

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, APRIL 7, 2009

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, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Absent: Council Members - Chirco. (Excused)

Upon motion unanimously adopted, Council recessed at 9:02 a.m. to a Closed Session in Room W133, to confer with Legal Counsel with respect to (A) Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957: Department or Agency: Independent Police Auditor; Title: Independent Police Auditor; (B) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 in one (1) matter; (C) to confer with Legal Counsel with respect to anticipated litigation – (Claim Filed): of significant exposure to litigation pursuant to subsection (b) of Section 54956.9 of the Government code: (1) Claimant(s): In re Claim of Hildebrand v City Department of Transportation; (2) Claimant(s): In re Claim of Ghenis v City; (D) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: (1) Property: 95 North Third Street, San José, CA 95113; APN: 467-21-002; Negotiating Parties: Jim Ortbal, Paul Krutko, Neil Stone for the City of San José and Steve Dunn for Legacy Partners; Likely Range of Value of Property: Negotiated price and terms of payment based on appraisal and comparable property values; (E) Conference with Legal Counsel – with respect to existing litigation Pursuant to Government Code Section 54956.9 subsection (a): (1) DAL Properties, et al v. City, et al; Names of Parties Involved: DAL Properties, LLC, a California limited liability company; Mark D. Lazzarini, an individual; Ghufraan Ahmed and Andaleeb Ahmed, husband and wife; Robert A. Bruce and Emmyu Chen, husband and wife; Juan E. Bettaglis and Brenda L. Bettaglio, husband and wife; Michael C. Mace and Bonnie A. Gold-Mace, husband and wife; Chucuong and Luu Trang, husband and wife;

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Shiang Meei Heh and Hsin-Shen Tai, husband and wife; Michael Rubino and Stephanie C. Rubino, husband and wife; Nils E. Larson and Sandra Ann S. Larson, husband and wife; Kirk M. Nuzum and Diane M. Nuzum, husband and wife; Kulwant Sidhu and Barinder Sidhu, Trustees of the Kulwant Sidhu and Barinder Sidhu Joint Living Trust; and Mary B. Hunt, Trustee of the Surviving Trustee of the Hunt Family Trust dated April , 1991, the City of San Jose, a Municipal Corporation, created under and in accordance with the laws of the State of California and also is a Charter City; Albert L. Amezquita and Dora E. Amezquita, Trustees of the Amezquita Trust dated March 9 2005; Kordian J.; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-128504; Amount of Money or Other Relief Sought: Damages according to proof; (2) Naymark, et al. v. City, et al.; Name(s) of Parties Involved: Janice Naymark, Ronald Naymark, City of San José, San José Police Department, Robert Davis, City of Campbell, Campbell Police Department, David Gullo, Town of Los Gatos, City of Monte Sereno, Los Gatos/Monte Sereno Police Department, Scott Seaman, City of Palo Alto, Lynn Johnson, City of Santa Clara, Santa Clara Police Department, Stephen D. Lodge, State of California, California Highway Patrol, Michael L. Brown, County of Santa Clara, Office of the Santa Clara County Sheriff, Laurie Smith and Does 1 through 25; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV080008; Amount of Money or Other Relief Sought: Injunctive Relief; (3) Grason v. City of San José, et al.; Names of Parties Involved: Kenneth Grason, City of San José, San José Chief of Police Robert Davis, Police Officer Vida, #3404, and Does 1-10; Court: United States District Court, Northern District of California; Case No.: C07-03687-JW; Amount of Money or Other Relief Sought: Damages according to proof; (4) Valdez, et al v. City, et al.; Francisco Valdez, Ricardo Vasquez, City of San José, San José Police Chief Robert Davis, Officer R. Agaman, and Does 1-2500; Court: United States District Court, Northern District of California; Case No.: C09-00176; Amount of Money or Other Relief Sought: Damages according to proof; (5) Paul Cicala, et al. v. City of San José et al.; Names of Parties Involved: Paul Cicala Enrico Sagullo, Erick Sanchez, City of San José, Robert Davis, Officers Ordaz, Higgins, Marfia, Kyono and Siegel and Does: Court: United States District Court, Northern District of California; Case No.: C08-04032 PVT; Amount of Money or Other Relief Sought: Damages according to proof; (6) City of San José v. Operating Engineers Local Union 3, et al.; Names of Parties Involved: City of San José, Operating Engineers Local Union 3 and Does 1-2000; Court: Court of Appeal, 6th Appellate District; Case No. H030272; Amount of Money or Other Relief Sought: Injunction to prevent strike/work stoppages; (7) Great Oaks Water, Inc. v. City, et al.; Names of Parties Involved: Great Oaks Water Company, Inc., John W.S. Roeder, Betty B. Roeder, Betty B. Roeder Trust A and William C. Miller, Jr. and Betty B. Roeder, Trustees of the Walters S. Roeder Trust B, the City of San José, the San José Redevelopment Agency, Southbay Water Recycling, Does 1-100; Court: Superior Court

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of California, County of Santa Clara; Case No.: 1-04-CV012008; Amount of Money or Other Relief Sought: Damages according to proof; (8) Diaz, et al. v. City; Names of Parties Involved: Juan Diaz, Keith Keesling, Christopher Murphy, Gary Weekley, Karen Allen and other employees similarly situated, City of San José; Court: United States District Court, Northern District of California; Case No.: C07-06424 JW; Amount of Money or Other Relief Sought: Damages according to proof; (9) Welch, et al. v City; Names of Parties Involved: Jeffrey Welch, Glen Bishop, Mitchell Witsinski, Robert Culbertson and other employees similarly situated, City of San José; Court: United States District Court, Northern District of California; Case No.: C08-02132 JW; Amount of Money or Other Relief Sought: Damages according to proof; (10) La Blanc v. City of San José, et al.; Names of Parties Involved: Julie La Blanc, City of San José, and Does 1-100; Case No.: 1-08-CV111250; Amount of Money or Other Relief Sought: In excess of \$25,000 according to proof; (11) Bernal et al. v. City, et al.; Names of Parties Involved: Mike C. Bernal, Susan R. Bernal, Nanetta Bernal, Lilian Bernal Auvinen, Katherine Lira, Diana Bernal-Tuyor, Mike A. Bernal, Gary James Bernal, Domenico Loverde, Tomas J. Martinez, Arthur Paul Lira, Jr., Jeremiah Lira, Sommer Kai Espoinosa, Lucia A. Bernal, Guillermo Espoinosa, City of San José, and Does 1-25; Court: Superior Court of California, County of Santa Clara; Case No.: 1-08-CV-116141; Amount of Money or Other Relief Sought: Damages according to proof; (12) City of San José v. Union Pacific Railroad Company; Names of Parties Involved: City of San José, Union Pacific Railroad Company, a Delaware Corporation, and Does 1-15; Court: Superior Court of California, County of Santa Clara; Case No.: 1-04-CV-026149; Amount of Money or Other Relief Sought: Seeking to obtain real property through eminent domain for fair market value; (13) De La Rosa, et al v. City of San José, et al.; Names of Parties Involved: Richard E. De La Rosa, Dennis Fong, Jose Mendoza, City of San José, Avo Makdessian and Does 1-100; Court: Superior Court of California, County of Santa Clara, Court of Appeals, 6th Appellate District; Case No.: 1-03-CV-817097 H031583; Amount of Money or Other Relief Sought: In excess of \$25,000 according to proof; (14) 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 of Commerce, the City of San José, San José Elections Commission, Does 1-10; Court: United States District Court, Northern District of California; Case No.: C06-04252 HRL; Amount of Money or Other Relief Sought: Challenge to SJMC 12.06.310; (15) Vietnamese-American Community of Northern California v. City of San José, et al., Names of Parties Involved: Vietnamese-American Community of Northern California, City of San José, City Council of San José, Court: Superior Court of California, County

