



## MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MAY 5, 2009

The Council of the City of San José convened in regular session at 9:31 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Chirco. (Excused)

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (b) with respect to anticipated litigation (claim filed): (1) in re Claim of Hildebrand; Department: Department of Transportation; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (c) with respect to anticipated litigation in one (1) matter; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (a) with respect to existing litigation: (1) Watson, et al. v. City of San José, et al.; Name of Parties Involved: Tracy Watson, Renee Stalker, Olivia Stalker, Shafter Watson, Riley Watson, County of Santa Clara, County of Santa Clara Department of Family and Children Services; County of Santa Clara Department of County Counsel; County of Santa Clara District Attorneys Office; Santa Clara Valley Medical Center; Evergreen School District, City of San José, San José Police Department; Norma Sparks, Yazmina Letona; Sharon Burgan; Jewels Ramirez; Vu Tran; Ann Miller Ravel, Rima Singh; Aaron West; George Kennedy; Clifton Black; Rose Real; Robert Pruitt; Cheryl Harms; Claudia Blodgett; Gary Kishimoto; John Hamilton, Anita Noble, Janet Kahle, Mary Ritter, David Kearns, Rajul Kazi; Rob Davis; William Hoyt; Craig Blank; Court: United States District Court, Northern District of California; Case No: C-06-04029; Amount of Money or Other Relief Sought: Damages According to Proof; (2) Williams, et al. v. City of San José, et al.; Names of Parties Involved: Thomas Williams and Nancy Williams, individually and as joint personal representatives of the Estate of Ty Williams; Todd Williams; Trina Williams; and Keith Lusk, City of San José; Cristiano Bindi, individually and in his capacity as a police officer for the City of San José; Gregory Salas, individually and in his capacity as a

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.

## **CLOSED SESSION (Cont'd.)**

police officer for the City of San José; and Does 3-10; Court: Superior Court of Sought: Seeking to obtain real property through eminent domain for fair market value; (4) 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 imilarly 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 California, County of Santa Clara; Case No.: 1-07-CV100074; Amount of Money or Other Relief Sought: Damages according to proof; (3) City of San José v. Union Pacific Railroad Company; Names of Parties Involved: City of San José, Union Pacific Railroad Company, a Delaware Corporation, and Does 1-15; Court: Superior Court of California, County of Santa Clara; Case No.: 1-04-CV026149; Amount of Money or Other Relief proof; Court: (5) De La Rosa, et al v. City of San José, et al.; Names of Parties Involved: Richard E. De La Rosa, Dennis Fong, Jose Mendoza, City of San José, Avo Makdessian and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No.: 1-03-CV-817097 H031583; Amount of Money or Other Relief Sought: In excess of \$25,000 according to proof; (6) Licking Enterprises, Inc. v. City, et al.; Names of Parties Involved: Licking Enterprises, Inc., City of San José, a municipal corporation; San José City Council; Ron Gonzales, Cindy Chavez, Pat Dando, Ken Yeager, Chuck Reed, Forrest Williams, Linda J. Lezotte, Nora Campos, George Shirakawa, Jr., David Cortese, John DiQuisto, sued in their official capacities; Court: United States District Court, Northern District of California; Case No.: 1-07-00735 RMW (PVT); Amount of Money or Other Relief Sought: Damages according to proof; (7) 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; compact Issues Fund, Sponsored by the San José Silicon Valley Chamber of Commerce; the City of San José; San José Elections Commission; Does 1-10; Court: United States District Court, Northern District of California; Case No.: 1-06-04252 HRL; Amount of Money or Other Relief Sought: Challenge to SJMC 12.06.310; (8) Smith v. City of San José, et al. Names of Parties Involved: Ted Smith, City of San José, San José Elections Commission and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-07-CV-089167; Amount of Money or Other Relief Sought: Damages according to proof; (9) Vietnamese-American Community of Northern California v. City of San José, et al.; Names of Parties Involved: Vietnamese-American Community of Northern California; City of San José; City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-08-CV-107082; Amount of Money or Other Relief Sought: for declaratory and injunctive relief according to proof; (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 – City of San José and Association of Building, Mechanical and Electrical Inspectors (ABMEI); (2) International Brotherhood of Electrical Workers, Local 332 (IBEW) Nature of Negotiations: Wages/Salaries, Hours,

