

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 9, 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, Oliverio, Pyle; Reed.

Absent: Council Members - Chirco, Nguyen. (Excused)

Upon motion unanimously adopted, Council recessed at 9:04 a.m. to a Closed Session in Room W133, to confer with Legal Counsel with respect to (A) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code subsection (a) of Section 54956.9: (1) 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-CV-088285; Amount of Money or Other Relief Sought: Damages according to proof; (2) In re: Sandoval; Amount of Money or Other Relief Sought: Administrative Appeal; (3) In re: Mendoza; Amount of Money or Other Relief Sought: Administrative Appeal; (4) In re: Gutierrez; Amount of Money or Other Relief Sought: Administrative Appeal; (B) 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;

CLOSED SESSION (Cont'd.)

(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 1:31 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

Temple Emanu-El performed an acoustic rendition of "Lu Ye'hi, May It Come To Be". (District 4)

PLEDGE OF ALLEGIANCE

Mayor Reed, accompanied by Students from the Easterbrook Discovery School, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to San José State University Provost Carmen Sigler for her 22 years of service to San José State University and in recognition of her leadership in advancing University-City initiatives. (Economic Development)

Action: Mayor Reed and Council Members Liccardo and Pyle recognized and commended San José State University Provost Carmen Sigler for her 22 years of service to San José State University and in recognition of her leadership in advancing University-City initiatives.

1.2 Presentation of an proclamation declaring June 27th & 28th as R.A.C.E.S. FIELD DAY in the City of San José. (Emergency Services)

Action: Mayor Reed proclaimed June 27th & 28th as R.A.C.E.S. FIELD DAY in the City of San José.

1.3 Presentation of a proclamation declaring June 12, 2009 as “Filipino Independence Day” in the City of San José. (Chu)

Action: Mayor Reed and Council Members Chu and Liccardo proclaimed June 12, 2009 as “Filipino Independence Day” in the City of San José.

**1.4 Presentation of commendations to recipients of the REACH scholarship for their excellence in academics and sports. (Campos)
(Rules Committee referral 5/27/09)**

Action: Mayor Reed and Council Member Campos recognized and commended recipients of the REACH scholarship for their excellence in academics and sports.

**1.5 Presentation of a commendation to the San José Woman’s Club for their more than 100 years of civic, cultural and social leadership. (Liccardo)
(Rules Committee referral 5/27/09)**

Action: Mayor Reed and Council Member Liccardo recognized and commended the San José Woman’s Club for their more than 100 years of civic, cultural and social leadership.

CONSENT CALENDAR

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

2.4 Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Business Improvement District Fund for 2008-2009:

(a) **Increase the appropriation to the Finance Department for the Downtown Business Improvement District in the amount of \$152,000; and**

(b) **Decrease the appropriation for the Ending Fund Balance Unrestricted - Downtown in the amount of \$152,000.**

CEQA: Exempt, File No. PP08-048. Council District 3. SNI: St. James Square; University; Josefa/Auzerais; Burbank/DelMonte. (Economic Development/City Manager's Office)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko and Budget Director Jennifer Maguire, dated May 18, 2009, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 28587](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Business Improvement Districts Fund for the Downtown Business Improvement District; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (11-0.) Resolution No. 74940 was not used.

2.5 Approve the award of open purchase orders for supplies, materials, equipment and services for FY 2008-2009 #7 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 P. Johnson, dated May 21, 2009, recommending approval of an award of open purchase orders for supplies, materials, equipment and services for FY 2008-2009 #7.

Action: The award of open purchase orders for supplies, materials, equipment and services for FY 2008-2009 #7 and authorization for the Director of Finance to execute the purchase orders was approved. (11-0.)

2.6 Adopt a resolution approving the annual certification of the City of San José Investment Policy, including certain revisions:

(a) **Updating job titles of the City Investment Officials;**

(b) **Adding language in the authorized investments section to clarify certain restrictions and limitations are "at time of purchase";**

(c) **Updating of the List of the Primary Government Securities Dealers; and**

(d) **Making other clarifying changes thereto.**

CEQA: Not a Project. (Finance) (Rescheduled from 6/2/09 – Item 2.11)

2.6 (Cont'd.)