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of Santa Clara; Case No.: 1-08-CV-107082; Amount of Money or Other Relief Sought: For declaratory and injunctive relief according to proof; (16) City v. Housing & Development Software; Names of Parties Involved: City of San José, Housing & Development Software, LLC, and Does 1-20; Court: United States District Court, Northern District of California; Case No. C04-05140 JF; Amount of Money or Other Relief Sought: Damages according to proof; (17) Sutter's Place, Inc. v. City, et al.; Names of Parties Involved: Sutter's Place, Inc., dba Bay 101, Garden City, Inc., City of San José, Hon. Read Ambler; Court: Superior Court of California, County of Santa Clara; Case No.: CV1-02-810068 (Consolidated with 1-02-CV810548, 1-02-CV795974 and 1-02-CV812404); Amount of Money or Other Relief Sought: Plaintiffs seek declaratory relief that the provisions of Title 16 eliminating backline betting, prohibiting gaming between 2:00 a.m. and 6:00 a.m., and requiring payment of hearing fees are unconstitutional. Plaintiffs further seek writs of Administrative Mandamus challenging the denial of hardship extensions under San José Municipal Code Section 16.20.010, et. Seq.; (18) Sutter's Place, Inc. v. City, et al.; Names of Parties Involved: Sutter's Place, Incl., dba Bay 1012, Garden City, Inc., City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-06-CV-065644 (Consolidated with Case No. 1-06-CV-068034); Amount of Money or Other Relief Sought: Plaintiffs seek declaratory relief regarding table fees. (19) Paixao v. City, et al.; Names of Parties Involved: Michael Paixao, City of San José, and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-08-CV-121597; Amount of Money or Other Relief Sought: Damages according to proof; (20) Berg & Berg Enterprises, LLC v. City, et al., Names of Parties Involved: Berg & Berg Enterprises, LLC, City of San José, San José City Council, and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 1-07-CV-091955; Amount of Money or Other Relief Sought: Damages according to proof; (21) Rancho San Vicente LLC v. City, et al., Names of Parties Involved: Rancho San Vicente LLC, City of San José, City Council of the City of San José and Joseph Horwedel, sued herein in his capacity as Director of Planning, Building and Code Enforcement of the City of San Jose, and Does 1-30; Court: Superior Court of California, County of Santa Clara; Case No.: 1-07-CV081056; Amount of Money or Other Relief Sought: Damages according to proof; (22) Calderon, et al. v. City, et al., Names of Parties Involved: Ascencion Calderon and Samuel Santana City of San José, San José Police Department, Officer Kepler, Officer McAlavey, and Does 1-20. Court: Superior Court of California, County of Santa Clara; Case No.: 1-07-CV088285. Amount of Money or Other Relief Sought: Damages according to proof; (23) Diamond Enterprises, et al. v. City of San José, et al.; Names of Parties Involved: Jenny Wolfes Diamond Enterprises, SJ dba Studio 8, City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-06-CV071844; Amount of Money or Other Relief Sought: Damages according to proof; (24) Fisher, et al. v. City of San José, et al., Names of Parties Involved: Steven Fisher, Sandra Fisher, City of San José, City of San José Police Department, Officer Barnet, Officer Boler, Officer Correa, Officer

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Esquivel, Officer Honda, Officer Kinsworthy, Officer O'Brien, Officer Ryan and Officer Nguyen; Court: United States District Court, Northern District of California, U.S. Court of Appeals, 9th Circuit Court; Case No. C01-21192 PVT 04-16095; Amount of Money or Other Relief Sought: Damages according to proof; (25) Kerkeles v. City of San José, et al.; Names of Parties Involved: Michael Kerkeles, a.k.a. Michael Kerk, City of San José, Matthew Christian and Does 1-25; Court: Superior Court of California, County of Santa Clara; Case No.: 1-08-CV-103523; Amount of Money or Other Relief Sought: Damages according to proof; (26) Moscoso v. City of San José, et al., Names of Parties Involved: Aleyda Maritza Moscoso, Personal Representative of the Estate of Jorge Luis Truillo, Robert L. Davis, City of San José and Does 1-25; Court: United States District Court, Northern District of California; Case No. C07 02998 JF; Amount of Money or Other Relief Sought: Damages according to proof; (27) Salinas v. City of San José, et al.; Names of Parties Involved: Noreen Salinas, City of San José, Chief Robert Davis, Taser International, Inc., and Does 1-10; Court: United States District Court, Northern District of California; Case No. C08-02625 RS; Amount of Money or Other Relief Sought: Damages according to proof; (28) Salinas, et al. v. City of San José, et al.; Names of Parties Involved: Roberta Salinas, by and through her guardian ad litem, Carlos Salinas; George Salinas, Frances Salinas, Carlos Salinas, Olivia Salinas, Loretta Salinas and the Estate of Steve Salinas, City of San José, a Municipal Corporation and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 1-08-CV-116174; Amount of Money or Other Relief Sought: Damages according to proof; (29) Watson, et al. v City of San José, et al.; Names of Parties Involved: Tracy Watson, Renee Stalker, Olivia Stalker, Shafer Watson, Riley Watson, County of Santa Clara, County of Santa Clara Department of Family and Children Services, County of Santa Clara Department of County Counsel, County of Santa Clara District Attorneys Office, Santa Clara County Medical Center, Evergreen School district, City of San José, San José Police Department, Norma Parks, Yazmina Letona, Sharon Burgan, Jewels Ramirez, Vu Tran; Ann Miller Ravel, Rima Singh, Aaron West, George Kennedy, Clifton Black, Rose Real; Robert Pruitt, Cheryl Harms, Claudia Blodgett, Gary Kishimoto, John Hamilton, Anita Noble, Janet kahle, Mary Ritter, David Kearns, Rajul Kazi, Rob Davis, William Hoyt, Craig Blank; Court: United States District Court, Northern District of California; Case No. C06-04029 RMW; Amount of Money or Other Relief Sought: Damages according to proof; (30) Williams, et al. v. City of San José, et al., Names of Parties Involved: Thomas Williams and Nancy Williams, individually and as joint personal representatives of the Estate of Ty Williams, Todd Williams, Trina Williams, and Keith Lusk, City of San José, Cristiano Bindi, individually and in his capacity as a police officer for the City of San José; Gregory Salad, individually and in his capacity as a police officer for the City of San José, and Does 3-10. Court: Superior Court of California, County

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of Santa Clara; Case No.: 1-07-CV100074; Amount of Money or Other Relief Sought: Damages according to proof; (31) Lefall, et al. v. City of San José; Names of Parties Involved: Dion Lefall, George Louie, Gloria Vaughn and Derrick Jackson for themselves and on behalf of all others similarly situated, City of San José. Court: Superior Court of California, County of Santa Clara; Case No.: 1-07-CV-094037; Amount of Money or Other Relief Sought: Damages according to proof; (32) Licking Enterprises, Inc. v. City, et al.; Names of Parties Involved: Licking Enterprises, Inc., City of San José a Municipal Corporation; San José City Council, Ron Gonzales, Cindy Chavez, Pat Dando, Ken Yeager, Chuck Reed, Forrest Williams, Linda J. Lezotte, Nora Campos, George Shirakawa, Jr., David Cortese, John Diquisto, sued in the official capacities; Court: United States District Court, Northern District of California; Case No. C07 00735 RMW (PVT); (33) Smith v. City of San José, et al.; Names of Parties Involved: Ted Smith, City of San José, San José Elections Commission and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-07-CV-089167; Amount of Money or Other Relief Sought: Damages according to proof; (34) International Association of Firefighters, et al v. City; Names of Parties Involved: City of San José, International Association of Firefighters, Local Union 230 and Does 1-50, San José Police Officer's Association; Court: Superior Court of California, County of Santa Clara; Case No.: 1-06-CV-075858 H032097; Amount of Money or Other Relief Sought: Damages according to proof; (35) Bojcic, et al. v. City of San José, et al.; Names of Parties Involved: Estate of Zaim Bojcic, Ajnija Bojcic, City of San José, San José Police Department, Officer Donald Guess; Court: United States District Court, Northern District of California; Case No. C05-03877 RS 07-17343; Amount of Money or Other Relief Sought: Damages according to proof; (36) City of San José, et al. v. Alvarez, et al.; Names of Parties Involved: City of San José and Santee Neighborhood Property Owners; Court: Superior Court of California, County of Santa Clara; Case No.: 1-06-CV-759667 and related cases; Amount of Money or Other Relief Sought: Permanent injunction; (37) Barrera, et al. v. City, et al.; Names of Parties Involved: Bernardino Barrera, Dolores Barrera, Maria Barrera, Jose Barrera, A.B., a minor child, by and through her Guardian ad Litem, Dolores Barrera, City of San José, Court: Superior Court of California, County of Santa Clara; Case No.: C09-00858 PVT; Amount of Money or Other Relief Sought: Damages according to proof; (F) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) 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; (2) International Brotherhood of Electrical Workers (IBEW); Nature of

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Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (3) 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; (4) 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; (5) 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; (6) 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; (7) 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. (8) San José Police Officers' Association (SJPOA); 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 (SJPOA); (9) International Association of Firefighters (IAFF), Local 230; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters (IAFF), Local 230. (10) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3 (OE#3). How to obtain a copy of existing contract or MOA: web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:42 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

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

Absent: Council Members - Chirco. (Excused)

INVOCATION

Vice Abbot Jian Ling of the Chung Tai Zen Center provided the Invocation. (District 4)

PLEDGE OF ALLEGIANCE

Mayor Reed, accompanied by students from Village Elementary School from the City of Campbell, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 11.3 was deferred to April 21, 2009.

