

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MAY 19, 2009

The Council of the City of San José convened in regular session at 9:30 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Campos, Chirco, Herrera. (Excused)

Upon motion unanimously adopted, Council recessed at 9:34 a.m. to a Closed Session in Room W133, to confer with Legal Counsel with respect to (A) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to initiation of litigation in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 with respect to anticipated litigation of significant exposure (Claim Filed): Claimants: In re Claim of Ronco; City Department: Police. (C) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code subsection (a) of Section 54956.9: (1) 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; (2) Renzo's Bay & Grill, et al. v. City of San José, et al; Names of Parties Involved: Renzo's Bar & Grill, Inc., Gholam R. Shafazand (as CEO of Renzo's Bay & Grill, Inc.) and in his individual capacity, City of San José, San José Police Department, San José Police Sergeant John Vanek, San José Police Lieutenant David Hober, Frank Cucuzza, Jr., Cucuzza Family Partnership and DOES 1-200; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-114221; Amount of Money or Other Relief Sought: Inductive relief and damages according to proof; (3) 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, City of San José, San José Elections Commission; DOES 1-10; 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; (4) ROEM Development Corporation, et al. v. City of San José; Names of Parties Involved: ROEM Development

CLOSED SESSION (Cont'd.)

Corporation, Core Affordable Housing, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV142483; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City 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 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. (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 11:11 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

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

Absent: Council Members - Campos, Chirco, Herrera. (Excused)

INVOCATION

Pastor Ben Daniel, Foothill Presbyterian Church provided an inspirational prayer. (District 5)

PLEDGE OF ALLEGIANCE

Mayor Reed and the Students from Anderson Elementary School (District 1) led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Constant and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 1.9 was added to the afternoon session and Item 3.3 was deferred to June 2, 2009. (8-0-3. Absent: Campos, Chirco, Herrera.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of May 19, 2009:

A. Authority to Initiate Litigation:

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

Council Vote: Ayes: Chu, Constant, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Noes: None.
Disqualified: None.
Absent: Campos, Chirco, Herrera. (Excused)
Vacant: None.

CEREMONIAL ITEMS

1.2 Presentation of a proclamation declaring the week of May 17-23, 2009 as “Public Works Week” in the City of San José. (Public Works)

Action: Mayor Reed and Director of Public Works Katy Allen recognized the week of May 17 through May 23, 2009 as “Public Works Week” in the City of San José.

1.4 Presentation of a proclamation declaring the month of May 2009 as “National Foster Care Month” in the City of San José. (Chirco)

Action: Mayor Reed recognized the month of May 2009 as “National Foster Care Month” in the City of San José. Vice Mayor Chirco was not present.

1.5 Presentation of a commendation to the St. Maria Goretti Church Life Teen Youth Group. (Nguyen)

Action: Mayor Reed and Council Member Nguyen recognized and commended the Saint Maria Goretti Church Life Teen Youth Group.

1.6 Presentation of a commendation to Wesley Mukoyama, retiring Executive Director of Yu-Ai-Kai, for his years of dedicated service to the residents of Japantown and the entire City of San José. (Liccardo)

Action: Deferred to June 2, 2009.

**1.9 Presentation of a proclamation declaring the month of May 2009 as “Teacher Appreciation Month” in San José. (Pyle)
(Orders of the Day)**

Action: Mayor Reed and Council Member Pyle recognized the month of May 2009 as “Teacher Appreciation Month” in the City of San José.

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (8-0-3. Absent: Campos, Chirco, Herrera.)

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28536 – Amending Chapter 15.14 of Title 15 of the San José Municipal Code to limit the discharge of dental amalgam into the sanitary sewer system and to require the installation of dental amalgam separators in certain dental offices.**

Documents Filed: (1) Proof of Publication of the title of Ordinance No. 28536 executed on May 19, 2009, submitted by the City Clerk. (2) Letter from the Treatment Plant Advisory Committee Chair Chuck Reed, dated May 14, 2009, recommending adoption of an ordinance.

Action: [Ordinance No. 28536](#) was adopted. (8-0-3. Absent: Campos, Chirco, Herrera.)

- 2.2 (b) **ORD. NO. 28537 – Amending Chapter 15.14 of Title 15 of the San José Municipal Code to revise provisions related to the discharge of grease into the sanitary sewer system, to establish requirements for food service establishments related to installation or upgrade of grease control devices and to establish maintenance and record keeping requirements for grease control devices.**

Documents Filed: (1) Proof of Publication of the title of Ordinance No. 28537 executed on May 19, 2009, submitted by the City Clerk. (2) Letter from the Treatment Plant Advisory Committee Chair Chuck Reed, dated May 14, 2009, recommending adoption of an ordinance.

Action: [Ordinance No. 28537](#) was adopted. (8-0-3. Absent: Campos, Chirco, Herrera.)

- (c) **ORD. NO. 28540 – Adopting the proposed Seventh Amendment to the Redevelopment Plan for the Strong Neighborhoods Initiative Redevelopment Project Area to authorize the collection of tax increment from the “Diridon Area”; and making certain findings.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28540 executed on May 19, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28540](#) was adopted. (8-0-3. Absent: Campos, Chirco, Herrera.)

- 2.3 (a) **Request for an excused absence for Vice Mayor Chirco from the Closed Session and Regular Meeting of the City Council on May 5, 2009 due to illness. (Chirco)**
- (b) **Request for an excused absence for Vice Mayor Chirco from the Regular Meeting of the Rules and Open Government Committee on May 6, 2009 due to illness. (Chirco)**
- (c) **Request for an excused absence for Council Member Constant from the Regular Meeting and Evening Session of the City Council on May 12, 2009 due to a medical appointment. (Constant)**
- (d) **Request for an excused absence for Vice Mayor Chirco from the Closed Session and Regular Meeting of the City Council on May 12, 2009 due to illness. (Chirco)**
- (Rules Committee referrals 5/6/09 and 5/13/09)**

Documents Filed: (1) Memoranda from Vice Mayor Chirco, dated May 4, 2009, May 6, 2009 and May 11, 2009, requesting excused absences due to illness. (2) Memorandum from Council Member Constant, dated April 29, 2009, requesting an excused absence due a medical appointment.