Documents Filed: (1) Joint memorandum from Mayor Reed and Council Members Liccardo and Nguyen, dated June 5, 2009, recommending adoption of a resolution with certain revisions. (2) Memorandum from Director of Finance Scott P. Johnson, dated May 28, 2009, recommending adoption of a resolution.

Council Member Liccardo pulled this item from the Consent Calendar to highlight revisions as recommended in the memorandum he co-signed with Mayor Reed and Council Member Nguyen, dated June 5, 2009.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 74941](#), entitled: “A Resolution of the Council of the City of San José Approving the City’s Investment Policy Including Certain Revisions Thereto”, was adopted with direction to Staff as set forth in the joint memorandum from Mayor Reed and Council Members Liccardo and Nguyen, dated June 5, 2009, as follows: (1) Return to appropriate Council committees with analysis of the feasibility of altering the City’s Investment Policy to permit the Director of Finance to consider, as one factor in his decision for making an investment or savings decision, the extent of a financial institution’s commitment to or effectiveness in assisting homeowners facing foreclosure within the City of San José in addition to the already existing objectives of safety, liquidity and yield. (a) Such consideration would be limited to decisions involving those savings or investment vehicles—such as a banker’s acceptance (BA), time deposit, certificate of deposit (CD), or other instrument – offered by institutions and engage in those financial services as well as mortgage lending. (b) The financial institution’s commitment may be demonstrated by specific outcomes, or if staff finds that an outcome-based approach too difficult to implement, it may be evinced by active participation in specified state or federal foreclosure-relief programs. (2) .If the City Manager finds such an approach to be feasible, return to Council with a revised Investment Policy that would contain a new paragraph “D” to para. 4.0, “Objectives” relating to an additional objective: foreclosure mitigation, considered only after safety, liquidity and yield. (3) Ensure that any investment vehicles or instruments selected by the Director of Finance continue to comply with the objectives, procedures and internal controls of the City’s Investment Policy. (11-0.)

2.7 **Adopt a resolution supporting the goals of the East Foothills Community Wildfire Protection Plan for the area east of San José developed by the Santa Clara County FireSafe Council and authorizing the Mayor and the Fire Chief to sign the mutual agreement page of the plan. CEQA: Not a Project. (Fire)**

Action: Deferred to August 4, 2009 per Administration.

2.8 Adopt a resolution summarily vacating a 10-foot Public Service Easement and a 5-foot Wire Clearance Easement lying in the northerly and southerly boundaries of Lot 164, Tract 3451, APN 595-19-158, on Mylinda Drive. CEQA: Not a Project. Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 18, 2009, recommending adoption of a resolution.

Action: [Resolution No. 74942](#), entitled: “A Resolution of the Council of the City of San José Summarily Vacating the Public Service Easement and Wire Clearance Easement Lying Within a Portion of Lot 164 of Tract 3451, APN 595-19-158”, was adopted. (11-0.)

2.9 Approve an increase in the construction contingency authority of the Public Works Director for the Fire Station No.13, Apparatus Bay Modifications Project, in the amount of \$7,500, increasing the total contingency allocation from the project budget from \$13,116 to \$20,616. CEQA: Exempt, File No. PP08-065, 2008. (Public Works)

Documents Filed: Joint memorandum from Director of Public Works Katy Allen and Fire Chief Darryl Von Raesfeld, dated May 18, 2009, recommending approval of an increase of a project contingency amount for Fire Station No. 13.

Action: An increase in the construction contingency authority of the Public Works Director for the Fire Station No.13, Apparatus Bay Modifications Project, in the amount of \$7,500, was approved. (11-0.)

2.10 Approve a five-year lease with Smith Family Trust for the use of approximately 20,480 square feet of office space located at 1302 N. Fourth Street in San José, at an initial rate of \$37,888 per month for the first year of the lease increasing to \$41,984 per month in the final year of the lease. CEQA: Not a Project. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 18, 2009, recommending approval of a lease.

Action: A five-year lease with Smith Family Trust for the use of approximately 20,480 square feet of office space located at 1302 N. Fourth Street in San José, was approved. (11-0.)

2.11 Report on bids and award of contract for the Residential Slurry Seal 2009 project to the low bidder, Bond Blacktop, Inc. in the amount of \$1,507,436.50 and approval of a five percent (5%) contingency in the amount of \$75,372. CEQA: Exempt, File No. PP09-101. Council Districts 1, 2, 3, 4, 5, 6, 9 and 10. (Transportation)

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated May 18, 2009, recommending acceptance of a report on bids and award of a construction contract.