CEREMONIAL ITEMS

1.1 Presentation of a proclamation to the Early Care and Family Literacy Department of the San José Library declaring the month of April as “Month of the Young Child” in the City of San José. (Chirco)

Action: Mayor Reed commended the Early Care and Family Literacy Department of the San José Library and recognized the month of April as “Month of the Young Child” in the City of San José.

1.4 Presentation of a commendation to Mark Tran for winning the “Audience Choice Awards” at the 19th Annual San José Cinequest Film Festival. (Kalra/Nguyen) (Rules Committee referral 4/1/09)

Action: Mayor Reed and Council Members Kalra and Nguyen recognized and commended Mark Tran for winning the “Audience Choice Awards” at the 19th Annual San José Cinequest Film Festival with his feature film “All About Dad”.

CONSENT CALENDAR

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

2.1 Approval of minutes.

- (a) Regular Minutes of February 3, 2009.**
- (b) Regular Minutes of February 10, 2009.**
- (c) Special Closed Session Minutes of February 17, 2009.**
- (d) Regular Minutes of February 24, 2009.**

Documents Filed: (1) The Regular Minutes dated February 3, February 10 and February 24, 2009. (2) Special Closed Session Meeting Minutes dated February 17, 2009.

Action: The minutes were approved. (10-0-1. Absent: Chirco.)

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28512 – Amending Chapter 17.08 of Title 17 of the San José Municipal Code to update the City’s Special Flood Hazard Regulations.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28512 executed on March 24, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28512](#) was adopted. (10-0-1. Absent: Chirco.)

- (b) **ORD. NO. 28513 – Rezoning certain real property situated on the southeast corner of Morrill Avenue and Landess Avenue (2148 Morrill Avenue, 3102 Landess Avenue) to CP Commercial Pedestrian Zoning District. C07-084**

Documents Filed: Proof of Publication of the title of Ordinance No. 28513 executed on March 24, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28513](#) was adopted. (10-0-1. Absent: Chirco.)

- (c) **ORD. NO. 28514 – Rezoning certain real property situated on the southeast corner of the intersection of The Alameda and Bush Street (746 The Alameda) to A(PD) Planned Development Zoning District. PDC08-062**

Documents Filed: Proof of Publication of the title of Ordinance No. 28514 executed on March 24, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28514](#) was adopted. (10-0-1. Absent: Chirco.)

- (d) **ORD. NO. 28515 – Rezoning certain real property situated on the north side of Camden Avenue approximately 300 feet east of Paso Los Cerritos (APN: 57-16-053) from the R-1-5 Single Family Residence Zoning District to the A(PD) Planned Development Zoning District. PDC07-078**

Documents Filed: Proof of Publication of the title of Ordinance No. 28515 executed on March 24, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28515](#) was adopted. (10-0-1. Absent: Chirco.)

- (e) **ORD. NO. 28516 – Rezoning certain real property situated on the west side of Rosemar Avenue, north of Juliet Park Drive to A(PD) Planned Development Zoning District. PDC06-063**

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 25, 2009, providing specific wording to be included in the Planned Development Rezoning. (2) Proof of Publication of the title of Ordinance No. 28516 executed on March 24, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28516](#) was adopted. (10-0-1. Absent: Chirco.)

- 2.2 (f) **ORD. NO. 28517 – Amending Title 16 of the San José Municipal Code, Gaming Control Regulatory Program, to clarify and enhance the scope, terms, conditions, and procedures of regulations of cardrooms and funding sources, and to make technical changes to the title.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28517 executed on March 31, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28517](#) was adopted. (10-0-1. Absent: Chirco.)

- (g) **ORD. NO. 28518 – Rezoning certain real property situated at the west side of North Eleventh Street approximately 300 feet north of East Santa Clara Street (55 N. 11th Street) to A(PD) Planned Development Zoning District. PDC08-005**

Documents Filed: Proof of Publication of the title of Ordinance No. 28518 executed on March 31, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28518](#) was adopted. (10-0-1. Absent: Chirco.)

- (h) **ORD. NO. 28519 – Rezoning certain real property situated on the north side of Michigan Avenue approximately 350 feet easterly of North 1st Street (APN 015-05-082) to A(PD) Planned Development Zoning District. PDC06-018**

Documents Filed: Proof of Publication of the title of Ordinance No. 28519 executed on March 31, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28519](#) was adopted. (10-0-1. Absent: Chirco.)

- (i) **ORD. NO. 28520 – Rezoning certain real property on the southwest corner of Hostetter Road and Frost Drive (1728 Hostetter Road) to A(PD) Planned Development Zoning District. PDC08-022**

Documents Filed: Proof of Publication of the title of Ordinance No. 28520 executed on March 31, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28520](#) was adopted. (10-0-1. Absent: Chirco.)

- (j) **ORD. NO. 28522 – Adopting the proposed Fifth Amendment to the Strong Neighborhoods Initiative Project Area Redevelopment Plan; and making certain findings.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28522 executed on March 31, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28522](#) was adopted. (10-0-1. Absent: Chirco.)

- 2.3 Adopt a resolution authorizing the City Manager to negotiate and execute an Other Transaction Agreement with the Transportation Security Administration (TSA), an agency of the United State Department of Homeland Security, to establish the respective obligations and other responsibilities of the City and the TSA regarding the Terminal B In-Line Checked Baggage Explosive Detection System and to provide for funding by the TSA of ninety percent (90%) of allowable costs of the baggage screening system not to exceed a maximum potential total reimbursement of \$22,339,800, for a term from the date of execution through completion and acceptance of the project. CEQA: Not a Project. (Airport)**

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated March 25, 2009, recommending adoption of a resolution.

Mayor Reed pulled Item 2.3 from the Consent Calendar to acknowledge the Staff and Transportation Security Administration for their outstanding work on the airport terminal project.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, [Resolution No. 74847](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Other Transaction Agreement with the Transportation and Security Administration for the Terminal B In-Line Checked Baggage Explosive Detection system with a Maximum Potential Total Reimbursement o \$22,339,800 for a Term from the Date of Execution of the Agreement through Completion and Acceptance of the Project”, was adopted. (10-0-1. Absent: Chirco.)

- 2.4 Approve settlement and authorize the City Attorney to execute a Settlement Agreement and Mutual Release relating to the City of San José’s claim against Maxim Integrated Products, Inc. (“Maxim”), for sanitary sewer and San José/Santa Clara Water Pollution Control Plant connection fees upon payment by Maxim of \$532,000 and upon Maxim’s agreement to accept connection approval for, and an Industrial Wastewater Discharge Permit limit of, 200,000 gallons per day, as considered by the City Council during the Closed Session held on February 3, 2009. CEQA: Not a Project. (City Attorney’s Office)**

Documents Filed: Memorandum from City Attorney Rick Doyle, dated March 18, 2009, recommending execution of a settlement agreement and mutual release.

Action: The Settlement Agreement and Mutual Release relating to the City of San José’s claim against Maxim Integrated Products, Inc., for sanitary sewer and San José/Santa Clara Water Pollution Control Plant was approved. (10-0-1. Absent: Chirco.)

- 2.5 Approve settlement and authorize payment to Kenneth Grason in the amount of \$360,000 pursuant to a Settlement Agreement and Release, as considered by the City Council during Closed Session held on March 17, 2009. CEQA: Not a Project. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Rick Doyle, dated March 26, 2009, recommending approval of a settlement and authorization of payment.

Action: The settlement and authorized payment to Kenneth Grason pursuant to a Settlement Agreement and Release, as considered by the City Council during Closed Session held on March 17, 2009, was approved. (10-0-1. Absent: Chirco.)

- 2.6 Adopt a resolution declaring the results of the March 3, 2009 District 7 Recall Election pursuant to Elections Code Sections 11328 and 15400. (City Clerk)**

Documents Filed: Memorandum from City Clerk Lee Price, dated March 24, 2009, certifying results of the Recall Election held March 3, 2009.

Action: [Resolution No. 74848](#), entitled: "A Resolution of the Council of the City of San José Reciting that a Recall Election in District 7 was Held in the City of San José on Tuesday, March 3, 2009; 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 and the Number of Votes Given at each Precinct on the Recall Measure; and Stating the Results of the Recall Election", was adopted. (10-0-1. Absent: Chirco.)

- 2.7 Adoption of a resolution authorizing the submittal of an application to the United States Bureau of Reclamation for approximately \$16 million stimulus funding through 2009 American Recovery and Reinvestment Act for water recycling projects. CEQA: Not a Project. (Environmental Services)**

Action: Dropped per Administration.