Action: The absences for Vice Mayor Chirco and Council Member Constant were excused. (8-0-3. Absent: Campos, Chirco, Herrera.)

- 2.4 Approve a First Amendment to the Provisioning Facility Ground Lease with Southwest Airlines Co. to allow Southwest to indefinitely delay commencement of construction of tenant improvements, subject to termination by the Director of Aviation upon thirty (30) days written notice at any time prior to issuance of a notice to proceed with construction to Southwest. CEQA: Resolution Nos. 67380 and 71451, File No. PP09-074. (Airport)**

Action: Deferred to June 2, 2009 per Administration.

- 2.5 Approve the Second Amendment to the On-Demand Ground Transportation Management Concession Agreement with Taxi San José to reduce the compensation due to Taxi San José, for the period of May 1, 2009 through September 30, 2009, by \$29,423.40, and to amend the Staffing and Supervision Plan required by the Agreement. CEQA: Resolution Nos. 67380 and 71451, File No. PP09-096. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated April 27, 2009, recommending approval of the second amendment to the agreement.

Public Comments: Expressing opposition to the higher fees were Kebede Kaba, Shakur Bunti, Kirpal Singh Bajusa and Farhan, San José Taxi Drivers Association.

Director of Aviation William Sherry responded to Council questions.

Council Member Kalra objected to the higher fees at this time.

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried, the second amendment to the On-Demand Ground Transportation Management Concession Agreement with Taxi San José to reduce the compensation due to Taxi San José, for the period of May 1, 2009 through September 30, 2009, by \$29,423.40 was approved and the Staffing and Supervision Plan required by the agreement was amended. (7-1-3. Noes: Kalra. Absent: Campos, Chirco, Herrera.)

- 2.6 Approve the first amendment to the agreement with David J. Powers & Associates for environmental consultant services for various Environmental Services Department projects to increase the total compensation by \$250,000, from \$250,000 to an amount not to exceed \$500,000. CEQA: Not a Project. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated April 21, 2009, recommending approval of the first amendment to the agreement. (2) Letter from the Treatment Plant Advisory Committee Chair Chuck Reed, dated May 14, 2009, stating concurrence with the Staff recommendations.

Action: The first amendment to the agreement with David J. Powers & Associates for environmental consultant services for various Environmental Services Department projects to increase the total compensation by \$250,000, from \$250,000 to an amount not to exceed \$500,000 was approved. (8-0-3. Absent: Campos, Chirco, Herrera.)

- 2.7 Approve the award of open purchase orders for supplies, materials, equipment and services for FY 2008-2009 #6 and authorize the Director of Finance to execute the purchase orders. CEQA: See Administration’s memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated April 27, 2009, recommending award of the open purchase orders.

Action: The award of open purchase orders for supplies, materials, equipment and services for FY 2008-2009 #6 was approved and the Director of Finance was authorized to execute the purchase orders. (8-0-3. Absent: Campos, Chirco, Herrera.)

- 2.8 Adopt a resolution authorizing the City Manager and Fire Chief to apply for grant funds through Federal Emergency Management Agency’s 2009 Assistance to Firefighters Grant Program for the purchase of Self-Contained Breathing Apparatus, training and other equipment for the firefighters. CEQA: Not a Project. (Fire)**

Documents Filed: Memorandum from Fire Chief Darryl Von Raesfeld, dated May 7, 2009, recommending adoption of a resolution.

Action: [Resolution No. 74909](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute and Submit an Application to the Federal Emergency Management Agency Under the 2009 Assistance to Firefighters Grant Program, For a Grant for the Purchase of Self-Contained Breathing Apparatus in An Amount Not To Exceed \$2,714,980”, was adopted. (8-0-3. Absent: Campos, Chirco, Herrera.)

- 2.9 Approve a five-year lease with James V. Simoni for the use of approximately 8,500 square feet of office space at an initial rate of \$13,000 per month for the first year of the lease increasing to \$13,750 per month in the final year of the lease. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 27, 2009, recommending approval of a lease with James V. Simoni.

Action: A five-year lease with James V. Simoni for the use of approximately 8,500 square feet of office space at an initial rate of \$13,000 per month for the first year of the lease increasing to \$13,750 per month in the final year of the lease was approved . (8-0-3. Absent: Campos, Chirco, Herrera.)

- 2.10 Approve the first amendment to the agreement for consultant services with Don Dommer Associates, Inc., for the Fire Station No. 19 Relocation Project extending the term of the agreement from June 30, 2009 to March 31, 2010, and increasing the amount of \$35,000, for a total agreement amount not to exceed \$360,000. CEQA: Exempt, File No. PP06-116 (Fire Station No. 19). Council District 4. (Public Works)**

2.10 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 27, 2009, recommending approval of the first amendment to the agreement.

Action: The first amendment to the agreement for consultant services with Don Dommer Associates, Inc., for the Fire Station No. 19 Relocation Project extending the term of the agreement from June 30, 2009 to March 31, 2010, and increasing the amount of \$35,000, for a total agreement amount not to exceed \$360,000 was approved. (8-0-3. Absent: Campos, Chirco, Herrera.)

2.11 **Report on bids and award of contract for the Public Facilities Energy and Green Building Improvement project to the lowest responsive bidder, Peterson Dean, Inc., in the amount of \$150,521 and approval of contingency in the amount of \$15,000. CEQA: Exempt, File No. PP09-010. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 27, 2009, recommending award of the contract to Peterson Dean, Inc.

Public Comments: Sean Kenny, Al Fresco Concepts, Inc., protested the award of the contract to Peterson Dean, Inc., and argued that his company was the lowest responsive bidder.

Director of Public Works Katy Allen responded to Council questions and explained that although Al Fresco Concepts, Inc. is the apparent low bidder, they did not have a California Contractor's License Classification C-46 in order to bid this project and therefore their bid proposal was not responsive and should be rejected.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, award of contract for the Public Facilities Energy and Green Building Improvement project to the lowest responsive bidder, Peterson Dean, Inc., in the amount of \$150,521, with related contingency, was approved. (8-0-3. Absent: Campos, Chirco, Herrera.)