## **CLOSED SESSION (Cont'd.)**

Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Brotherhood of Electrical Workers, Local 332 (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 – Confidential Employees’ Organization, AFSCME Local 101 and City of San José; (4) City Association of Management Personnel Agreement (CAMP); Nature of negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Benefit & Compensation Summary - City of San José and City Association of Management Personnel Agreement; (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 - City of San José and Municipal Employees’ Federation, AFSCME Local 101, AFL-CIO; (6) Association of Maintenance Supervisory Personnel (AMSP); Nature of negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: City of San José and City Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary; (7) Association of Engineers & Architects (AEA); Nature of negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement - City of San José Association of Engineers & Architects (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 - 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 11:45 a.m. and reconvened at 1:31 p.m. in the Council Chambers.

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

Absent: Council Members - Chirco. (Excused)

**INVOCATION**

The Adelante Dual Language Academy Folkloric Group performed a traditional dance in celebration of Cinco de Mayo.

**PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance.

**ORDERS OF THE DAY**

Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved. Item 3.2 was deferred to May 12, 2009. Items 4.6, 4.7, 4.8 and 4.9 were dropped from the Agenda. (10-0-1. Absent: Chirco.)

**CLOSED SESSION REPORT**

City Attorney Doyle disclosed the following Closed Session actions of May 5, 2009:

A. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The name of the action and the defendant(s), 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: Campos, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Noes: None.  
Disqualified: None.  
Absent: Chirco. (Excused)  
Vacant: None.

## CEREMONIAL ITEMS

**1.1 Presentation of a proclamation declaring the Month of May 2009 as “Older Americans Month” in the City of San José. (Constant)**

Action: Mayor Reed and Council Member Constant recognized the Month of May 2009 as “Older Americans Month” in the City of San José.

**1.2 Presentation of a proclamation declaring the Month of May 2009 as “Motorcycle Awareness Month” in the City of San José. (Constant)**

Action: Deferred to May 19, 2009 per Rules Committee.

**1.3 Presentation of the Government Finance Officers Association’s “Certificate of Achievement for Excellence in Financial Report” and the “Award of Financial Reporting Achievement” to the San José Redevelopment Agency. (Mayor/Redevelopment Agency)**

Action: Mayor Reed recognized and commended the Government Finance Officers Association’s “Certificate of Achievement for Excellence in Financial Report” and the “Award of Financial Reporting Achievement” to the San José Redevelopment Agency.

**1.4 Presentation of a proclamation declaring the Month of May 2009 as “Asian Pacific American Heritage Month” in the City of San José. (Nguyen/Kalra/Chu)**

Action: Mayor Reed and Council Members Nguyen, Kalra and Chu recognized the Month of May 2009 as “Asian Pacific American Heritage Month” in the City of San José.

**1.5 Presentation of a proclamation recognizing the week of May 3 through May 9, 2009 as “Municipal Clerks Week” in the City of San José. (Mayor/City Clerk) (Rules Committee referral 04/29/09)**

Action: Mayor Reed proclaimed the week of May 3-9, 2009 as “Municipal Clerks Week” 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. (10-0-1. Absent: Chirco.)

## 2.1 Approval of minutes.

- (a) **Regular Minutes of March 3, 2009.**
- (b) **Special Minutes of the Green Vision Study Session of March 9, 2009.**
- (c) **Regular Minutes of March 10, 2009.**
- (d) **Regular Minutes of March 17, 2009.**
- (e) **Regular Minutes of March 24, 2009.**
- (f) **Regular Minutes of San José Housing Authority of March 24, 2009.**

Documents Filed: (1) The Regular Minutes, dated March 3, March 10, March 17 and March 24, 2009. (2) Special Green Vision Study Session Minutes, dated March 9, 2009. (3) Regular Minutes of the San José Housing Authority, dated March 24, 2009.

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

## 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28530 – Amending Title 15 of the San José Municipal Code by adding a new Chapter 15.34 to provide for regulations of state video franchise holders.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28530, executed on April 28, 2009, submitted by the City Clerk.

Action: Ordinance No. 28530 was adopted. (10-0-1. Absent: Chirco.)

- (b) **ORD. NO. 28532 – Rezoning certain real property situated at the northwest corner of Stockton Avenue and West Julian Street (715 West Julian Street) to CP Commercial Pedestrian Zoning District. C09-005**

Documents Filed: Proof of Publication of the title of Ordinance No. 28532, executed on April 28, 2009, submitted by the City Clerk.