- 2.8 Adopt a resolution authorizing the Director of Housing to reallocate certain funds from the March 2008 Notice of Funding Availability to make second mortgage loans in an aggregate amount not to exceed \$700,000 to homebuyers of high-rise condominium projects in downtown San José. CEQA: Not a Project. Council District 3. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated March 16, 2009, recommending adoption of a resolution.

Action: [Resolution No. 74849](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Make Second Mortgage Loans to Homebuyers of High-Rise Condominium Projects in Downtown San José", was adopted. (10-0-1. Absent: Chirco.)

- 2.9 Approve a first amendment to the grant agreement with Santa Clara Valley Transportation Authority to continue and extend the grant agreement from September 30, 2006 to June 30, 2009, for receipt of Measure B Bicycle Program funds in the amount of up to \$500,000 for the feasibility and environmental studies completed for the Los Gatos Creek Trail Reach 5 Project. CEQA: Mitigated Negative Declaration, File No. PP06-112. Council Districts 3 and 6. SNI: Delmas Park Burbank/Del Monte. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 16, 2009, recommending approval of a first amendment to a grant agreement.

Action: A first amendment to the grant agreement with Santa Clara Valley Transportation Authority to continue and extend the grant agreement from September 30, 2006 to June 30, 2009, for receipt of Measure B Bicycle Program funds in the amount of up to \$500,000 for the feasibility and environmental studies completed for the Los Gatos Creek Trail Reach 5 Project was approved. (10-0-1. Absent: Chirco.)

- 2.10 (a) Approve the Piercy Park Master Plan;**
(b) Approve a Turnkey Parkland Agreement for Tentative Map No. PT07-047 with KB Home South Bay, Inc. (“Developer”) to construct park improvements and dedicate approximately 0.8 acres of parkland to the City on the future Piercy Park site; and
(c) Adopt a resolution authorizing the City Manager, or designee, to negotiate and execute a park maintenance agreement between the City and the Homeowner Association, which will be created at a later date by the Developer for the residential units identified on Tentative Map No. PT07-047, to maintain the Piercy Park Site as outlined in Planned Development Rezoning PDC06-102 and Planned Development Permit PD07-054.

CEQA: Negative Declaration, File No. PDC06-102 and addenda thereto, File No. PP08-192. Council District 2. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 16, 2009, recommending approval of the Piercy Park Master Plan and Turnkey Parkland Agreement.

Action: The Piercy Park Master Plan and Turnkey Parkland Agreement with KB Home and South Bay, Inc. were approved, and [Resolution No. 74850](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Negotiate and Execute a Park Maintenance Agreement with the Homeowner Association, which will be Created at a Later Date by KB Home South Bay, Inc., the Developer, for the Residential Units Identified on Tentative Map No. PT07-047, to Maintain the Piercy Park Site as Outlined in Planned Development Rezoning PDC06-102 and Planned Development Permit PD07-054”, was adopted. (10-0-1. Absent: Chirco.)

- 2.11 Adopt a resolution authorizing the Director of Public Works to execute, on behalf of the City, a deed quitclaiming any property interest or first right of refusal which the City may have in Assessor Parcel No. 660-19-007 (3761 Yerba Buena Road), and that was granted to a prior owner. CEQA: Not a Project. Council District 8. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 16, 2009, recommending adoption of a resolution.

Action: [Resolution No. 74851](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute, on Behalf of the City, a Deed Quitclaiming any Property Interest or First Right of Refusal in Assessor Parcel No. 660-19-007”, was adopted. (10-0-1. Absent: Chirco.)

- 2.12 Approve the first amendment to the agreement with Wolf/Lang/ Christopher Architects, Inc. for architectural consultant services for the Fire Station No. 2 Rebuild Project extending the term of the agreement from June 30, 2009 to September 30, 2010, and increasing the total compensation by \$40,000 from \$558,000 to an amount not to exceed \$598,000. CEQA: Exempt, File No. PPO5-220. Council District 5. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 16, 2009, recommending approval of a first amendment to an agreement.

Action: The first amendment to the agreement with Wolf/Lang/ Christopher Architects, Inc. for architectural consultant services for the Fire Station No. 2 Rebuild Project to extend the term of the agreement and increasing total compensation was approved. (10-0-1. Absent: Chirco.)

- 2.13 Approve an amendment extending for five (5) years a lease with Del Monte Partners for office space located at 7800 Arroyo Circle in Gilroy, California occupied by Work2Future, at a monthly rental rate of \$10,097 for the first extension year with annual increases of approximately 1.5% to a maximum rent of \$10,717 per month during the final year of the lease, and including with five (5) one-year options with each year’s option rent increased at an annual rate of 1.5%. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 16, 2009, recommending approval to extend the Work2Future lease agreement.

Action: The amendment extending a five-year lease with Del Monte Partners for office space located at 7800 Arroyo Circle in Gilroy, California occupied by Work2Future, with annual increases and five (5) one-year options was approved. (10-0-1. Absent: Chirco.)

- 2.14 Approve the first amendment to the agreement for consultant services for the Bascom Library and Community Center with Rob Wellington Quigley, FAIA, modifying the scope of services and increasing the amount of compensation by \$120,000, for a total agreement amount not to exceed \$2,562,640. CEQA: Exempt, File No. PP07-081. Council District 6. (Public Works/Library/Parks, Recreation and Neighborhood Services)**

Documents Filed: Joint Memorandum from Director of Public Works Katy Allen, Library Director Jane Light and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 16, 2009, recommending approval of a first amendment to an agreement.

Public Comment: Ross Signorino stressed the importance of the library system.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the first amendment to the agreement for consultant services for the Bascom Library and Community Center with Rob Wellington Quigley, FAIA, modifying the scope of services and increasing the amount of compensation was approved. (10-0-1. Absent: Chirco.)

- 2.15 (a) Adopt 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 the estimate for Earned Revenue by \$333,440.**
 - (2) Increase the appropriation to the Department of Public Works for the Non-Project specific DPW Services Project (PSM 393 Amendment #2) in the amount of \$28,000.**
 - (3) Decrease the appropriation to the Department of Public Works for the Santa Clara Street Green Mobility Sidewalk Improvement Projects (PSM 555) in the amount of \$28,000.**
 - (4) Increase the appropriation to the Housing Department for the SNI – Multi-Family Home Improvement Program (PSM 470 Amendment #3) in the amount of \$200,025.**
 - (5) Increase the appropriation to the General Services Department for the Children’s Discovery Museum Exhibit Shop Infrastructure and Safety Improvements Project (PSM 533) in the amount of \$48,415.**
 - (6) Establish the appropriation to the Department of Public Works for the Autumn Street Extension Project – Staff and Third Party Real Estate Services (PSM 570) in the amount of \$75,000.**
 - (7) Establish the appropriation to the Department of Public Works for the McLaughlin Neighborhood Park – Staff and Third Party Real Estate Services (PSM 571) in the amount of \$10,000.**
- (b) Adopt a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Children’s Discovery Museum Exhibit Shop Infrastructure and Safety Improvements Project as more specifically described in the memorandum from the Redevelopment Agency, dated April 24, 2008.**

2.15 (Cont'd.)

CEQA: Non-Project Specific DPW Services: Not a Project; SNI – Multi Family Home Improvement Program: Exempt, PP09-054; Children’s Discovery Museum Exhibit Shop Infrastructure and Safety Improvements Project: Use of San José Downtown Strategy 2000 Final EIR, Resolution No. 72767 Adopted on June 21, 2005 File No. PP08-082; Autumn Street Extension Project – Staff and Third Party Real Estate Services: Not a Project; McLaughlin Neighborhood Park – Staff and Third Party Real Estate Services: Not a Project. (Public Works/General Services/Housing/City Manager’s Office)

Documents Filed: Joint memorandum from Director of Public Works Katy Allen, Director of General Services Peter Jensen, Director of Housing Leslye Krutko and Budget Director Jennifer Maguire, dated March 16, 2009, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 28523](#), 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 Non-Project Specific Department of Public Works Projects, for the SNI Multi-Family Home Improvement Program, for the Children’s Discovery Museum Exhibit Shop Infrastructure and Safety Improvements Project, for the Autumn Street Extension Project – Staff and Third Party Real Estate Services, and for the McLaughlin Neighborhood Park – Staff and Third Party Real Estate Services; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, [Resolution No. 74852](#), 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”, and [Resolution No. 74853](#), 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 Guadalupe-Auzerais Redevelopment Area”, were adopted. (10-0-1. Absent: Chirco.)