2.12 **Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with MRF Geosystems Corporation of Calgary, Alberta, Canada from the date of execution through June 30, 2011, in an amount not to exceed \$300,000 for basic services for all eight (8) phases of the Storm GIS Data Improvement Project and \$100,000 for additional services during the term of the agreement, for a total agreement amount not to exceed \$400,000. CEQA: Not a Project. (Public Works)**

Action: Deferred to June 2, 2009 per Administration.

- 2.13 Adopt a resolution approving the request to the Metropolitan Transportation Commission for the allocation of Fiscal Year 2009-2010 Transportation Development Act, Article 3 State grant funding in the amount of \$982,087 and authorizing the City Manager, or designee, to negotiate and execute any grant documents to effectuate the grant. CEQA: Exempt, File No. PP08-186 and PP09-100. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated April 27, 2009, recommending adoption of a resolution.

Action: [Resolution No. 74910](#), entitled: "A Resolution of the Council of the City of San José Approving the Request to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2009-2010 Transportation Development Act, Article 3 Grant Funding in An Amount No To Exceed \$982,087 and Authorizing the City Manager to Negotiate and Execute Grant Documents", was adopted. (8-0-3. Absent: Campos, Chirco, Herrera.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.2 Report of the Rules and Open Government Committee – April 15, 2009
Mayor Reed, Chair**

Action: Item 3.2 was dropped; the report was approved by Council on May 12, 2009.

- 3.3 Report of the Rules and Open Government Committee – April 29, 2009
Mayor Reed, Chair**

Action: Deferred to June 2, 2009 per Orders of the Day.

- 3.5 As recommended by the Rules and Open Government Committee on May 13, 2009, adopt an oppose position to AB1192 (Strickland) Cities: Powers. (Finance)
[Rules Committee referral 5/13/09 – Item 6.1(a)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 14, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, an oppose position to AB1192 was adopted. (8-0-3. Absent: Campos, Chirco, Herrera.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 Accept the status report on an update of the plan of finance for the Proposed Convention Center Expansion and direction to staff to proceed accordingly. CEQA: Resolution No. 72767 and addenda thereto, File No. PP08-022. (Office of Economic Development)**

Action: Dropped per Administration.

4.3 Adopt a resolution to:

- (a) Approve the reclassification of permanent and construction funds to provide of up to \$450,000 of the previously-approved predevelopment construction/permanent funding commitment of \$500,000 to CORE Affordable Housing, LLC, or its designated affiliate, for the 185-unit Belovida at Newbury Park (“Belovida”) project located northeasterly of the intersection on King Road and Dobbin Drive, to be made available to extremely low-income, very low-income, and low-income households.**
- (b) Approve an increase in the construction/permanent funding of up to \$2,566,607, bringing the total City construction/permanent funding up to \$23,614,937.**
- (c) Approve the forgiveness of up to \$560,000 in accrued interest on the City’s predevelopment and acquisition loans.**
- (d) Allow the project to exceed the City Council policy limiting combined Loan-to-Value ratios to 100%.**
- (e) Approve a City conditional loan commitment in the amount of up to \$3,123,330, the amount of the State’s Infill Infrastructure Grant funds, to be drawn upon only in the event that these funds committed by the State of California are not provided when needed.**

CEQA: Resolution No. 74196. Council District 3. (Housing)

Documents Filed: (1) Memorandum from Director of Housing Leslye Krutko, dated April 28, 2009, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Housing Leslye Krutko, dated May 13, 2009, revising the original recommendation to provide a conditional loan commitment, to backstop the delayed funding from the California Department of Housing and Community Development’s committed Infill Infrastructure Grant obligation of \$3,123,000 to the Belovida at Newbury Park project.

Director of Housing Leslye Krutko provided comments about the construction of the Belovida Project at Newbury Park which will be made available to extremely-low-income, very-low-income and low-income households.

4.3 (Cont'd.)

Council Member Oliverio objected because the Belovida at Newbury Park should be built taller in order to create adequate park space.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried, [Resolution No. 74911](#), entitled: “A Resolution of the Council of the City of San José Approving Actions Regarding the Belovida at Newbury Park Project”, was adopted. (7-1-3. Noes: Oliverio. Absent: Campos, Chirco, Herrera.)

4.4 Adopt a resolution:

(a) **Approving a construction/permanent loan commitment of up to \$10,893,000 for Brookwood Terrace Family Apartments, L.P., a California limited partnership, in which ROEM Development Corporation is the general partner and developer, for development of the 84-unit Brookwood Terrace Family Apartments, an affordable multifamily rental project to be located at 1350 E. San Antonio Street and made available to extremely low-income and very low-income households.**

(b) **Approving a funding commitment of up to \$500,000 for a predevelopment loan to this Project, to be repaid from the construction/permanent loan.**

CEQA: Mitigated Negative Declaration, and addenda thereto, File No. PP09-087. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated April 27, 2009, recommending adoption of a resolution.

Council Member Oliverio expressed opposition because of the lack of park space at the Brookwood Terrace Family Apartments Project.

Director of Housing Leslye Krutko responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried, [Resolution No. 74912](#), entitled: “A Resolution of the Council of the City of San José (1) Approving a Construction and Permanent Funding Commitment of Up to \$10,893,000 for the Brookwood Terrace Family Apartments L.P., A California Limited Partnership, in Which ROEM Development Corporation is the General Partner and Developer, for Development of the 84 Unit Brookwood Terrace Family Apartments, an Affordable Multi Family Rental Project to be Located at 1350 E. San Antonio Street and Made Available to Extremely Low Income and Very Low income Households, (2) Approving a Funding Commitment of up to \$500,000 for a Predevelopment Loan to this Project, to be Repaid from the Construction/Permanent Loan”, was adopted. (7-1-3. Noes: Oliverio. Absent: Campos, Chirco, Herrera.)