Council Member Chu pulled this item from the Consent Calendar to commend the Department of Transportation in their on-going efforts and directed questions to Director of Transportation James R. Helmer regarding quality control measures taken on street repair projects.

Action: Upon motion by Council Member Chu, seconded by Council Member Constant and carried unanimously, the report on bids and award of contract for the Residential Slurry Seal 2009 project to the low bidder, Bond Blacktop, Inc. in the amount of \$1,507,436.50 with additional contingency funds, was approved. (11-0.)

- 2.12 (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 \$2,965,991;**
 - (2) Increase the appropriation to the Department of Transportation for the Downtown Seasonal Banners Project (PSM 529 Amendment #1) in the amount of \$80,000;
CEQA: Resolution No. 72767 and addenda thereto, File No. PP09-055. (Transportation/City Manager's Office)**
 - (3) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the Watson Park Remediation and Phase I Improvements project (PSM 567) in the amount of \$2,000,000;
CEQA: Mitigated Negative Declaration, File No. PP07-130, September 2008. (Parks, Recreation and Neighborhood Services/City Manager's Office)**
 - (4) Establish an appropriation to the Department of Public Works for the Utility Undergrounding Program (PSM 575) in the amount of \$100,000;
CEQA: Not a Project. (Public Works/City Manager's Office)**
 - (5) Establish an appropriation to the Department of Housing for the Washington Housing Rehabilitation Project (PSM 578) in the amount of \$200,000;
CEQA: Not a Project. (Housing/City Manager's Office)**

2.12 (Cont'd.)

- (6) Establish an appropriation to the Department of Transportation for the North San José Streetlight Conversion to LED project (PSM 577) in the amount of \$200,000;
CEQA: Exempt, File No. PP09-094. (Transportation/City Manager's Office)
- (7) Establish an appropriation to the Department of Public Works for the San José Convention Center Roof Replacement project (PSM 580) in the amount of \$90,000;
CEQA: Not a Project. (Public Works/City Manager's Office)
Deferred to 6/23/09 Redevelopment Agency Agenda per Administration.
- (8) Establish an appropriation to the Office of Economic Development for the Imwalle Story and King Development – Public Art Project (PSM 581) in the amount of \$29,000;
CEQA: Exempt, File No. PP05-184. (Economic Development/City Manager's Office)
- (9) Establish an appropriation to the Housing Department for the Neighborhood Housing Services Silicon Valley (PSM #583) in the amount of \$250,000;
CEQA: Not a Project. (Housing/City Manager's Office)
- (10) Increase the appropriation to the Department of Planning, Building, and Code Enforcement for the California Environmental Quality Act (CEQA) Clearance (PSM 365 Amendment #5) in the amount of \$16,991.
CEQA: Not a Project. (Planning, Building and Code Enforcement/City Manager's Office)
- (b) Adopt resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:
 - (1) The Watson Park Remediation and Phase I Improvements project as more specifically described in the memorandum from the Redevelopment Agency, dated March 17, 2009.
 - (2) The North San José Streetlight Conversion to LED as more specifically described in the memorandum from the Redevelopment Agency, dated April 3, 2009.
 - (3) The Utility Undergrounding Program as more specifically described in the memorandum from the Redevelopment Agency, dated March 3, 2009.
 - (4) The Imwalle Story and King Development – Public Art Project as more specifically described in the memorandum from the Redevelopment Agency, dated April 20, 2009.

2.12 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso, Director of Transportation James R. Helmer, Director, Planning, Building and Code Enforcement, Joseph Horwedel, Director of Housing Leslye Krutko, Chief Development Officer Paul Krutko and Budget Director Jennifer Maguire, dated May 18, 2009, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 28588](#) 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 Downtown Seasonal Banners Project, for the Watson Park Remediation and Phase I Improvements Projects, for the Utility Undergrounding Program, for the Washington Housing Rehabilitation Project, for the North San José Streetlight Conversion, for the Inwalle Story and King Development – Public Art Project, for the Neighborhood Housing Services Silicon Valley, and for the California Environmental Quality Act (CEQA) Clearance, and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 74943](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74461 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2008-2009 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”; [Resolution No. 74944](#), 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 Strong Neighborhoods Initiative Redevelopment Project Area”; [Resolution No. 74945](#), 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 Rincon de Los Esteros Redevelopment Project Area”; [Resolution No. 74946](#), 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 Strong Neighborhoods Initiative Redevelopment Project Area, Neighborhood Business Districts, and the Greater Downtown”; and [Resolution No. 74947](#) 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 Story Road Redevelopment Project Area”, were adopted. (11-0.)