2.16 Request for excused absences for Vice Mayor Chirco.

- (a) Request for an excused absence from the Regular Meeting of the Rules and Open Government Committee on March 18, 2009 due to Authorized City Business.**
 - (b) Request for an excused absence from the Closed Session and Regular Meeting of the City Council on March 24, 2009 due to Illness.**
- (Chirco)**
(Rules Committee referral 3/25/09)

Documents Filed: Memoranda from Vice Mayor Chirco, dated March 18, 2009, requesting an excused absence due to authorized City business, and dated March 23, 2009, requesting an excused absence due to illness.

Action: The absences for Vice Mayor Chirco were excused.

2.17 Request for an excused absence for Council Member Chu from the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on April 16, 2009 due Authorized City Business: League of California Cities Board Meeting in Sacramento, CA. (Chu)

Documents Filed: Memorandum from Council Member Chu, dated March 18, 2009, requesting an excused absence due to authorized City business.

Action: The absence for Council Member Chu was excused.

2.18 As recommended by the Rules and Open Government Committee on March 11, 2009 and March 25, 2009:

(a) **Re-appoint Trudy Ellerbeck and Rick Partridge to the Project Diversity Screening Committee.**

(b) **Appoint Maria A. Trejo, Buu Thai, Victor Nakamoto, and Al Reinig to the Project Diversity Screening Committee.**

(Mayor/Nguyen/Pyle)

(Rules Committee referral 3/11/09 – Item 9.1 and 3/25/09 – Item 9.1)

Documents Filed: Memorandum from City Clerk Lee Price, dated March 26, 2009, submitting Project Diversity Screening Committee Appointments.

Action: The reappointment of Trudy Ellerbeck and Rick Partridge and the appointments of Maria A. Trejo, Buu Thai, Victor Nakamoto, and Al Reinig to the Project Diversity Screening Committee were approved. (10-0-1. Absent: Chirco.)

2.19 Adopt a resolution to:

(a) **Initiate proceedings to nominate and consider the residence located at 55 North 11th Street as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.**

(b) **Set a public hearing on Tuesday, May 19, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structure.**

(c) **Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.**

CEQA: Not a Project. SNI: 13th Street. Council District 3.

(City Council referral 3/24/09 – Item 4.7)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated March 23, 2009, recommending adoption of a resolution.

Action: [Resolution No. 74854](#), entitled: “A Resolution of the Council of the City of San José Nominating and 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 Tommie Smith House, Presently Located at 55 North Eleventh Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, was adopted. (10-0-1. Absent: Chirco.)

2.20 Authorize the City Manager and Chief of Police to apply for grant funds through the COPS Hiring Recovery Program (CHRP). CEQA: Not a Project. (Police) (Rules Committee referral 4/1/09)

Documents Filed: Memorandum from Deputy City Manager Deanna J. Santana, dated March 30, 2009, addressing completion of the COPS Hiring Recovery Program memorandum. (2) Memorandum from Chief of Police Robert L. Davis, dated April 6, 2009, requesting authorization for the City Manager and Chief of Police to apply for grant funds through the COPS Hiring Recovery Program.

Action: Authorization for the City Manager and Chief of Police to apply for grant funds through the COPS Hiring Recovery Program was approved. (10-0-1. Absent: Chirco.)

**2.21 (a) Approve Operation Prom Dress as a City Council sponsored Special Event;
(b) Approve and accept donations from various individuals, businesses or community groups to support the Operation Prom Dress. (City Clerk)
[Rules Committee referral 3/25/09 – Item 10.4]**

Documents Filed: Memorandum from City Clerk Lee Price, dated April 3, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Action: Designation of Operation Prom Dress as a City Council sponsored Special Event including acceptance of donations to support Operation Prom Dress was approved. (10-0-1. Absent: Chirco.)

**2.22 (a) Approve the District 10 Disaster and Emergency Preparedness Conference as a City Council sponsored Special Event; and
(b) Approve and accept donations from various individuals, businesses or community groups to support the event. (City Clerk)
[Rules Committee referral 4/1/09 – Item 10.1]**

Documents Filed: Memorandum from City Clerk Lee Price, dated April 3, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Action: Designation of District 10 Disaster and Emergency Preparedness Conference as a City Council sponsored Special Event including acceptance of donations to support the Conference was approved. (10-0-1. Absent: Chirco.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone: (1) Announced the appointment of Teresa Deloach Reed as Assistant Fire Chief; (2) Reported on progress made with History San José and the Administration's plan to return to Council with a new operating agreement within the next few months; (3) Highlighted two information memoranda circulated this week, addressing an unprecedented decline in County property tax revenues and reporting impacts to retirement funds.

Mayor Reed reported that he will be issuing a press release and requesting that the Council discuss updated budget projections on April 14, 2009.

3.2 Report of the Rules and Open Government Committee – March 11, 2009 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated March 11, 2009.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the Report of the Rules and Open Government Committee and the actions of March 11, 2009 were accepted. (10-0-1. Absent: Chirco.)

3.3 Report of the Public Safety, Finance and Strategic Support Committee – March 19, 2009 Councilmember Nguyen, Chair

Documents Filed: The Report of the Public Safety, Finance and Strategic Support Committee Report dated March 19, 2009.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Herrera and carried unanimously, the Report of the Public Safety, Finance and Strategic Support Committee and the actions of March 19, 2009 were accepted. (10-0-1. Absent: Chirco.)

- 3.4
- (a) **Authorize the City Manager to negotiate and execute a Total Health and Disease Management (THDM) service agreement with MedExpert International, Inc., through June 30, 2010, for a total cost of the initial agreement period to not exceed \$304,010 (\$42,420 for the remainder of FY 08-09 and \$261,590 for FY 09-10).**
 - (b) **Authorize the City Manager to execute two options to extend the term of the Agreement through fiscal year 2012 and increase the annual amounts not to exceed \$296,940 for Option 1 (FY 2010-2011) and not to exceed \$296,940 for Option 2 (FY 2011-2012), subject to the appropriation of funds by the City Council.**
 - (c) **Authorize the City Manager to negotiate and execute Confidentiality and Indemnification Agreements with MedExpert International, Inc., Kaiser Permanente, Blue Shield of California, and UnitedHealth Company in order to implement the THDM. CEQA: Not a Project. (Human Resources)**

3.4 (Cont'd.)

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated March 25, 2009, recommending adoption of a resolution.

Director of Human Resources Mark Danaj offered a presentation on the proposed Total Health and Disease Management Service and responded to questions from Council.

Action: Upon motion from Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74855](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute and Agreement with MedExpert International to Provide Total Health and Disease Management (THDM) Services to Eligible Employees and their Dependents and Retirees and their Beneficiaries as a Pilot Wellness Program for Health Care Cost Containment”, was adopted. (10-0-1. Absent: Chirco.)

3.6 **As referred by the Rules and Open Government Committee on March 11, 2009, consider a resolution confirming and indicating current Council support for the existing General Plan and zoning designations on the former San José Medical Center site (675 East Santa Clara Street). (Mayor/Liccardo) [Rules Committee referral 3/11/09 – Item 10.2]**

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

Public Comment: Rosalyn Dean, Nancy Hickey (Coalition for a Downtown Hospital) and Greg Miller (California Nurse’s Association) spoke in support of the zoning designations of the former San José Medical Center site. Gary Schoennauer, planning consultant for the project, spoke on the latest draft review and offered his support of the plan. Ross Signorino asked for clarification of its designation as a hospital or a clinic.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, [Resolution No. 74856](#), entitled: “A Resolution of the Council of the City of San José Confirming the Current General Plan and Zoning Designations Applicable to that Certain Real Property Located at 675 East Santa Clara Street (APNS 467-14-1,2,3,6,7,8,9,10,52,82,86,87,88 and 89; 467-15-084), Affirming Current Council Support for those Existing General Plan and Zoning Designations, Directing the Administration to Inform Prospective Applicants for Development Approvals at this Subject Real Property of the Adoption of this Resolution, Directing the Administration to Discourage Prospective Applicants for Development Approvals at this Subject Property from Submitting Such Development Approval Applications in Certain Circumstances, and Directing the City Clerk to Record this Resolution with the Recorder’s Office of Santa Clara County”, was adopted, with an amendment to include every HCA-owned parcel in the area bound between South 12th, South 17th, St. James and East Santa Clara Streets. (10-0-1. Absent: Chirco.)

- 3.7 (a) **Accept the City Manager’s response to the City Council’s referral on how and whether the City can accurately survey the demographics characteristics of people in the Downtown Entertainment Zone.**
- (b) **City Council consideration on how it would like to proceed with respect to conducting a Demographic Study in the Entertainment Zone.**
- (City Manager)
[Public Safety, Finance & Strategic Support Committee referral 3/23/09 – Item 3.2]

Action: Deferred to April 21, 2009 per Administration.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 **Report of the Community & Economic Development Committee – March 23, 2009** **Councilmember Pyle, Chair**

Documents Filed: The Community & Economic Development Committee Report dated March 23, 2009.