Action: Ordinance No. 28532 was adopted. (10-0-1. Absent: Chirco.)

- (c) **ORD. NO. 28533 – Rezoning certain real property situated on the east side of South 10<sup>th</sup> Street approximately 90 feet north of Margaret Street (684 South 10<sup>th</sup> Street), to A(PD) Planned Development Zoning District. PDC07-094**

Documents Filed: Proof of Publication of the title of Ordinance No. 28533, executed on April 28, 2009, submitted by the City Clerk.

Action: Ordinance No. 28533 was adopted. (10-0-1. Absent: Chirco.)

- 2.3 (a) **Approve an ordinance 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. CEQA: Exempt, File No. PP09-084.**
- (b) **Approve an ordinance 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 recordkeeping requirements for grease control devices. CEQA: Exempt, File No. PP09-091.**

Documents Filed: Memorandum from City Attorney Rick Doyle, dated April 23, 2009, recommending approval of ordinances amending the Municipal Code.

Action: Ordinance No. 28536, entitled: “An Ordinance of the City of San José 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”, and Ordinance No. 28537, entitled: “An Ordinance of the City of San José 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 Green Control Devices”, were passed for publication. (10-0-1. Absent: Chirco.)

2.4 **Adopt a resolution to:**

- (a) **Accept the 2008 Urban Area Security Initiative (UASI) grant from the Federal Government in the amount of \$1,000,000; and**
- (b) **Authorize the City Manager to negotiate and execute an agreement with the City and County of San Francisco (San Francisco) to accept program funds from San Francisco for the 2008 UASI grant in the amount identified above, and to negotiate and execute any amendments to the agreement.**

**CEQA: Exempt, File Nos. PP09-028, PP09-029, PP09-030. (Emergency Services)**

Documents Filed: Memorandum from Emergency Service Director Kimberly Shunk, dated April 13, 2009, recommending adoption of a resolution.

Action: Resolution No. 74888, entitled: “A Resolution of the Council of the City of San Jose accepting the 2008 Urban Area Security Initiative Grant from the Federal Government in the Amount of \$1,000,000 and authorizing the City Manager to Negotiate and Execute an Agreement with the City and County of San Francisco to accept Program Funds from San Francisco for the 2008 UASI grant in the amount identified above, and to Negotiate and Execute any Amendments to the Agreement”, was adopted. (10-0-1. Absent: Chirco.)

- 2.5 (a) Approve a Grant Agreement with the Metropolitan Transportation Commission (MTC) in the amount of \$47,700 for a 2009 Cycle Regional Signal Timing Program grant for administrative costs associated with the retiming of 318 traffic signals located in the City; and
- (b) Approve a Waiver of Claims and Indemnification Agreement with MTC that will allow the City to receive in-kind consultant services to retime 318 traffic signals located in the City valued at approximately \$800,000.

**CEQA: Resolution Nos. 60197 and 63179, File No. PP08-154. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated April 13, 2009, recommending approval of a grant amendment and a Waiver of Claims and Indemnification Agreement.

Action: A Grant Agreement with the Metropolitan Transportation Commission (MTC) in the amount of \$47,700 for a 2009 Cycle Regional Signal Timing Program grant for administrative costs associated with the retiming of traffic signals located in the City; and a Waiver of Claims and Indemnification Agreement with MTC that will allow the City to receive in-kind consultant services to retime 318 traffic signals located in the City valued at approximately \$800,000, were approved. (10-0-1. Absent: Chirco.)

- 2.6 (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 \$437,140.
  - (2) Establish an appropriation to the Department of Public Works for the 460 Park Avenue Building Demolition Project (PSM 576) in the amount of \$50,000.
  - (3) Establish an appropriation to the Department of Transportation for the Agency Traffic Signal Painting Project (PSM 572) in the amount of \$200,000.
  - (4) Increase the appropriation to the Office of Economic Development for the Edenvale Community Center Public Art Project (PSM 508 Amendment #1) in the amount of \$187,140.
- (b) Adopt resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:
- (1) The Agency Traffic Signal Painting Project as more specifically described in the memorandum from the Redevelopment Agency, dated 5/2/09, and
  - (2) The Edenvale Community Center Public Art Project as more specifically described in the memorandum from the Redevelopment Agency, dated November 6, 2008.