4.5 Adopt a resolution:

- (a) Approving a construction/permanent loan commitment of up to \$11,228,000 for the Orvieto Family Apartments, L.P., a California limited partnership, in which ROEM Development Corporation is the general partner and developer, for development of the 92-unit Orvieto Family Apartments, an affordable multifamily rental project to be located at the Southeast corner of Montecito Vista Way and Montecito Vista Drive, off of Monterey Highway South of Umbarger Road, and made available to extremely low-income and very low-income households.**
- (b) Finding that expenditure of 20% Low and Moderate Income Housing Funds on the subject site is a benefit to the City's Redevelopment Project Areas.**

CEQA: Resolution No. 72877 and addenda thereto, File No. PP09-086. Council District 7. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated April 27, 2009, recommending adoption of a resolution.

Council Member Oliverio expressed opposition because of the lack of park space at the Orvieto Family Apartments Project.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried, [Resolution No. 74913](#), entitled: "A Resolution of the Council of the City of San José (1) Approving a Construction/Permanent Loan Commitment of Up to \$11,228,000 for the Orvieto Family Apartments, L.P., A California Limited Partnership, In Which ROEM Development Corporation is the General Partner and Developer, for Development of the 92 Unit Orvieto Family Apartments, An Affordable Multi Family Rental Project to be Located at the Southeast Corner of Montecito Vista Way and Montecito Vista Drive, off Monterey Highway South of Umbarger Road and Made Available to Extremely Low Income and Very Low Income Households and (2) Finding that the Expenditure of 20% Low and Moderate Income Housing Funds on the Subject Site is a Benefit to the City's Redevelopment Project Areas", was adopted. (7-1-3. Noes: Oliverio. Absent: Campos, Chirco, Herrera.)

4.7 Report on bids and award of contract for the Happy Hollow Park and Zoo Pedestrian Bridge Rebid Project to the low bidder, Anderson Pacific Engineering Construction, Inc. in the amount of \$3,305,000 for the base bid and Add Alternate No. 1 for a total contract award of \$3,355,000, and approval of a contingency in the amount of \$503,250. CEQA: Mitigated Negative Declaration and addenda thereto, File No. PP09-023. (Public Works/Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated April 27, 2009, recommending award of the contract to the low bidder.

4.7 (Cont'd.)

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the award of contract for the Happy Hollow Park and Zoo Pedestrian Bridge Rebid Project to the low bidder, Anderson Pacific Engineering Construction, Inc. in the amount of \$3,305,000 for the base bid and Add Alternate No. 1 for a total contract award of \$3,355,000, with related contingency, was approved. (8-0-3. Absent: Campos, Chirco, Herrera.)

**4.8 Conduct a public hearing and adopt a resolution designating the Tommie Smith House located on the west side of North 11th Street, approximately 300 feet north of East Santa Clara Street (55 North 11th Street) on a 0.19 acre site as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest of value of a historic nature (Brian C. Bogue, Property Owner). CEQA: Not a Project. SNI: 13th Street.
HL09-181 – Council District 3**

Documents Filed: (1) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated May 7, 2009, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on April 17, 2009, submitted by the City Clerk. (3) Affidavit of Routing executed on May 26, 2009, and distributed 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 Liccardo, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74914](#), 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 Tommie Smith House Located at 44 North Eleventh Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”, was adopted. (8-0-3. Absent: Campos, Chirco, Herrera.)

**4.9 Conduct a public hearing and approve an ordinance amending Title 23 of the San José Municipal Code 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).
(Deferred from 4/7/09 – Item 4.4 and 5/12/09 – Item 4.5)**

Documents Filed: (1) Memorandum from Council Members Constant, Liccardo, Chu and Herrera, dated May 15, 2009, recommending approval of the staff recommendations with additions as described in “Action”. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 17, 2009, recommending approval of the ordinance. (3) Staff PowerPoint presentation dated May 19, 2009 on the Stevens Creek Boulevard Sign Ordinance.

4.9 (Cont'd.)

Director of Planning, Building and Code Enforcement Joseph Horwedel provided an overview of the Stevens Creek Sign Ordinance Amendment.

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

Motion: Council Member Constant moved approval of the Staff recommendations and the joint memorandum he cosigned with Council Members Liccardo, Chu and Herrera, which included approval of Items (1), (2), (3) and (5); with Item (4) referred to the City Attorney for analysis. Council Member Liccardo seconded the motion.

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

A short discussion followed.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Director was approved, the memorandum from Council Members Constant, Liccardo, Chu and Herrera, dated May 15, 2009, was approved, with the following additions: (1) Increase the maximum size of a freestanding sign to 150 square feet. (The equation for determining the maximum size of a freestanding sign will have to be amended as outlined below.) (2) Increase the maximum size of additional freestanding signs to 75 square feet each per each street frontage of 100 or more linear feet. (3) Increase the maximum height of a freestanding sign to 40 feet. (5) Expand the proposed boundaries to include all of the parcels bound by Stevens Creek Boulevard, Kiely and Saratoga Avenues. Item (4) from the joint memorandum: "Allow for the use of innovative sign technology such as LED signs" was referred to the City Attorney's Office for analysis; and [Ordinance No. 28569](#), entitled: "An Ordinance of the City of San José Amending Sections 23.02.800 and 23.02.1200 of Chapter 23.02, Amending Sections 23.04.010 and 23.04.030 of Chapter 23.04, and Adding a New Section 23.02.365 to Chapter 23.02, All of Title 23 of the San José Municipal Code, To Establish Regulations for a Stevens Creek Signage Area", was passed for publication. (8-0-3. Absent: Campos, Chirco, Herrera.)

NEIGHBORHOOD SERVICES

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

CEQA: Resolution No. 71045. Director of Planning, Building and Code Enforcement recommends approval. Council District 10. SNI: Hoffman/Via Monte. (City Manager's Office/Redevelopment Agency)
(Deferred from 5/5/09 – Item 5.2)

Action: Deferred to June 2, 2009 in the afternoon per Administration.