Public Comment: David Wall spoke in opposition to the memorandum issued by the Director of Housing regarding the Housing and Recovery Act.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the Report of the Community & Economic Development Committee and the actions of March 23, 2009 were accepted. (10-0-1. Absent: Chirco.)

- 4.2 **As referred by the Community and Economic Development Committee of February 23, 2009, accept the status report and consider continuation of the sidewalk café permit program on a permanent basis and eliminate the automatic expiration dates that would sunset the program under the most recent ordinance revision that took effect on May 30, 2008. CEQA: Exempt. (Planning, Building and Code Enforcement)**
[Community and Economic Development referral 2/23/09 – Item (c)(2)]
(Deferred from 3/10/09 – Item 4.5)

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated February 26, 2009, transmitting the recommendations of the Community and Economic Development Committee. (2) Memorandum from Chief Development Officer Paul Krutko, dated March 23, 2009, in response to questions raised by the Mayor’s Office prior to the original March 10, 2009 Council Hearing.

Director of Planning, Building and Code Enforcement Joseph Horwedel, presented an updated status report and responded to questions from Council.

4.2 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the status report and continuation of the sidewalk café permit program on a permanent basis, including the elimination of the automatic expiration dates that would sunset the program under the most recent ordinance revision, was accepted. (10-0-1. Absent: Chirco.)

4.3 **Direct the City Manager to develop and bring back to City Council for consideration:**

- (a) **Amendments to Title 13 of the Municipal Code to streamline the Tree Removal Process for trees located on single-family and duplex private properties;**
- (b) **Amendments to the City Council Policy 6-30: Public Outreach, relating to Tree Removal Permit; and**
- (c) **A fee to recover the Administration's costs associated with administering that streamlined tree removal process.**

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

(Deferred from 3/17/09 – Item 4.2 and 3/24/09 – Item 4.2)

Action: Deferred to April 21, 2009 in the Evening per District 1.

4.4 **Conduct a Public Hearing and approve an ordinance amending Sections 23.02.800 and 23.02.1220 of Chapter 23.02 of Title 23 of the San José Municipal Code, amending Sections 23.04.010 and 23.04 and adding a new Section 23.02.365, to create the Stevens Creeks Boulevard Signage Area, establish regulations therefore, and make related clarifying changes. CEQA: Resolution No. 65459, File No. PP08-273. (Planning, Building and Code Enforcement)**

Action: Deferred for 30 Days Per District 1.

4.5 **As recommended by the Historic Landmarks Commission, formally nominate former Fire Station Number One for City Landmark designation and recommend that the City Council adopt a resolution to:**

- (a) **Initiate proceedings to consider Fire Station Number One, located at 201 N. Market Street, as City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.**
- (b) **Set a public hearing on June 9, 2009 at 1:30 p.m.**
- (c) **Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.**

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

Action: Dropped per Administration. To Return to Rules and Open Government Committee April 8, 2009.

- 4.7 (a) Conduct a public hearing and adopt a resolution designating the McMillan House on a 0.22-acre site the Reed City Landmark Historic District located at the west side of S. Sixth Street, approximately 250 feet south of E. William Street (525 S. Sixth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-176)
- (b) Conduct a public hearing and adopt a resolution approving the Historical Property Contract (California Mills Act Contract No. MA08-008) between the City of San José and the owner of the McMillan House (Michael J. Reandeu). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. SNI: University. Council District 3. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, March 16, 2009, recommending adoption of a resolution. (2) Affidavit of Routing, executed on April 17, 2009 and distributed by the City Clerk. (3) Proof of Publication of Notice of Public Hearing, executed on February 13, 2009, 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 Herrera, and carried unanimously, [Resolution No. 74857](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the McMillan House Located at 525 S. Sixth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, and [Resolution No. 74858](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Michael J. Reandeu for the McMillan House (City Landmark No. HL08-176)”, were adopted. (9-0-2. Absent: Chirco, Nguyen.)

- 4.8 (a) Conduct a public hearing and adopt a resolution designating the Lynwood Apartments on a 0.22-acre site in the Reed City Landmark Historic District located at the west side of S. Sixth Street, approximately 270 feet south of E. William Street (553 S. Sixth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-177)
- (b) Conduct a public hearing and adopt a resolution approving the Historical Property Contract (California Mills Act Contract No. MA08-009) between the City of San José and the owner of the Lynwood Apartments (Michael J. Reandean). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. SNI: University. Council District 3. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, March 16, 2009, recommending adoption of a resolution. (2) Affidavit of Routing, executed on April 17, 2009 and distributed by the City Clerk. (3) Proof of Publication of Notice of Public Hearing, executed on February 13, 2009, 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 Herrera, and carried unanimously, [Resolution No. 74859](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Lynwood Apartments Located at 553 South Sixth Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, and [Resolution No. 74860](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Michael J. Reandean for the Lynwood Apartments (City Landmark No. HL08-177)”, were adopted. (9-0-2. Absent: Chirco, Nguyen.)

- 4.9 (a) Conduct a public hearing and adopt a resolution designating the Kimura Residence on a 0.22-acre site located at the east side of N. Third Street, approximately 450 feet southerly of Jackson Street (556 N. Third Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-178)
- (b) Conduct a public hearing and adopt a resolution approving the Historical Property Contract (California Mills Act Contract No. MA08-010) between the City of San José and the owner of the Kimura Residence (Lance Shoemaker & James Williams). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. Council District 3. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, March 16, 2009, recommending adoption of a resolution. (2) Affidavit of Routing, executed on April 17, 2009 and distributed by the City Clerk. (3) Proof of Publication of Notice of Public Hearing, executed on February 13, 2009, 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 Herrera, and carried unanimously, [Resolution No. 74861](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Kimura House Located at 556 North Third Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, and [Resolution No. 74862](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Lance Shoemaker and James Williams for the Kimura House (City Landmark No. HL08-178)”, were adopted. (9-0-2. Absent: Chirco, Nguyen.)

- 4.10 (a) Conduct a public hearing and adopt a resolution designating the Reverend G. A. Miller Residence on a 0.136-acre site located at the east side of S. Sixth Street, approximately 150 feet north of W. San Fernando Street (80 S. Sixth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-179)
- (b) Conduct a public hearing and adopt a resolution approving the Historical Property Contract (California Mills Act Contract No. MA08-011) between the City of San José and the owner of the Reverend G. A. Miller Residence (Marvin K. Williams). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. SNI: 13th Street. Council District 3. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, March 16, 2009, recommending adoption of a resolution. (2) Affidavit of Routing, executed on April 17, 2009 and distributed by the City Clerk. (3) Proof of Publication of Notice of Public Hearing, executed on February 13, 2009, 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 Herrera, and carried unanimously, [Resolution No. 74863](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Reverend G. A. Miller Residence Located at 80 S. Sixth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, and [Resolution No. 74864](#), entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Marvin K. Williams for Reverend G. A. Miller Residence (City Landmark No. HL08-179)”, were adopted. (9-0-2. Absent: Chirco, Nguyen.)

- 4.11**
- (a) Adopt the proposed Asset Management Principles as detailed in Attachment A of the staff memorandum.**
 - (b) Approve the activities and timeline for asset management work to be conducted in 2009.**
 - (c) Direct the Administration and the City Attorney's Office to develop amendments to the Municipal Code, and return for City Council consideration to:**
 - (1) Delegate authority to the City Manager to negotiate and execute agreements for property that the City Council has declared as surplus to the needs of the City, that is up to one-half (1/2) acre in size, and for which the compensation is \$250,000 or less;**
 - (2) Increase the authority of the City Manager to negotiate and execute leases of City property having a maximum value of \$250,000; and**
 - (3) Modify the process for sale of surplus property at auction to provide a more flexible competitive process.**
 - (d) Adopt a resolution declaring the sixteen (16) properties listed below and as detailed in Attachment B of the staff memorandum as surplus to the needs of the City, and authorizing the City Manager to sell or lease such properties in accordance with the Municipal Code, and any other City policies, as they may be amended from time to time, and in accordance with applicable state law:**
 - (1) Hedding/Hwy 87, APN# 23037020.**
 - (2) N. San Pedro St./W. Taylor, APN# 25905048.**
 - (3) Clayton Ave./Rte. 87, APN# 25922029.**
 - (4) Coleman Ave./Ryland, APN# 25922053.**
 - (5) E. Reed St./S. 4th, APN# 47227106.**
 - (6) Fallingtree Dr./Royal Tree, APN# 24403001.**
 - (7) Bethany Ave./Largo Dr, APN# 58903004.**
 - (8) Saron Dr./Sunset Ct, APN# 48121114.**
 - (9) Sierra Grande Way/S. Capitol Ave., APN# 48443014.**
 - (10) Sherwood Ave./Hamline, APN# 23021078.**
 - (11) Bird Ave./Atlanta, APN# 26446179.**
 - (12) N. Daniel Way/Forest Ave., APN# 27444002.**
 - (13) Dove Hill Rd./Deans Pl., APN# 67681005.**
 - (14) 502 Calero Ave., APN# 68731042.**
 - (15) 1494 Ridgewood Dr., APN# 56912034.**
 - (16) 20399 Almaden Rd., APN# 58313013.**
 - (e) Direct the Administration to review Council Policies 7-1, Below Market Rental; 7-3, Disposition of Surplus City Owned Real Properties; and 7-12, Free Use of Community Center Reuse Sites; for possible revisions based on the proposed Asset Management Principles.**

