

SAN JOSE CITY COUNCIL CLOSED SESSION AGENDA

April 21, 2009

Place: City Hall, Conference Room W-133

Time: **9:30 a.m.**

Item(s) to be discussed:

A. CONFERENCE WITH REAL PROPERTY DESIGNATED REPRESENTATIVES PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

1. Property Street Address, Parcel Number, or Other Unique Reference of Property: 95 North Third Street
San Jose, CA 95113
APN: 467-21-002
- Negotiating Parties: Jim Ortbal, Paul Krutko, Neil Stone for the City of San Jose
- And
Steve Dunn for Legacy Partners
- Under Negotiation: The direction will concern price and terms of payment.
- Likely Range of Value of Property: Negotiated price and terms of payment based on appraisal and comparable property values.

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 subsection (a):

1. Case Name: Garden City, Inc. v. City, et al.
Name(s) of Parties(s) Involved: GARDEN CITY, INC., CITY OF SAN JOSE, DIVISION OF GAMING CONTROL, RICHARD TENG, DOES 1-10
Court: Superior Court of California, County of Santa Clara

Case No.: 1-09-CV139958

Amount of Damages according to proof.
Money or
Other Relief
Sought:

2. Case Name: Naymark, et al. v. City, et al.

Name(s) of Parties(s) Involved: JANICE NAYMARK, RONALD NAYMARK, CITY OF SAN JOSE, SAN JOSE 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 Injunctive relief
Money or
Other Relief
Sought:

3. Case Name: Grason v. City of San José, et al.

Name(s) of Parties(s) Involved: KENNETH GRASON, CITY OF SAN JOSE, SAN JOSE CHIEF OF POLICE ROBERT DAVIS, POLICE OFFICER VIDA, #3404, and DOES 1 through 10

Court: United States District Court, Northern District of California

Case No.: C07-03687 JW

Amount of Damages according to proof.
Money or
Other Relief
Sought:

4. Case Name: Valdez, et al v. City, et al.

Name(s) of Parties(s) Involved: FRANCISCO VALDEZ, RICARDO VASQUEZ, CITY OF SAN JOSE, SAN JOSE POLICE CHIEF ROBERT DAVIS, OFFICER R. AGAMAN, AND DOES 1-2500.

Court: United States District Court, Northern District of California

Case No.: C09 00176 RMW

Amount of Damages according to proof.
Money or
Other Relief
Sought:

5. Case Name: Paul Cicala, et al. v. City of San José et al.

Name(s) of PAUL CICALA, ENRICO SAGULLO, ERICK SANCHEZ,
Parties(s) CITY OF SAN JOSE, ROBERT DAVIS, OFFICERS
Involved: ORDAZ, HIGGINS, MARFIA, KYONO and SIEGEL and
DOES

Court: United States District Court, Northern District of California

Case No.: C08-04032 PVT

Amount of Damages according to proof.
Money or
Other Relief
Sought:

6. Case Name: City of San José v. Operating Engineers Local Union 3, et al.

Name(s) of CITY OF SAN JOSÉ, OPERATING ENGINEERS LOCAL
Parties(s) UNION 3, and DOES 1-2000
Involved:

Court: Court of Appeal, 6th Appellate District

Case No.: H030272

Amount of Injunction to prevent strike/work stoppages
Money or
Other Relief
Sought:

7. Case Name: Great Oaks Water, Inc. v. City, et al.

Name(s) of GREAT OAKS WATER COMPANY, INC., JOHN W.S.
Parties(s) ROEDER, BETTY B. ROEDER, BETTY B. ROEDER
Involved: TRUST A and WILLIAM C. MILLER, JR. and BETTY B.
ROEDER, TRUSTEES OF THE WALTER S. ROEDER
TRUST B, THE CITY OF SAN JOSE, THE SAN JOSE
REDEVELOPMENT AGENCY, SOUTHBAY WATER
RECYCLING, DOES 1 through 100

Court: Superior Court of California, County of Santa Clara

Case No.: 1-04-CV012008

Amount of Damages according to proof.
Money or
Other Relief
Sought:

8. Case Name: Diaz, et al. v. City
 Name(s) of Parties(s) Involved: JUAN DIAZ, KEITH KEESLING, CHRISTOPHER MURPHY, GARY WEEKLEY, KAREN ALLEN and other employees similarly situated, CITY OF SAN JOSE
 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. Case Name: Welch, et al. v. City
 Name(s) of Parties(s) Involved: JEFFREY WELCH, GLEN BISHIP, MITCHELL WITSINSKI, ROBERT CULBERTSON and other employees similarly situated, CITY OF SAN JOSE
 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. Case Name: La Blanc v. City of San José, et al.
 Name(s) of Parties(s) Involved: JULIE LA BLANC, CITY OF SAN JOSE, and DOES 1 through 100
 Court: Superior Court of California, County of Santa Clara
 Case No.: 1-08-CV111250
 Amount of Money or Other Relief Sought: In excess of \$25,000, according to proof.
11. Case Name: Bernal, et al. v. City, et al.
 Name(s) of Parties(s) 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, AUTHUR PAUL LIRA, JR, JERIMIAH LIRA, SOMMER KAI ESPINOSA, LUCIA A. BERNAL, GUILLERMO ESPINOSA, CITY OF SAN JOSE, AND DOES 1 – 25
 Court: Superior Court of California, County of Santa Clara