TRANSPORTATION & AVIATION SERVICES

6.1 **Report of the Transportation and Environment Committee – May 4, 2009** **Council Member Liccardo, Chair**

Documents Filed: The Transportation and Environment Committee Report dated May 4, 2009.

Council Member Oliverio expressed appreciation for the development, implementation and evaluation of a pilot Red Light Running (RLR) automated enforcement program in the proposed FY2009-2010 Operating Budget with the goal of reducing occurrences of red light violations.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the Report of the Transportation and Environment Committee and actions of May 4, 2009 were accepted. (7-0-4. Absent: Campos, Chirco, Herrera, Kalra.)

6.2 **Adopt a resolution establishing a new City Council Policy, entitled “Airport Exhibits Policy”. CEQA: Resolution Nos. 67380 and 71451, File No. PP09-098. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated April 27, 2009, recommending approval of the Airport Exhibits Policy.

Action: Dropped per Administration.

- 6.3 (a) Report on Request for Proposal for the operation, maintenance and repair services of the Airport Baggage Handling Conveyor Systems in Terminals A and B.**
- (b) Adopt a resolution authorizing the Director of Finance to:**
- (1) Execute an agreement with Vanderlande Industries (Marietta, GA), for the operation, maintenance and repair of the Airport Baggage Handling Systems in Terminals A and B including all required spare and replacement parts, for an initial three year term with total compensation not to exceed \$5,168,360 subject to the annual appropriation of funds.**
 - (2) Execute change orders not-to-exceed a contingency amount of \$387,627 to cover any unanticipated changes to the scope of services.**
 - (3) Execute two additional one-year options to extend the agreement after the initial term subject to the annual appropriation of funds.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated April 28, 2009, recommending acceptance of the report and adoption of a resolution.

Action: Upon motion by Council Member Pyle, seconded by Council Member Constant and carried unanimously, the report on the request for proposal for the operation, maintenance and repair services of the Airport Baggage Handling Conveyor Systems in Terminals A and B was accepted and [Resolution No. 74915](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Vanderlande Industries for the Operation, Maintenance and Repair of the Airport Baggage Handling Systems in Terminals A and B", was adopted. (7-0-4. Absent: Campos, Chirco, Herrera, Kalra.)

- 6.4 (a) Adopt a resolution authorizing the Director of Public Works to determine the lowest responsive and responsible bidder, to award the Norman Y. Mineta San José International Airport Taxiway W Extension Phase 1 Project to the lowest responsive bidder, in an amount not to exceed \$14,204,000, or to reject all bids and re-bid the Project.**
- (b) Approve a contingency equal to ten percent of the award amount.**

CEQA: Resolution Nos. 67380 and 71451, File No. PP 09-095. (Public Works/ Airport)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated May 6, 2009, recommending adoption of a resolution and approval of a contingency.

6.4 (Cont'd.)

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74916](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Determine the Lowest Responsive and Responsible Bidder, To Award the Norman Y. Mineta San José International Airport Taxiway W Extension Phase 1 Project to the Lowest Responsive Bidder, In An Amount Not To Exceed \$14,204,000, Or to Reject all Bids and Re-bid the Project", was adopted and the related contingency equal to ten percent of the award amount was approved. (7-0-4. Absent: Campos, Chirco, Herrera, Kalra.)

ENVIRONMENTAL & UTILITY SERVICES

7.1 As referred by the Transportation and Environment Committee on May 4, 2009, approve the City of San José Drought Response report and consider the following actions:

- (a) Adopt a resolution declaring a water shortage of 15 percent for the City of San José.**
- (b) Direct the City Attorney's Office to draft an ordinance amending Chapter 15.10 of the San José Municipal Code to strengthen the City's water waste prevention and water shortage measures.**
- (c) Adopt a resolution establishing a water budget program for Municipal Water System customers located in the System's Edenvale, Evergreen and Coyote service areas.**
- (d) Direct staff to increase water conservation outreach and education.**

(Environmental Services)

(Transportation & Environment Referral 5/4/09 – Item 3.3)

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated May 6, 2009, transmitting the recommendations of the Transportation and Environment Committee. (2) Staff PowerPoint slide presentation on the City of San José Drought Response dated May 19, 2009.

Director of Environmental Services John Stufflebean provided a brief overview on the City of San José drought response and responded to Council questions.

Public Comments: Ross Signorino voiced his comments on water conservation.

7.1 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 74917](#), entitled: “A Resolution of the Council of the City of San José Declaring a Fifteen Percent Water Shortage Effective June 1, 2009 through December 31, 2009” and [Resolution No. 74918](#), entitled: “A Resolution of the Council of the City of San José Establishing a Water Budget Program for San José Municipal Water Systems Customers Located Within the Edenvale, Evergreen and Coyote Service Areas Effective June 1, 2009 through May 31, 2010”, were adopted; the City Attorney’s Office was directed to draft an ordinance amending Chapter 15.10 of the San José Municipal Code to strengthen the City’s water waste prevention and water shortage measures and the Environmental Staff was directed to increase water conservation outreach and education. (8-0-3. Absent: Campos, Chirco, Herrera.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 (a) **City Council and Redevelopment Agency Board approval of a loan agreement to the Redevelopment Agency from various City funds in an amount of \$12 million with a term of up to 72 hours, for the purpose of paying Agency obligations such as capital, operating and other expenses in the Adopted 2008-09 Agency Budget.**
- (b) **City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Sanitary Sewer Connection Fee Fund (540):**
- (1) **Increase the Loan to the Redevelopment Agency appropriation in the amount of \$550,000.**
 - (2) **Increase the estimate for Loan Repayments from the Redevelopment Agency in the amount of \$550,000.**
- (c) **City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5 (382):**
- (1) **Establish a Loan to the Redevelopment Agency appropriation in the amount of \$1,360,000.**
 - (2) **Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$1,360,000.**
- (d) **City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #7 (385):**
- (1) **Establish a Loan to the Redevelopment Agency appropriation in the amount of \$1,100,000.**
 - (2) **Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$1,100,000.**