CEQA: Not a Project. (Public Works/General Services)

Documents Filed: (1) Memorandum from Director of General Services Peter Jensen and Director of Public Works Katy Allen, dated March 24, 2009, recommending asset management principles and key activities and adoption of a resolution. (2) Letter from Silicon Valley Council of Nonprofits, dated April 7, 2009, regarding actions related to asset management principles and key activities.

4.11 (Cont'd.)

Deputy City Manager Ed Shikada offered a presentation on asset management principles.

Public Comment: Brian Padilla (Brian's Welding) asked that any lease or purchase offer be reasonable. David Wall advised against selling the properties while the market is unreasonably low.

Action: Upon motion by Council Member Kalra, seconded by Council Member Liccardo and passed unanimously, the proposed Asset Management Principles as detailed in the staff memorandum were adopted, the activities and timeline for asset management work to be conducted in 2009 and amendments to the Municipal Code were approved, and [Resolution No. 74865](#), entitled: "A Resolution of the Council of the City of San José Declaring that Sixteen Parcels of City-Owned Property is not needed for nor Adaptable to the Needs of the City, and Authorizing the City Manager to Proceed with the Sale or Lease of Such Surplus Real Property in Accordance with the Applicable Provisions of the Municipal Code and any City Policies, including any Amendments thereto, and Applicable State Law", was adopted. (10-0-1. Absent: Chirco.)

NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – March 12, 2009 Councilmember Campos, Chair

Documents Filed: The Neighborhood Services & Education Committee Report, dated March 12, 2009.

Action: Upon motion by Council Member Campos, seconded by Council Member Herrera, and carried unanimously, the Neighborhood Services & Education Committee Report and the actions of March 12, 2009 were accepted. (10-0-1. Absent: Chirco.)

RECESS/RECONVENE

The City Council recessed 3:32 p.m. from the afternoon Council Session and reconvened at 7:09 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Chirco. (Excused)

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

CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to Yennie Shyu for winning the Lions International Peace Poster Contest. (Chu)
Heard in the Evening.**

Action: Mayor Reed and Council Member Chu recognized and commended Yennie Shyu for winning the Lions International Peace Poster Contest.

- 1.3 Presentation of a commendation to the recipients of the Keep San José Beautiful Steering Committee “Community Improvement Awards” in recognition for their commitment to volunteer their time to beautify a property in San José. (Nguyen)**

Action: Mayor Reed, and Council Members Chu and Nguyen recognized and commended the recipients of the Keep San José Beautiful Steering Committee “Community Improvement Awards” in recognition for their commitment to volunteer their time to beautify a property in San José.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board Reconvened at 7:15 p.m. to Consider Item 9.1 in a Joint Session.

- 9.1 (a) Discuss actions that San José can take to prepare for the possibility that Major League Baseball (MLB) makes a decision allowing the Athletics (A’s) to consider relocating to San José**
- (b) Direct staff to prepare and return to Council with a Resolution indicating the desire of the City of San José to support the A’s if MLB favors a relocation of the A’s to San José; and, indicating that the City is willing to accommodate the A’s on the site at Park Avenue and Autumn/Montgomery Streets.**
- (c) Direct a team of City and Redevelopment Agency staff to assess what steps may need to be taken to prepare the site at Park Avenue and Autumn/Montgomery Streets for potential consideration, and develop an outreach program to neighboring residents and businesses.**
- (d) Direct staff to provide a status report and recommendations for additional actions that may need Council authorization to the Community and Economic Development Committee within two months of the April 7th Council hearing followed by a discussion at the City Council.**

(Mayor)

[Rules Committee referral 3/11/09 – Item 10.1(b)]

Renumbered from Item 3.5

- 9.1** Documents Filed: (1) Memorandum from Mayor Reed, dated April 2, 2009, supporting the recommendation to bring the “A’s” Major League Baseball Team to San José. (2) Memorandum from City Clerk Lee Price, dated March 26, 2009, transmitting the recommendations of the Rules and Open Government Committee. (3) Statement and Declaration of Conflict of Interest Form from Council Member Liccardo, dated April 7, 2009. (4) Correspondence from City of San José residents in support of relocating the A’s Baseball Stadium to San José. (5) Correspondence from City of San José residents offering concerns and opposition to relocation of the baseball stadium.

Council Member Liccardo abstained from this item due to a conflict of interest.

Executive Director of the Redevelopment Agency Harry S. Mavrogenes, offered a presentation on accommodating the A’s baseball stadium on the recommended site.

Public Comments: Speaking in support of locating the A’s Stadium to San José were: Michael Mulcahy, former Mayor of San José Janet Gray Hayes, Patricia Ernstrom (San José Sports Authority), Don Gagliardi (Soccer Silicon Valley), Larry Stone, Jackie Heffner, Dan Orloff, Rich Kazanjian, Matt Ross, Michael Robertson, Paul Higgins, Michael Busselen, Paul Silverglate, Josh Russell, Erik Klaubert, Steven Burbank (Market/Almaden Neighborhood Association), Peter Kilstad, Tony Morici, John Pastier, Erik Smith, Frank Penrose, Jeff Waite, Charles MacNair, Ross Signorino, Sam Chuck, Kelly Snider, Scott Knies, Aaron Ross, Matt Wilcox, Cyril Isnard, Carl Guardino and former Mayor of San José Susan Hammer. Speaking in opposition to the location of the A’s Stadium were: Kathryn Mathewson, Ulana Legedza, and Adele Panisch. Expressing concerns over funding issues regarding the stadium were Lorie Bird, Terri Balandra and Pirouz Maghsoudnia. Members of the community expressing concerns regarding environmental impact and neighborhood issues included Deborah Arant, Pat Flanigan, Larry Ames, Marc Morris, Helen Chapman, Richard Nieset, Eloy Wouters, Madeleine McSorley and Michelle Brenot.

Council discussion followed.

Motion: Council Member Kalra moved approval of the recommendations as referred by the Rules and Open Government Committee on March 11, 2009, with the inclusion of recommendations as suggested in Mayor Reed’s memorandum of April 2, 2009. Council Member Constant seconded the motion.

Council Member Campos asked that specific questions, as listed below in “Action”, be included in the motion for the Redevelopment Agency and City Manager’s response. Council Member Kalra accepted the amendment to his motion.

Action: On a call for the question, the direction was approved as amended by the adoption of recommendations outlined in Mayor Reed’s memorandum of April 2, 2009, and including suggestions by Council Member Campos to ask the Redevelopment Agency and City Manager to return with: (1) an overview of what improvements are needed to the property; (2) an appraisal of the property needed; (3) the amount that has been spent on the site already and remaining cost to complete the site acquisitions; and (4) the community outreach strategy. (9-0-1-1. Disqualified: Liccardo. Absent: Chirco.)

PUBLIC HEARINGS

- 4.6 Conduct a Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Story No. 61 on an approximately 3.21 gross acre County island consisting located at the north side of Story Road, 780 feet westerly of Machado Lane, and detachment of the same from the appropriate special districts including Central Fire Protection, County Sanitation District 2-3, and Area No. 01 (Library Services) County Service (Multiple Owners). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Planning, Building and Code Enforcement Director Joseph Horwedel, dated March 18, 2009, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on February 6, 2009, submitted by the City Clerk.

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 Campos, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74866](#), entitled: “A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Inhabitated, Unincorporated Island Territory Designated as Story No. 61, Subject to Liability for General Indebtedness of the City”, was adopted. (10-0-1. Absent: Chirco.)