END OF THE CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – May 20, 2009 Mayor Reed, Chair

Action: Deferred to June 16, 2009 per City Clerk.

**3.3 Report of the Rules and Open Government Committee – May 27, 2009
Mayor Reed, Chair**

Action: Deferred to June 16, 2009 per City Clerk.

3.5 Adopt a resolution approving the terms of an agreement for a Reduced Work Week with the Association of Building, Mechanical and Electrical Inspectors and authorizing the City Manager to execute the agreement with a term of June 28, 2009 to June 27, 2010. CEQA: Not a Project. (City Manager’s Office)

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated May 22, 2009, recommending adoption of a resolution.

City Manager Debra Figone offered opening remarks on approval of terms for the ABMEI Agreement. Director of Employee Relations Alex Gurza clarified additional terms of the proposed contract.

Council discussion followed.

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 74948](#), entitled: “A Resolution of the Council of the City of San José Approving the Terms of an Agreement Between the City of San José and the Association of Building, Mechanical and Electrical Inspectors Relating to a Reduced Work Week, with a Term of June 28, 2009 to June 27, 2010”, was adopted, with the City Attorney directed to bring forward an ordinance on June 16, 2009 implementing changes in the retirement fund and calculation of retirement benefits. (11-0.)

- 3.6 (a) Adopt a resolution approving an agreement of the terms of the City’s Last, Best, Final Offer, as described in the memorandums dated May 21, 2009 and June 1, 2009, between the City and Operating Engineers, Local No. 3, and authorizing the City Manager to execute the agreement, effective June 28, 2009.**
- (b) In the alternative, in the absence of an agreement, adopt a resolution approving the implementation of the terms, as described in the memorandums dated May 21, 2009 and June 1, 2009, for employees represented by Operating Engineers, Local No. 3, effective June 28, 2009.**
- CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: (1) Memorandum from Director of Employee Relations Alex Gurza, dated May 21, 2009, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Employee Relations Alex Gurza, dated June 1, 2009, clarifying provisions under Article 27.

City Manager Debra Figone offered opening comments regarding the terms of the City’s final offer to Operating Engineers, Local No. 3. Director of Employee Relations Alex Gurza outlined the agreement and answered questions from Council.

3.6 (Cont'd.)

Public Comments: Bill Pope (OE-3), Cliff Hubbard (San José Firefighters, Local 230), and Harry Adams (South Bay AFL-CIO Labor Council); Linda Dittes, Trish Glassey and Yolanda Cruz (AFSCME MEF), urged greater flexibility from the City in reaching an agreement and asked that the City return to the bargaining table. Ross Signorino commented that a co-payment for medical benefits is a small sacrifice to be made.

Motion: Council Member Herrera moved that negotiations be continued one more week. The motion was seconded by Council Member Campos.

Extensive Council discussion followed.

Bill Pope, representing Operating Engineers, Local No. 3, responded to questions from Council Member Oliverio and agreed to meet on June 10, 2009 to continue negotiations.

Action: Item 3.6 was deferred to July 16, 2009 to allow further negotiations with Operating Engineers, Local No. 3.

3.7 **Adopt a resolution authorizing the City Manager to negotiate and execute the third amendment to the current agreement with Mitchell International, Inc. (formerly Fair Isaac Corporation) to provide workers' compensation cost containment services, increasing compensation by \$550,000, from \$750,000 to a not to exceed amount of \$1,300,000 for the period July 1, 2008 to June 30, 2009, with three one-year options to renew at an annual contract amount of \$1,300,000 subject to annual appropriation of funds by the City Council. CEQA: Not a Project. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated May 18, 2009, recommending adoption of a resolution.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 74949](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Third Amendment to the Agreement with Mitchell International, Inc., (Formerly Fair Isaac Corporation) for Workers' Compensation Cost Containment Services", was adopted. (11-0.)