- 9.1 (e) **City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund (390):**
- (1) **Establish a Loan to the Redevelopment Agency appropriation in the amount of \$750,000.**
 - (2) **Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$750,000.**
- (f) **City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (391):**
- (1) **Establish a Loan to the Redevelopment Agency appropriation in the amount of \$4,510,000.**
 - (2) **Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$4,510,000.**
- (g) **City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Subdivision Park Trust Fund (375):**
- (1) **Establish a Loan to the Redevelopment Agency appropriation in the amount of \$3,730,000.**
 - (2) **Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$3,730,000.**
- (h) **Approval of an amendment to the FY 2008-2009 Merged Area Cooperation Agreement between the City of San José and the Redevelopment Agency of the City of San José to specify a repayment schedule for outstanding City Parkland Fees owed to the City by the Agency.**
(Redevelopment Agency/City Manager’s Office)

Documents Filed: Memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated May 5, 2009, recommending approval of a loan agreement, adoption of appropriation ordinance and funding sources resolution amendments, and approval of amendment to the cooperation agreement.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the loan agreement to the Redevelopment Agency from various City funds in an amount of \$12 million with a term of up to 72 hours, for the purpose of paying Agency obligations such as capital, operating and other expenses in the Adopted 2008-09 Agency Budget was approved; [Ordinance No. 28570](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Sanitary Sewer Connection Fee Fund; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 74919](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2008-2009 to Adjust Revenues in the Sanitary Sewer Connection Fee Fund”; [Ordinance No. 28571](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the

9.1 (Cont'd.)

Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 5 Fund for the Loan to the Redevelopment Agency; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 74920](#), 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 5”; [Ordinance No. 28572](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 7 Fund for the Loan to the Redevelopment Agency; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 74921](#), 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 7”; [Ordinance No. 28573](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund for the Loan to the Redevelopment Agency; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 74922](#), 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund”; [Ordinance No. 28574](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Construction and Conveyance Tax Fund: Citywide Parks Purposes Fund for the Loan to the Redevelopment Agency; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 74923](#), 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 Construction and Conveyance Tax Fund: Citywide Parks Purposes”; [Ordinance No. 28575](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Subdivision Park Trust Fund for the Loan to the Redevelopment Agency; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 74924](#), 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 Subdivision Park Trust Fund”, were adopted; an amendment to the FY 2008-2009 Merged Area Cooperation Agreement between the City of San José and the Redevelopment Agency of the City of San José to specify a repayment schedule for outstanding City Parkland Fees owed to the City by the Agency was approved. (8-0-3. Absent: Campos, Chirco, Herrera.)

OPEN FORUM

- (1) Ross Signorino mentioned an article from the Rotary Club newsletter entitled: “The Mayor Explores A’s Ballot Measure”, and suggested the Mayor explore the idea of private funding for the A’s Stadium.
- (2) Wilma Hashi read a letter from a Parkview School 6th grader urging the Council to keep all the libraries open.
- (3) Maria Brazelton expressed appreciation to the City for offering transitional housing opportunities for those in need.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 3:37 p.m.

RECESS/RECONVENE

The City Council recessed at 3:37 p.m. from the afternoon Council Session and reconvened at 7:04 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Campos, Chirco, Herrera. (Excused)

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Liccardo, seconded by Council Member Oliverio, and carried unanimously, the below noted continuances and actions were taken as indicated. (8-0-3. Absent: Campos, Chirco, Herrera.)

CERMONIAL ITEMS

1.1 Presentation of a commendation to recipients of the City of San José's *Champions of Arts Education Awards*. (Economic Development)

Action: Mayor Reed and Council Member Liccardo recognized and commended the City of San José's "Champions of Arts Education Awards".

1.3 Presentation of a proclamation declaring the month of May 2009 as "Motorcycle Awareness Month" in the City of San José. (Constant) (Deferred from 05/05/09 – Item 1.2)

Action: Mayor Reed and Council Member Constant recognized the month of May 2009 as "Motorcycle Awareness Month" in the City of San José.

1.7 Presentation of a proclamation declaring the week of May 17 through 23, 2009 as "Hepatitis B Awareness Week" in the City of San José. (Mayor)

Action: Mayor Reed recognized the week of May 17 through May 23, 2009 as "Hepatitis B Awareness Week" in the City of San José.

1.8 Presentation of commendations to the winners of the Santa Clara County Association of REALTORS American Dream Essay Contest. (Mayor)

Action: Mayor Reed recognized the winners of the Santa Clara County Association of REALTORS "American Dream Essay Contest".

COMMUNITY & ECONOMIC DEVELOPMENT

4.6 Adopt a resolution to initiate proceedings for an interim ordinance to establish a temporary moratorium on the establishment of new bail bond businesses, set a public hearing on the interim ordinance for the first evening City Council meeting in August, and refer the interim ordinance to the Planning Commission for its recommendation. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated May 19, 2009, recommending acceptance of the staff recommendations with amendments as described below in “Action”. (2) Memorandum from Council Members Constant, Campos and Kalra, dated May 15, 2009, recommending against the proceeding with direction. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 5, 2009, recommending adoption of a resolution. (4) Staff PowerPoint presentation on the Bail Bond Moratorium Ordinance dated May 19, 2009. (5) Letter from County Supervisor Cortese, dated May 19, 2009, regarding the regulation of the bail bond establishments. (6) Letter from County Supervisor George Shirakawa, dated May 18, 2009, regarding the regulation of the bail bond establishments. (7) Letter from Bad Boys Bail Bonds, from George Wallace, General Manager, dated May 19, 2009, regarding the bail bond moratorium ordinance. (8) Four letters from the public, all four dated May 19, 2009, in support of the moratorium on bail bond establishments.

Director of Planning, Building and Code Enforcement Joseph Horwedel presented an overview on the bail bond moratorium ordinance.

Public Comments: Speaking in support to the memorandum from Council Member Liccardo, the negative impacts on real estate values and of many public safety issues were: Susan Lapsys, Erik Schoennauer, Tina Morrill, Vendome Neighborhood, John Karris, Gus Kanakis, Antonia Ettare, Kathleen Kashkouskas and Mara Williams, Hyde Park Neighborhood Association, Don Galiardi, John Perkins, Hyde Park Center, Gustavo Vargas, Northside Neighborhood Association, Petra Pino, William Lambson, Joanne Tashiro and Rebecca Sanchez, Japantown Neighborhood.