**CEQA: 460 Park Avenue Building Demolition Project: Exempt, File No. PP08-256; Agency Traffic Signal Painting Project: Exempt, File No. PP09-071; Edenvale Community Center Public Art: Exempt, File No. PP05-184. Council Districts 2, 3 and 4. SNI: Various. (Public Works/Transportation/Economic Development/City Manager's Office)**

## 2.6 (Cont'd.)

Documents Filed: Joint memorandum from Director of Public Works Katy Allen, Director of Transportation James R. Helmer, Chief Development Officer Paul Krutko and Budget Director Jennifer Maguire, dated April 13, 2009, recommending adoption of appropriation ordinance and funding sources resolution amendments and resolutions.

Action: Ordinance No. 28538, 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 406 Park Avenue Building Demolition Project, for the Agency Traffic Signal Painting Project, and for the Edenvale Community Center Public Art Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, Resolution No. 74889, 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. 74890, 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 and the Merged Redevelopment Project Areas in the Greater Downtown”, and Resolution No. 74891, 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”, were adopted. (10-0-1. Absent: Chirco.)

- 2.7 Request for excused absences for Vice Mayor Chirco from the following meetings:**
- (a) Closed Session, Regular City Council Meeting, and Evening City Council Meeting on April 21, 2009 due to illness.**
  - (b) Regular Meeting of the Rules and Open Government Committee on April 22, 2009 due to illness.**
- (Chirco)**  
**(Rules Committee referral 4/22/09)**

Documents Filed: Memoranda from Vice Mayor Chirco, dated April 20 and April 22, 2009, requesting excused absences due to illness.

Action: The absences for Vice Mayor Chirco were excused. (10-0-1. Absent: Chirco.)

- 2.8 Request for an excused absence for Council Member Constant from the Regular City Council Meeting on April 28, 2009 due to a medical appointment. (Constant)**  
**(Rules Committee referral 4/22/09)**

Documents Filed: Memorandum from Council Member Constant, dated April 15, 2009, requesting excused absences due to a medical appointment.

Action: The absence for Council Member Constant was excused. (10-0-1. Absent: Chirco.)

- 2.9 Request for excused absences for Vice Mayor Chirco from the following meetings: Closed Session and Regular City Council Meeting on April 28, 2009 due to illness. (Chirco) (Rules Committee referral 04/29/09)**

Documents Filed: Memorandum from Vice Mayor Chirco, dated April 28, 2009, requesting excused absences due to illness.

Action: The absences for Vice Mayor Chirco were excused. (10-0-1. Absent: Chirco.)

- 2.10 Request for an excused absence for Council Member Constant from the Joint City Council/Santa Clara Valley Water District Meeting on April 23, 2009 due to illness. (Constant) (Rules Committee referral 04/29/09)**

Documents Filed: Memorandum from Council Member Constant, dated April 23, 2009, requesting an excused absence due to illness.

Action: The absence for Council Member Constant was excused. (10-0-1. Absent: Chirco.)

- 2.11 Request for an excused absence for Council Member Chu from the Joint City Council/Santa Clara Valley Water District Meeting on April 23, 2009 due to an emergency dental procedure. (Chu) (Rules Committee referral 04/29/09)**

Documents Filed: Memorandum from Council Member Chu, dated April 22, 2009, requesting excused absences due to a medical appointment.

Action: The absences for Council Member Chu were excused. (10-0-1. Absent: Chirco.)

- 2.12 Request for excused absences for Council Member Constant from the following meetings:**

- (a) Budget Study Session of May 14, 2009 due to Authorized City Business: Federated Retirement Board Meeting at the Retirement Services Office.**
- (b) Closed Session of the City Council on May 19, 2009 due to Authorized City Business: Federated Retirement Board Quarterly Invest Committee of the Whole and Investment Committee Meetings at the Retirement Services Office. (Constant) (Rules Committee referral 4/22/09)**

Documents Filed: Memorandum from Council Member Constant, dated April 20, 2009, requesting excused absences due to authorized City business.

Action: The absences for Council Member Constant were excused. (10-0-1. Absent: Chirco.)

