	\$626,627	7/8/08
Normal Y. Mineta San Jose International Airport: Terminal Modifications II Electrical/Data	Citywide	Dynalectric Company	\$925,000	7/11/08
Mazzone Drive Sanitary Sewer Rehabilitation	10	Veolia ES Industrial Services, Inc. dba J. F. Pacific Liners, Inc.	\$136,007.20	7/14/08

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

REJECTION

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Gold St. Storm Pump Station Electrical Upgrade	10	N/A	N/A	7/7/08
Normal Y. Mineta San Jose International Airport – Compressed Natural Gas Fueling Station Upgrade	Citywide	N/A	N/A	7/30/08

OPEN FORUM

Mark Trout expressed religious viewpoints.

ADJOURNMENT

The Council of the City of San José was adjourned at 7:36 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

rmk/8/12/08MIN

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