George Wallace, Bad Boys Bail Bonds, and Stephen Sparacino, Buffy-Sparacino Bail Bonds, spoke in opposition to the temporary moratorium on the bail bonds establishments.

Deputy Director of Planning, Building and Code Enforcement Mike Hannon, Director of Planning, Building and Code Enforcement Joseph Horwedel and City Manager Debra Figone responded to Council questions and concerns.

Motion: Council Member Liccardo moved approval of his memorandum dated May 19, 2009. Council Member Oliverio seconded the motion.

4.6 (Cont'd.)

Discussion followed.

Council Member Constant requested to amend the motion to add that any proposals to change Title 20 should return to the Rules and Open Government Committee to decide which committee shall review the new bail bonds zoning standards, to ensure a public vetting in accordance with long established procedures; and to direct the City Manager to determine an appropriate approach for the enforcement of the current ordinance based upon discussions and collaboration with the Santa Clara County Executive. The amendments were accepted by Council Members Liccardo and Oliverio.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Liccardo, dated May 19, 2009, was approved: (1) Accept staff recommendation to initiate proceedings for an interim ordinance to establish a temporary moratorium on the establishment of new bail bonds businesses until: (a) The City and County can discuss and reach a resolution regarding the best approach to ensure that bail bond companies can secure timely release of their clients from custody, while protecting the neighborhoods' quality of life. (b) The City Council has fully considered any proposed changes to Title 20 of the Municipal Code in a properly noticed public hearing, after outreach to the neighborhoods in compliance with Council Policy 6-30. Any proposals to change Title 20 to return to the Rules and Open Government Committee to decide which committee shall review the new bail bonds zoning standards, to ensure a public vetting in accordance with long established procedures. (2) The City Manager was directed to determine an appropriate approach for the enforcement of the current ordinance based upon discussions and collaboration with the Santa Clara County Executive; and [Resolution No. 74925](#), entitled: "A Resolution of the Council of the City of San José Initiating, Pursuant to Section 20.120.010 of Chapter 20.120 of Title 20 of the San José Municipal Code, Proceedings to Establish a Temporary Moratorium on the Establishment of New Bail Bonds Establishments Pending Review and Possible Amendment of Land Use Regulations Applicable to Such Establishments, Setting a Public Hearing Before the City Council in City Council Chambers on the Proposed Ordinance, and Referring Said Ordinance to the Planning Commission for Its Review, Report and Recommendation", was adopted. (8-0-3. Absent: Campos, Chirco, Herrera.)

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Consideration of an ordinance amending Title 20 of the San José Municipal Code, the Zoning Ordinance, to amend Section 20.100.500 of Chapter 20.100 Part 4 to allow the Director of Planning to reactivate certain expired development permits and to extend certain development permits for a discrete period of time and make other related clarifying changes. CEQA: Exempt, File No. PP09-070. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
Citywide**

11.1 (a) (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, dated May 15, 2009, recommending approval of the Staff recommendations with modifications as described below in “Action”. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 27, 2009, transmitting the recommendation of the Planning Commission. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 6, 2009, providing additional correspondence from John Armando in support of the proposed ordinance amendment. (4) Three letters from the public, all three dated May 19, 2009, in support of the extension and reactivation of development permits.

Mayor Reed opened the public hearing.

Mayor Reed read his memorandum dated May 15, 2009, with modifications to the Staff/Planning recommendations.

Motion: Council Member Kalra moved approval of the Staff/Planning recommendations and the memorandum from Mayor Reed, including the modifications. Council Member Oliverio seconded the motion.

Council Member Chu provided meeting disclosures.

Public Comments: Erik Schoennauer, representing Equity Residential, spoke in favor to the Staff recommendations and to the clarifications from Mayor Reed.

Mayor Reed closed the public hearing.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, as modified by the memorandum from Mayor Reed, dated May 15, 2009, providing the following direction to Staff: (1) Amend the term of the special extension from one year to two years. (2) Return to Council on or before June 16, 2009 with provisions to allow permit extensions for projects in North San José based on criteria that would achieve the objectives of the North San José Development Policy, including the City’s Phase 1 Affordable Housing Goals. (3) Return to the Community & Economic Development Committee in twelve months with an evaluation of the extension program. [Ordinance No. 28576](#), entitled: “An Ordinance of the City of San José Amending Section 20.100.500 of Chapter 20.100 of Title 20 of the San José Municipal Code to Allow for an Additional Extension of Development Permit Terms or a Reactivation of Certain Expired Development Permits for a Temporary Period of Time”, was passed for publication. (8-0-3. Absent: Campos, Chirco, Herrera.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of an ordinance rezoning the real property located on the east side of S. White Road approximately 250 feet south of Cunningham Lake Court from the R-1-8 Residential Zoning District to the A(PD) Planned Development Zoning District to allow up to 19 single-family detached residences or up to 14 single-family detached residences adjacent to a possible future new fire station on a 3.21 gross acres site (Bishop of Church of Jesus Christ, Owner) (Note: This site is one of several locations being considered for a possible new fire station. Any potential new fire station will undergo a separate environmental review). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval and Planning Commission recommends approval with minor modifications to development standards as recommended by staff and to consider the creation of through vehicular and pedestrian access connection from the new street of the proposed project to Flintcrest Drive (7-0-0).**

PDC09-008 – District 8

(Continued from 5/5/09 – Item 11.2 and 5/12/09 – Item 4.7)

Documents Filed: (1) Memorandum from Council Member Herrera, dated May 15, 2009, recommending approval of the staff recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC09-008, dated April 1, 2009, recommending approval. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 13, 2009, transmitting the Planning Commission recommendation. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 13, 2009, submitting a letter from Mr. and Mrs. Cuadros who are strongly opposed to giving up any portion of their property to allow traffic through in front of their property. (5) Proof of Publication of Notice of Public Hearing, executed on April 10, 2009, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Reyad Katwan, Applicant, spoke to the merits of the project.