3.8 **Report of the Rules and Open Government Committee – May 13, 2009 Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated May 13, 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 May 13, 2009 were accepted. (11-0.)

3.9 As recommended by the Council Salary Setting Commission, approve an ordinance setting the salaries and benefits of the Mayor and City Council for Fiscal Year (FY) 2009 - 2010 and FY 2010 - 2011 as follows:

- (a) For the Mayor, maintain the annual salary at the current level of \$127,000 for FY 2009 - 2010 and FY 2010 - 2011, respectively.**
- (b) For each Councilmember, maintain the annual salary at the current level of \$90,000 for FY 2009 - 2010 and FY 2010 - 2011, respectively.**
- (c) Retain the levels of health, dental, life insurance and other benefits through FY 2010 - 2011 in accordance with the benefits provided to management employees in Unit 99 and salary continuation insurance benefits as well as the City's contributions to CalPERS or PTC 457 plans through FY 2010 - 2011.**
- (d) Continue to require Council Members to pay \$250 for each unexcused absence at scheduled Council meetings, pursuant to City Charter Section 407.**
- (e) Maintain a monthly vehicle allowance of up to \$600 for the Mayor and City Council through June 30, 2011.**

(City Clerk/City Attorney) (Continued from 6/2/09 – Item 3.6)

Documents Filed: (1) Joint memorandum from Council Members Constant and Liccardo, dated May 21, 2009, recommending acceptance of the report from the Council Salary Setting Commission. (2) Memorandum from Council Members Constant and Liccardo, dated June 3, 2009, amending the memorandum of May 21, 2009.

Motion: Council Member Constant moved approval of the memorandum he cosigned with Council Member Liccardo, dated June 3, 2009, with adoption of items one through four. Council Member Liccardo seconded the motion.

Assistant City Clerk Dennis Hawkins responded to questions from Council.

Extensive Council discussion ensued.

Amendment to the Motion: Council Member Pyle moved approval of an amendment to the motion that the vehicle allowance be made voluntary. Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried, with an agreement to make the monthly vehicle allowance by the Mayor and Council Members voluntary. (10-1. Noes: Constant.)

Public Comment: Ross Signorino offered suggestions for determining the Council Members' vehicle allowance.

3.9 (Cont'd.)

Final Action: On a call for the question, the motion and the amendment to the motion carried unanimously. [Ordinance No. 28589](#), entitled: “An Ordinance of the City of San José Adopting Salaries and Other Compensation for the Mayor and Council members Recommended by the Council Salary Setting Commission Pursuant to City Charter Section 407”, was passed for publication, by reducing salaries for the Mayor and Council Members by 3.75%. The Mayor and Council Members may elect to take a voluntary reduction in monthly vehicle allowance (11-0.)

- 3.10 Conduct an ADMINISTRATIVE HEARING to consider the request of West Bay Builders, Inc., the general contractor on the Happy Hollow Park & Zoo – Zoo and Attractions project, to substitute Jensen Corporation for Green Growth Industries, Inc., the listed subcontractor for the landscape, irrigation and green roof work. CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April 2007. (Public Works)
[Rules Committee referral 6/3/09 – Item 3.1(a)]**

Action: Deferred to June 16, 2009 per Administration.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Report of the Community & Economic Development Committee – May 26, 2009
Councilmember Pyle, Chair**

Documents Filed: The Community & Economic Development Committee Report dated May 26, 2009.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the Report of the Community and Economic Development Committee and the actions of May 26, 2009 were accepted. (11-0.)

- 4.2 (a) Adopt a resolution amending the North San José Area Development Policy to:**
- (1) Add capacity within the Policy to allow for up to one million square feet of large scale regional commercial uses and up to 2,000 hotel rooms outside the Core Area, and to decrease the capacity for new industrial uses by two million square feet;**
 - (2) Facilitate the delivery of affordable residential units within North San José consistent with City goals for affordable housing;**
 - (3) Other numerous clarifying changes to facilitate implementation of the Policy; and**
 - (4) Allow the Director of Planning the discretion to grant permit time extensions.**

4.2 (Cont'd.)