**END OF CONSENT CALENDAR**

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 (a) **Adopt a resolution:**
- (1) **Approving the revised business terms for the Amended and Restated Option Agreements and the Purchase and Sale Agreements with Coleman Airport Partners LLC and FWSH Partners LLC for the property located at 1125 Coleman Avenue.**
  - (2) **Authorizing the City Manager or her designee to negotiate and execute Amended and Restated Option agreements and Purchase and Sale Agreements for the property located at 1125 Coleman Avenue for the development of (a) 1.5 million square feet of office R&D development, 300 hotel rooms, 95,000 square feet of retail space and the required parking for all uses including a proposed stadium; and (b) a soccer stadium on 14 acres.**
- (b) **Accept the updated Cost Benefit Analysis for the project.**  
**CEQA: Resolution No. 71716, File No. PP08-093. Council District 3. (OED)**

Documents Filed: (1) Memorandum from Chief Development Officer Paul Krutko, dated April 8, 2009, recommending adoption of a resolution and acceptance of a cost benefit analysis. (2) Letter from Enrique Fernandez, Business Manager for Unite Here Local 19, dated May 5, 2009, urging a neutrality agreement for labor on the proposed stadium and hotel projects.

Chief Development Officer Paul Krutko offered a presentation on the options of restructuring the current agreement for the purchase and redevelopment of the Airport West Property or terminating the agreement, and responded to questions from Council.

Motion: Council Member Liccardo moved approval of the Staff recommendations. Council Member Pyle seconded the motion.

Public Comment: Speaking in support of the proposed soccer stadium were: Don Gagliardi (Soccer Silicon Valley), Bena Chang (Silicon Valley Leadership Group), Karlina Ott, John Jessum (Almaden Valley Youth Soccer League), Colin McCarthy, and Anne Warner Cribbs (San José Sports Authority Board). Sal Ventura (IBEW 332), Owen Li (Unite Here Local 19) and Ross Signorino urged equitable labor practices.

Action: On a call for the question, the motion carried unanimously, Resolution No. 74895, entitled: “A Resolution of the Council of the City of San José Approving the Revised Business Terms for the Amended and Restated Option Agreements and the Purchase and Sale Agreements with Coleman Airport Partners, LLC and FWSH Partners, LLC for the Property Located at 1125 Coleman Avenue and Authorizing the City Manager to Negotiate and Execute an Amended and Restated Option Agreement and a Purchase and Sale Agreement for the Property Located at 1125 Coleman Avenue”, was adopted, and the updated Cost Benefit Analysis for the Project was accepted. (10-0-1. Absent: Chirco.)

## STRATEGIC SUPPORT SERVICES

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

The City Manager provided an update on the steps taken to monitor and respond to swine flu concerns in San José.

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

Action: Deferred to May 12, 2009 per Orders of the Day.

### 3.4 (a) Adopt a resolution to authorize the City Manager and the City Manager's authorized designees ("City Manager") to:

- (1) Negotiate and execute agreements with Wells Fargo Bank, N.A. (the "Bank") for banking and financial services including General Banking Services, Merchant Card Processing Services and Lockbox Services and related agreements for an initial term commencing with the execution of the agreements by the parties through June 30, 2012; and Securities Custody Services for an initial term of July 1, 2009 to June 30, 2012, with a total maximum annual compensation for the four agreements for the period through June 30, 2010 not to exceed \$864,000 and, thereafter, subject to annual appropriation of funds for the second and third year of the initial term.
- (2) Negotiate and execute up to three additional two-year options for one or more of each of these agreements subject to annual appropriation of funds.
- (3) Negotiate and execute amendments to any of these agreements, subject to annual appropriation of funds by the City Council and the parameters specified in the resolution to: (a) add new banking and financial services; (b) revise the descriptions of the banking and financial services; and (c) increase the compensation paid to the Bank if the volume of services exceeds the estimated volume of services.

- (b) Adopt a resolution authorizing the City Manager to negotiate and execute the ninth amendment to the agreement with Union Bank of California to provide final banking services related to the City's Commercial Account, Lockbox and Merchant Card services for the period of July 1, 2009 to June 30, 2010 in an amount not to exceed \$30,000.

**CEQA: Not a Project. (Finance)**

Documents Filed: (1) Memorandum from Deputy Director of Finance Julia H. Cooper, dated April 15, 2009, recommending adoption of resolutions. (2) Supplemental memorandum from Deputy Director of Finance Julia H. Cooper, dated April 30, 2009, providing recommended modifications to the previous memorandum, dated April 15, 2009.