Public Comments: Bonnie Mace and Bill Ashman, District 8 Community Round Table, expressed support to the Staff recommendations, including the land for Fire Station 21, but objected to the cut-through street to Flintcrest Drive, which is currently a cul-de-sac.

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Oliverio and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28577](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of South White Road Approximately 250 Feet South of Cunningham Lake Court to A(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

**11.3 Consideration of an ordinance rezoning the real property located on the west side of Lincoln Avenue extending from West San Carlos Street on the south to Pacific Avenue on the north, excluding the northwest corner of West San Carlos and Lincoln Avenue to allow the demolition of existing structures and the construction of up to 47 single-family attached residential units and 6 live/work lofts on a 1.16 gross acre site. SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC07-017 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-017, dated April 15, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 27, 2009, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on April 10, 2009, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comments: Andrew Whiting, OJK Architects, spoke briefly about the project.

Mayor Reed closed the public hearing.

Motion: Council Member Oliverio moved approval of the Staff/Planning recommendations with direction to Staff to ensure that the Townhomes facing Pacific Avenue blend in with the neighborhood, including no stucco and with “truly” separated windows, to be addressed at the permit stage. Council Member Kalra seconded the motion.

Director of Planning, Building and Code Enforcement Joseph Horwedel asked whether Council Member Oliverio would amend the motion to eliminate the cap on commercial area of 1,500 square feet and retain the minimum area of 1,000 square feet from the zoning development standards. The amendment to the motion was accepted by Council Members Oliverio and Kalra.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, as modified, Staff was directed to ensure: (1) Townhomes facing Pacific Avenue to blend in with the neighborhood, including no stucco and with “truly” separated windows, to be addressed at the permit stage. (2) Eliminate the cap on commercial area of 1,500 square feet and retain the minimum area of 1,000 square feet from the zoning development standards and [Ordinance No. 28578](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the West Side of Lincoln Avenue Extending from West San Carlos Street to Pacific Avenue on the North, Excluding the Northwest Corner of West San Carlos Street and Lincoln Avenue to A(PD) Planned Development Zoning District”, was passed for publication. (8-0-3. Absent: Campos, Chirco, Herrera.)

**11.4 Consideration of an ordinance of the City of San José amending Title 20 of the San José Municipal Code, the Zoning Code, to amend Section 20.40.100 of Chapter 20.40, Section 20.50.100 of Chapter 20.50 and Section 20.90.060 of Chapter 20.90, and to add a new part 13.5 to Chapter 20.80 and a new Section 20.200.995 to Chapter 20.200, to provide for the appropriate relocation of existing Cardrooms. CEQA: Exempt, File No. PP09-041. Planning Commission recommends approval (5-0-2, Commissioners Jensen and Cahan absent).
Citywide**

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 27, 2009, transmitting the Planning Commission recommendation of approval. (2) Proof of Publication of Notice of Public Hearing, executed on April 10, 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 Nguyen, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 28579](#), entitled: “An Ordinance of the City of San José Amending Section 20.40.100 of Chapter 20.40, Section 20.50.100 of Chapter 20.50 and Section 20.90.060 of Chapter 20.90 and Adding a New Part 13.5 to Chapter 20.80 and a New Section 20.200.995 to Chapter 20.200, All of Title 20 of the San José Municipal Code To Establish Land Use Regulations for Relocated Cardrooms”, was passed for publication. (8-0-3. Absent: Campos, Chirco, Herrera.)

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notification that the City Engineer has received the following Final Maps and is review them for final approval:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10035	SW Corner of Willow Glen Wy & Creek Dr	6	Masoumi- Brothers, LLC	5 Lots / 5 Units	SFD

ADJOURNMENT

The Council of the City of San José was adjourned at 9:07 p.m. in memory of Council Member Rose Herrera's mother, Katherine Jesse, who passed away May 18, 2009 after a ten year battle with Alzheimer's disease.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/5-19-09 MIN

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

JOINT REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 3:18 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

- 8.1 (a) City Council and Redevelopment Agency Board direction to proceed with developing plans to:**
- (1) Demolish the former Martin Luther King, Jr. Library building on West San Carlos Street to clear the path for the expansion of the San Jose Convention Center.**
 - (2) Relocate the City staff currently housed in the former Martin Luther King, Jr. Library building to the City Hall and other City-owned facilities.**
- (b) Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to negotiate and execute a lease agreement with Forest City Commercial to relocate the Agency's offices to 50 West San Fernando Street.**

CEQA: Resolution No. 72767 and addendum thereto, File No. PP08-002. [MERGED]

Action: Deferred to June 2, 20/09.

- 8.2 Approval of the Diridon Station Area Good Neighbor Committee's purpose, structure, and membership and direction that recommendations from the Committee that require Council/Board action be made through the Community and Economic Development Committee. CEQA: Not a Project. [MERGED] (Mayor)**

Documents Filed: Memorandum from Mayor Reed and Council Members Liccardo and Oliverio, dated May 8, 2009, recommending approval of the Good Neighbor Committee purpose, structure and membership.

Mayor Reed recommended adding a modification to the written memorandum to add two more designees from each organization: South Bay Labor Council and San José Silicon Valley Chamber of Commerce and for Staff to return with an information memorandum about an updated work plan schedule and the designation of people from each of the organizations.

Public Comments: Ross Signorino suggested "doming" the new stadium in order to keep the noise down and the lighting to a minimum.

Brief discussion followed.

8.2 (Cont'd.)

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, the Good Neighbor Committee purpose, structure and membership was approved, including: (1) Modification to the written memorandum to add two more designees from each organization: South Bay Labor Council and San José Silicon Valley Chamber of Commerce. (2) Staff to return with an information memorandum about an updated work plan schedule and the designation of people from each of the organizations. (8-0-3. Absent: Campos, Chirco, Herrera.)

The Council of the City of San José and Redevelopment Agency Board was adjourned at 3:30 p.m.