(b) **Accept Revised North San José Area Traffic Impact Fee Study dated May 2009 and approve an ordinance amending the North San José Area Traffic Impact Fee.**

(c) **Accept the North San José Neighborhoods Plan.**

CEQA: Resolution No. 72768, Addendum to the North San José Policy Update EIR. Council Districts 3 and 4. (Planning, Building and Code Enforcement)

[Referred from 5/19/09 – Item 11.1(a)]

Action: Deferred to June 16, 2009 in the Evening per Administration.

NEIGHBORHOOD SERVICES

5.2 **As recommended by the Neighborhood Services and Education Committee on May 14, 2009, adopt a resolution approving revision to Council Policy 3-1, the Parks, Recreation and Neighborhood Services Volunteer Policy. (Parks, Recreation and Neighborhood Services)**

(Neighborhood Services and Education referral 5/14/09 – Item 3.3)

(Deferred from 6/2/09 – Item 5.4)

Documents Filed: (1) Memorandum from City Clerk Lee Price, Dated May 21, 2009, submitting the recommendations of the Neighborhood Services and Education Committee of May 14, 2009. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 5, 2009, amending a portion of the Council Policy 3-1.

Director of Parks, Recreation and Neighborhood Services Albert Balagso offered a presentation on recommended revisions to the Parks, Recreation and Neighborhood Services Volunteer Policy.

Motion: Council Member Oliverio moved approval of the Staff recommendation with a revision to allow employer-paid volunteers to work in City parks as part of “community service days”. Council Member Constant seconded the motion.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 74950](#), entitled: “A Resolution of the Council of the City of San José Approving Revisions to City Council Policy 3-1, Regarding Parks, Recreation and Neighborhood Services Volunteers”, was adopted, by revising the policies to allow private employer-paid volunteers to work in City parks as part of “community service days”. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 Approve the Funding Agreement with Santa Clara Valley Transportation Authority in the amount of \$5,076,000 for the construction of the Julian/St. James Couplet Conversion Project. CEQA: Negative Declaration and addenda thereto, File Nos. PP02-05-115 and PP08-126. Council District 3. SNI: 13th Street. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated May 18, 2009, recommending approval of a funding agreement.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, the Funding Agreement with Santa Clara Valley Transportation Authority in the amount of \$5,076,000 for the construction of the Julian/St. James Couplet Conversion Project was approved. (11-0.)

PUBLIC SAFETY SERVICES

- 8.1 (a) Approve an Agreement for Purchase of Real Property and Easement with HawkStone White LLC, in the purchase amount of \$951,184, for fee title in the amount of \$845,064, \$87,120 for an easement for street purposes, and \$19,000 in closing costs, for the relocation of Fire Station 21 on White Road north of the intersection with Tully Road, San José, CA 95148, portions of parcels 649-24-016 and 649-24-017.**
- (b) Adopt a resolution authorizing the Director of Public Works to accept the deeds and execute all documents related to the transaction.**
- (c) Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Fire Protection Purposes (392):**
- (1) Establish an appropriation to the Fire Department for Land Acquisition – Fire Station in the amount of \$300,000; and**
- (2) Decrease the Fire Station 21 – Relocation (White Road) appropriation by \$300,000.**
- (d) Adopt the following Appropriation Ordinance amendments in the Neighborhood Security Bond Fund (475):**
- (1) Increase the Land Acquisition – Fire Station appropriation by \$352,000; and**
- (2) Decrease the Fire Training Center appropriation by \$352,000.**
- CEQA: EIR Resolution to be adopted and Addendum thereto (File No. PP08-184). Council District 8. (Public Works/City Manager’s Office)**

Documents Filed: (1) Memorandum from Council Member Herrera, dated June 9, 2009, recommending approval of the staff recommendation. (2) Joint memorandum from Director of Public Works Katy Allen and Budget Director Jennifer Maguire, dated May 18, 2009, recommending adoption of resolutions and appropriation ordinance amendments.

8.1 (Cont'd.)

Director of Public Works Katy Allen clarified Environmental Impact Requirements and requested a waiver of the “Sunshine” posting requirement for the CEQA resolution.

Action: Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 74951](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Accept the Deed and to Execute Certain Documents for the Purchase of Properties Pertaining to the Fires Station 21 Project”; [Ordinance No. 28590](#), 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: Fire Protection Purposes for Land Acquisition – Fire Station; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; [Ordinance No. 28591](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the Neighborhood SecurityBond Fund for Land Acquisition – Fire Station; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and [CEQA Resolution No. 74952](#), entitled: “A Resolution of the Council of the City of San José Approving the Fire Station No. 21 Project, for Which an Addendum to a Previously Certified and Supplemented Final Environmental Impact Report for the Evergreen East Hills Vision Strategy Project was Prepared in Accordance with the California Environmental Quality Act of 1970” were adopted, with an approval for waiver of the ten-day “Sunshine” posting requirement for the CEQA resolution . (11-0.)