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the northeast corner of Coleman Avenue and Taylor Street (702 Coleman Avenue) from R-2 Two Family Residence Zoning District and R-M Multiple Residence Zoning District to LI Light Industrial Zoning District to allow industrial use on a 1.01 gross acre site (Taylor Coleman Props LLC, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Commissioner Zito Absent) of the conventional rezoning from R-2 Two Family Residence Zoning District and R-M Multiple Residence Zoning District to LI Light Industrial Zoning District to allow industrial use on a 1.0 gross acre site, as recommended by staff.**

C09-001 – District 3

[Continued from 3/17/09 – Item 11.1(a)]

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C09-001, dated March 18, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated August 21, 2008, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on February 6, 2009 submitted by the City Clerk.

11.1 (a) (Cont'd.)

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

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28524](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Coleman Avenue and Taylor Street (702 Coleman Avenue) to LI-Light Industrial Zoning District", was passed for publication. (10-0-1. Absent: Chirco.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.2 Conduct an ADMINISTRATIVE HEARING and consider an appeal of the Planning Commission's decision to deny, as mandated by the Municipal Code, a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol at a new 2,379 square foot retailer/convenience store on a 0.53 gross acre site in the CP Commercial Pedestrian Zoning District, located on the southeast corner of North King Road and Mabury Road (788 North King Road) (Rosado, Leticia C. and Carmelo G., Owner). CEQA: Exempt. The Planning Commission recommends denial (4-1-1; Platten opposed; Zito absent), as mandated by the Municipal Code. The Director of Planning, Building and Code Enforcement recommends the City Council overturn the mandatory denial by the Planning Commission and approve the subject Conditional Use Permit and make a Determination of Public Convenience or Necessity by finding that the required findings for a Determination of Public Convenience or Necessity can be made and that there is a significant overriding public benefit served by the proposed off-sale of alcohol at the location.**

CP08-035 & ABC08-005 – District 3

(Continued from 2/24/09 – Item 11.2 and 3/17/09 – Item 11.2)

Action: Dropped per Applicant.

- 11.3 Consideration of an ordinance rezoning the real property located at/on the east side of S. 10th Street approximately 90 feet north of Margaret Street (684 S 10th Street) from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow three single-family detached residences on a 0.2 gross acre site (Rodriguez, Maritza, Owner). SNI: University. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval with recommendation for staff to work with applicant at the Planned Development permit stage to improve the site layout (4-2-1; Cahan & Jensen Opposed; Platten Absent).**

PDC07-094 – District 3 (Continued from 3/17/09 – Item 11.3)

Action: Deferred to April 21, 2009 per Orders of the Day.

OPEN FORUM

Susan Abele and Connie Springer, representing Friends of the Cambrian Branch Library, spoke in opposition to reduction of branch library hours and urged that they be kept open at their current level to avoid restricting the public's access to library resources.

ADJOURNMENT

The Council of the City of San José was adjourned at 9:19 p.m. in memory of two District 5 residents: Reynaldo James Flores, a giving man and dedicated parishioner, and Agnes Boales, an active leader and community member.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

rmk/04-07-09MIN

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JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Redevelopment Agency Board convened at 3:22 p.m. to consider Items 8.1, 8.2 and 8.3 in a Joint Session.

- 8.1 (a) Adoption of a resolution by the City Council accepting the Archaeological Treatment Plan for the former Japantown Corporation Yard and Parking Lot.
- (b) Redevelopment Agency Board approval of an Amended and Restated Agreement with Sonoma State University, on behalf of the Anthropological Studies Center, increasing the amount by \$233,000 for a maximum total compensation of \$643,500, for continued archaeological services related to the former Japantown Corporation Yard and Parking Lot project, generally located at Sixth and Taylor Streets.

CEQA: Resolution No. 74384. [JAPANTOWN]

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes and City Manager Debra Figone, dated March 12, 2009, recommending adoption of a resolution and approval of an agreement with Sonoma State University.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, [Resolution No. 74867](#), entitled: "A Resolution of the Council of the City of San José Accepting the Archaeological Treatment Plan for the Former Japantown Corporation Yard and Parking Lot", was adopted. (10-0-1. Absent: Chirco.)

- 8.2 (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency funding of construction of improvements for the proposed the Autumn Street Extension Project.
- (b) Approval by the Redevelopment Agency Board of a Purchase and Sale Agreement with Patricia S. Huddleston, in the amount of \$375,000 plus related closing costs, for acquisition of 456 Autumn Court to allow for development of the Autumn Street Extension Project.

CEQA: Resolution to be adopted. [JULIAN-STOCKTON]
(Deferred 3/24/09, Item 6.1)

Documents Filed: (1) Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated March 12, 2009, recommending approval of a purchase sale agreement. (2) Supplemental memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated April 2, 2009, replacing CEQA reference. (3) Letter from Douglas A. McNea, President of Silicon Valley Taxpayers' Association, dated March 24, 2009, expressing concern of impact on education revenue.

Council Member Liccardo abstained from this item due to a conflict of interest (receipt of gift/Sharks tickets).

8.2 (Cont'd.)

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74868](#), entitled: “A Resolution of the Council of the City of San José Making Certain Determinations Required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency Funding of Construction of Improvements for the Proposed Autumn Street Extension Project”, CEQA Resolution No. 74870/Redevelopment Agency Resolution No. 5902, entitled: “A Joint Resolution of the Council of the City of San José and the Board of the Redevelopment Agency of the City of San José Making Certain Findings Concerning Significant Effects and Mitigation Measures, and Adopting a Mitigation Monitoring and Reporting Program for the Coleman Avenue/Autumn Street Improvement Project, for which an Environmental Impact Report has been Prepared in Accordance with the California Environmental Quality Act of 1970, as Amended”, was adopted, and the Redevelopment Agency Board of a Purchase and Sale Agreement with Patricia S. Huddleston, in the amount of \$375,000 plus related closing costs, for acquisition of 456 Autumn Court to allow for development of the Autumn Street Extension Project was approved. (9-0-1-1. Disqualified: Liccardo. Absent: Chirco.)

8.3 (a) Adoption of resolutions by the City Council and Redevelopment Agency Board approving the Report to Council on the Amendment to the Redevelopment Plans for the Merged Project Area to increase the tax increment limit from \$7.6 billion to \$15 billion, to establish a single limit of \$7.6 billion for the bonded indebtedness that may be outstanding at any one time, and to modify the list of eligible public improvements in each Redevelopment Plan so that all Redevelopment Plans have consistent language relating to public improvements.

(b) Approval of an ordinance by the City Council adopting the proposed Amendment to the Redevelopment Plans in the Merged Project Area to increase the tax increment limit from \$7.6 billion to \$15 billion, to establish a single limit of \$7.6 million on the amount of bonded indebtedness that may be outstanding at any one time, and to modify the list of eligible public improvements in each Redevelopment Plan so that all Redevelopment Plans have consistent language relating to public improvements, and making certain findings.

CEQA: CEQA determination, File No. PP08-289, adopted by the Director of Planning, Building, and Code Enforcement, dated February 4, 2009. [MERGED]

(Continued from 3/24/09, Item 8.2)

8.3 (Cont'd.)

Documents Filed: (1) Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated March 10, 2009, recommending adoption of resolutions and an ordinance. (2) Memorandum from Harry Mavrogenes, dated March 19, 2009, recommending approval to increase the tax increment limit and submitting corrected maps for the proposed plan amendments. (3) Memorandum from Harry Mavrogenes, dated April 2, 2009, submitting clarification of public improvements in redevelopment plans. (4) Supplemental memorandum from City Attorney Rick Doyle, dated April 6, 2009, outlining procedures to be followed when responding to objections received by close of the public hearing. (5) Amendment to the Redevelopment Plans for the Merged Project Area Tax Increment Limit & Bonded Indebtedness Limit Increases Report, dated March 24, 2009. (6) Letter from Daniel N. Fenton (CEO, Team San José) dated April 6, 2009, writing in support of the amendment.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, [Ordinance No. 28525](#), entitled: “An Ordinance of the City of San José Adopting the Proposed Amendment to the Redevelopment Plans for the Merged Project Area Tax Increment Limit and Bonded Indebtedness Limit Increases; and Making Certain Findings”, was passed for publication, with a second reading to be held April 21, 2009; [Resolution No. 74869](#), entitled: “A Resolution of the Council of the City of San José Approving the Report to Council on the Proposed Amendment to the Redevelopment Plans for the Merged Project Area Tax Increment Limit and Bonded Indebtedness Limit Increases” and [Redevelopment Agency Resolution No. 5901](#), were adopted with Staff directed to return with responses to written objections received by the close of the Public Hearing by April 28, 2009. Consideration of the written objects must be heard prior to the second hearing of the ordinance adopting the Plan Amendments.

The Joint Redevelopment Agency meeting adjourned at 3:32 p.m.