- Case No.: 1-08-CV-116141
Amount of Damages according to proof.
Money or
Other Relief
Sought:
12. Case Name: City of San José v. Union Pacific Railroad Company
Name(s) of Parties(s) Involved: CITY OF SAN JOSE, UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, and DOES ONE to FIFTEEN
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. Case Name: De La Rosa, et al v. City of San José, et al.
Name(s) of Parties(s) 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 Appeal, 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. Case Name: San Jose Silicon Valley Chamber of Commerce Political Action Committee, et al. v. City of San José
Name(s) of Parties(s) Involved: SAN JOSE SILICON VALLEY CHAMBER OF COMMERCE POLITICAL ACTION COMMITTEE; COMPAC ISSUES FUND, SPONSORED BY THE SAN JOSE SILICON VALLEY CHAMBER OF COMMERCE; THE CITY OF SAN JOSE; SAN JOSE ELECTIONS COMMISSION; DOES 1 through 10
Court: United States District Court, Northern District of California
Case No.: C-06-04252 HRL

- Amount of Money or Other Relief Sought: Challenge to SJMC 12.06.310
15. Case Name: Vietnamese-American Community of Northern California v. City of San José, et al.
- Name(s) of Parties(s) Involved: VIETNAMESE-AMERICAN COMMUNITY OF NORTHERN CALIFORNIA; CITY OF SAN JOSE; CITY COUNCIL OF SAN JOSE
- Court: Superior Court of California, County 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. Case Name: City v. Housing & Development Software
- Name(s) of Parties(s) Involved: CITY OF SAN JOSE, 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. Case Name: Sutter's Place, Inc. v. City, et al.
- Name(s) of Parties(s) Involved: SUTTER'S PLACE, INC., dba BAY 101, Garden City, Inc., City of San Jose, 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 Jose Municipal Code Section 16.20.010, et. seq.

18. Case Name: Sutter's Place, Inc. v. City, et al.
 Name(s) of Parties(s) Involved: SUTTER'S PLACE, INC., dba BAY 101, Garden City, Inc., City of San Jose
 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. Case Name: Paixao v. City, et al.
 Name(s) of Parties(s) Involved: MICHAEL PAIXAO, CITY OF SAN JOSE, and DOES 1 TO 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. Case Name: Berg & Berg Enterprises, LLC v. City, et al.
 Name(s) of Parties(s) Involved: BERG & BERG ENTERPRISES, LLC, CITY OF SAN JOSE; SAN JOSE 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. Case Name: Rancho San Vicente LLC v. City, et al.
 Name(s) of Parties(s) Involved: RANCHO SAN VICENTE LLC, CITY OF SAN JOSE; CITY COUNCIL OF THE CITY OF SAN JOSE; 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 through 30
 Court: Superior Court of California, County of Santa Clara
 Case No.: 1-07-CV081056

Amount of Damages according to proof.
Money or
Other Relief
Sought:

22. Case Name: Calderon, et al. v. City, et al.

Name(s) of Parties(s) Involved: ASCENCION CALDERON and SAMUEL SANTANA, CITY OF SAN JOSE, SAN JOSÉ POLICE DEPARTMENT, OFFICER KEPLER, OFFICER McALAVEY, and DOES 1 through 20

Court: Superior Court of California, County of Santa Clara

Case No.: 1-07-CV088285

Amount of Damages according to proof.
Money or
Other Relief
Sought:

23. Case Name: Diamond Enterprises, et al. v. City of San Jose, et al.

Name(s) of Parties(s) Involved: JENNY WOLFES DIAMOND ENTERPRISES, SJ d.b.a. STUDIO 8, CITY OF SAN JOSE

Court: Superior Court of California, County of Santa Clara

Case No.: 1-06-CV071844

Amount of Damages according to proof.
Money or
Other Relief
Sought:

24. Case Name: Fisher, et al. v. City of San Jose, et al.

Name(s) of Parties(s) Involved: STEVEN FISHER, SANDRA FISHER, CITY OF SAN JOSÉ, CITY OF SAN JOSÉ POLICE DEPARTMENT, OFFICER BARNET, OFFICER BOLER, OFFICER CORREA, OFFICER 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

Case No.: C01-21192 PVT

04-16095

Amount of Damages according to proof.
Money or
Other Relief
Sought:

25. Case Name: Kerkeles v. City of San Jose, et al.
 Name(s) of Parties(s) Involved: MICHAEL KERKELES, a.k.a. MICHAEL KERK, CITY OF SAN JOSE, MATTHEW CHRISTIAN, and DOES ONE through TWENTY-FIVE
 Court: Superior Court of California, County of Santa Clara
 Case No.: 1-08-CV103523
 Amount of Money or Other Relief Sought: Damages according to proof.
26. Case Name: Moscoso v. City of San Jose, et al.
 Name(s) of Parties(s) Involved: ALEYDA MARITZA MOSCOSO, Personal Representative of the ESTATE OF JORGE LUIS TRUILLO, ROBERT L. DAVIS, CITY OF SAN JOSE, JOHN DOES 1 through 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. Case Name: Salinas v. City of San Jose, et al.
 Name(s) of Parties(s) Involved: NOREEN SALINAS, CITY OF SAN JOSE, CHIEF ROBERT DAVIS, TASER INTERNATIONAL, INC., and DOES 1 TO 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. Case Name: Salinas, et al. v. City of San Jose, et al.
 Name(s) of Parties(s) 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 JOSE, a municipal corporation; and DOES 1-50
 Court: Superior Court of California, County of Santa Clara
 Case No.: 1-08-CV-116174

Amount of Damages according to proof.
Money or
Other Relief
Sought:

29. Case Name: Watson, et al. v. City of San Jose, et al.

Name(s) of Parties(s) 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 VALLEY MEDICAL CENTER; EVERGREEN SCHOOL DISTRICT; CITY OF SAN JOSE, SAN JOSE POLICE DEPARTMENT; NORMA SPARKS, 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 Damages according to proof.
Money or
Other Relief
Sought:

30. Case Name: Williams, et al. v. City of San Jose, et al.

Name(s) of Parties(s) 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 JOSE; CRISTIANO BINDI, individually and in his capacity as a police officer for the CITY OF SAN JOSE; GREGORY SALAS, individually and in his capacity as a police officer for the CITY OF SAN JOSE; and DOES 3-10

Court: Superior Court of California, County of Santa Clara

Case No.: 1-07-CV100074

Amount of Damages according to proof.
Money or
Other Relief
Sought:

- 31.** Case Name: Lefall, et al. v. City of San Jose
Name(s) of Parties(s) Involved: DION LEFALL, GEORGE LOUIE, GLORIA VAUGHN, AND DERRICK JACKSON For Themselves and On Behalf Of All Others Similarly Situated, CITY OF SAN JOSE
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.** Case Name: Licking Enterprises, Inc. v. City, et al.
Name(s) of Parties(s) Involved: LICKING ENTERPRISES, INC. CITY OF SAN JOSE, a municipal corporation; SAN JOSE CITY COUNCIL; RON GONZALES, CINDY CHAVEZ, PAT DANDO, KEN YEAGER, CHUCK REED, FORREST WILLIAMS, LINDA J. LEZOTTE, NORA CAMPOS, GEORGE SHIRAKAWA, JR., DAVI D. CORTESE, JOHN DIQUISTO, sued in their official capacities
Court: United States District Court, Northern District of California
Case No.: C07-00735 RMW (PVT)
Amount of Money or Other Relief Sought: Damages according to proof.
- 33.** Case Name: Smith v. City of San Jose, et al.
Name(s) of Parties(s) Involved: TED SMITH, CITY OF SAN JOSE, SAN JOSE 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.** Case Name: International Association of Firefighters, et al v. City
Name(s) of Parties(s) Involved: CITY OF SAN JOSE, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL UNION 230, and DOES 1 - 50, SAN JOSE POLICE OFFICERS' ASSOCIATION

Court: Superior Court of California, County of Santa Clara
Court of Appeal, 6th Appellate District

Case No.: 1-06-CV-075858
H032097

Amount of Money or Other Relief Sought: Damages according to proof.

35. Case Name: Bojcic, et al. v. City of San Jose, et al.

Name(s) of Parties(s) Involved: ESTATE OF ZAIM BOJCIC, AJNIJA BOJCIC, CITY OF SAN JOSE, SAN JOSE POLICE DEPARTMENT, OFFICER DONALD GUESS

Court: United States District Court, Northern District of California
U.S. Court of Appeals, 9th Circuit

Case No.: C05-03877 RS
07-17343

Amount of Money or Other Relief Sought: Damages according to proof.

36. Case Name: City of San Jose, et al. v. Alvarez, et al.

Name(s) of Parties(s) Involved: CITY OF SAN JOSE 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. Case Name: Barrera, et al. v. City, et al.

Name(s) of Parties(s) 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 JOSE

Court: United States District Court, Northern District of California

Case No.: C09-00858 PVT

Amount of Damages according to proof
Money or
Other Relief
Sought:

**C. CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT
CODE SECTION 54957.6:**

City Negotiator: City Manager designee Alex Gurza

Employee Organizations:

1. Organization or Name and Title of Unrepresented Employees: 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 – Employee Relations: (408) 535-8150