OPEN FORUM

Ross Signorino suggested an alternate term for “Master Volunteer” in the PRNS volunteer policy. In addition, he acknowledged Vice Mayor Chirco’s heroism and wished her well.

ADJOURNMENT

The Council of the City of San José was adjourned at 4:11 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

rmk/06-09-09MIN

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/COUNCIL

The Joint Redevelopment Agency Board convened at 3:59 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

- 8.1 (a) Redevelopment Agency Board approval of the fourth amendment to the Disposition and Development Agreement (DDA) with 360 Residences LLC (successor in interest to Mesa SoFA Partners, LLC), to:**
- (1) Modify the terms of a \$2,000,000 Promissory Note payable to the Agency;**
 - (2) Defer payment of a portion of the public art obligation;**
 - (3) Increase the Agency assistance to reimburse Developer \$106,000 for off-site improvements;**
 - (4) Amend the lease between the Agency and Mesa SoFA Partners, LLC, for ground floor retail space at 170 S. Market Street, and;**
 - (5) Provide for the recordation of Covenants, Conditions and Restrictions related to the leasing and maintenance of the retail spaces of the Project.**
- (b) Adoption of a resolution by the Redevelopment Agency Board approving a budget adjustment to the Agency's Adopted FY 2008-09 Capital Budget, to reduce the Other/Miscellaneous Revenue budget line by \$2,000,000 from the Disposition and Development Agreement (DDA) with 360 Residences LLC Promissory Note, and amending the FY 2008-2009 Agency Revenue resolution.**
- (c) Adoption of a resolution by the City Council accepting the supplemental 33433 Summary Report and Re-Use Valuation pursuant to the California Health and Safety Code Section 33433 which summarizes and evaluates the financial aspects of the proposed Fourth Amendment to DDA.**

CEQA: Resolution No. 72767, Downtown Strategy 2000 FEIR and Addendum thereto, File No. H05-037. [MARKET GATEWAY]

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated May 26, 2009, recommending approval of a fourth amendment to the Disposition and Development Agreement.

Public Comment: Charles Young, Mesa SoFA Partners, LLC spoke to the merits of the project and responded to questions from Council. Ross Signorino expressed concern over the large expenditures involved with this development.

Deputy Executive Director of the Redevelopment Agency John Weis responded to questions from Council.

8.1 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the fourth amendment to the Disposition and Development Agreement (DDA) with 360 Residences LLC (successor in interest to Mesa SoFA Partners, LLC), was approved, and [Resolution No. 74953](#), entitled: “A Resolution of the Council of the City of San José Accepting the Summary Costs and Findings of the Supplemental 33433 Summary Report and Making Certain Findings Pursuant to the California Health and Safety Code Section 33433 for the Fourth Amendment to the Disposition and Development Agreement with 360 Residences LLC”; and [Redevelopment Agency Resolution No. 5912](#), entitled: “A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving a Budget Adjustment to the Agency’s Adopted FY 2008-09 Capital Budget, to Reduce the Other/Miscellaneous Revenue Budget Line by \$2,000,000 from the Disposition and Development Agreement (DDA) with 360 Residences LLC Promissory Note, and amending the FY 2008-2009 Agency Revenue Resolution” were adopted. (11-0.)

8.2 **Adoption of a resolution by the City Council making certain findings required under California Health and Safety Code Section 33445 approving the demolition of the vacant City-owned buildings at 460 Park Avenue. CEQA: Exempt, File No. PP08-256. [SNI]**

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated May 28, 2009, recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, [Resolution No. 74954](#), entitled: “A Resolution of the Council of the City of San José Making Certain Findings Required Under California Health and Safety Code Section 33445 for Redevelopment Agency Funding of the Demolition of the Vacant City-Owned Buildings at 460 Park Avenue”, was adopted. (11-0.)

The Council of the City of San José and Redevelopment Agency Board was adjourned at 4:11 p.m.