### 3.4 (Cont'd.)

Deputy Director of Finance Julia H. Cooper offered a brief presentation on banking and financial services and offered a recommendation that Wells Fargo serve as the new banking services partner for the City of San José.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Constant and carried unanimously, Resolution No. 74892, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Agreements with Wells Fargo Bank, N.A., for Banking and Financial Services, Including General Banking Services, Merchant Card Processing Services, Lockbox Services, Securities Custody Services, and Related Agreements for an Initial Term Through June 30, 2012 with Three Additional Two-Year Option Periods in an Amount Not To Exceed \$864,000 for the Period through June 30, 2010 and, thereafter, Subject to Annual Appropriation of Funds for the second and Third Year of the Initial Term and Any Option Periods”, and Resolution No. 74893, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Ninth Amendment to the Agreement with Union Bank of California to Provide Final Banking Services Related to City’s Commercial Account, Lockbox and Merchant Card Services for the Period of July 1, 2009 to June 30, 2010, in an Amount Not to Exceed \$30,000”, were adopted. (10-0-1. Absent: Chirco.)

### 3.5 **Adopt a resolution of the Council authorizing the negotiation and execution of the Sixth Supplemental Trust Agreement to the Master Trust Agreement by and between the City and The Bank of New York Mellon related to City of San José Airport Revenue Bonds to permit the continuance of two collateralized investment agreements by and between The Bank of New York Mellon and Citigroup Global Markets Inc. related to the City of San José Airport Revenue Bonds, Series 2004A, Series 2004B, Series 2004C, Series 2004D, Series 2007A, and Series 2007B. CEQA: Resolution Nos. 67380 and 71451, PP 09-057. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated April 13, 2009, recommending adoption of a resolution.

Director of Finance Scott P. Johnson provided a presentation on airport revenue bonds and responded to questions from Council.

Council discussion followed.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, Resolution No. 74894, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute a Sixth Supplemental Trust Agreement to the Master Trust Agreement with the Bank of New York Mellon Trust Company, N.A. Related to City of San José Airport Revenue Bonds Series 2004A, Series 2004B, Series 2004C, Series 2004D, Series 2007A and Series 2007B”, was adopted. (10-0-1. Absent: Chirco.)

**3.6 As referred by the Rules and Open Government Committee on April 15, 2009, consider a position of support for AB 68 (Brownley) – Solid Waste: Single-Use Bags and AB 87 (Davies) – Single-Use Carryout Bags: Environmental Effect: Mitigation. (Environmental Services)  
[Rules Committee referral 4/15/09 – Item 6.1(a)]**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated April 23, 2009, submitting the Rules and Open Government Committee recommendation of April 15, 2009, considering a position of Support for AB 68 (Brownley). (2) Supplemental memorandum from Director of Environmental Services John Stufflebean, dated April 27, 2009, providing additional information on environmental review requirements for State legislation.

Director of Environmental Services John Stufflebean responded to questions. Extensive Council discussion followed.

Council Member Constant expressed that he could not support the bill due to the additional burdens placed on small business and individual residents during the current economic downturn.

Mayor Reed and Council Member Oliverio expressed dissatisfaction with the legislation as written.

Motion: Council Member Pyle moved approval of the Staff recommendations with an amendment that an update on the bills be provided clarifying how funds generated by the bills can be spent. The motion was seconded by Council Member Liccardo.

Public Comment: Ross Signorino urged the elimination of ‘extreme packaging’ to lessen the environmental impact.

Action: On a call for the question, the motion carried, and a position of support for AB 68 with amendments was adopted, with Staff directed to bring back an update on the bills on June 2, 2009, including clarification on how funds generated by the bills can be spent. (7-3-1. Noes: Constant, Oliverio; Reed. Absent: Chirco.)

**3.7 Adopt an urgency ordinance amending Ordinance No. 28517, which amended Title 16 of the San José Municipal Code, Gaming Control Regulatory Program, in order to delay the effective date from May 7, 2009 until the proposed amendments to Title 20 allowing for relocated cardrooms are adopted and take effect. CEQA: Not a Project. (City Attorney’s Office)  
(Rules Committee referral 04/29/09)**

Documents Filed: Memorandum from City Attorney Rick Doyle, dated April 30, 2009, recommending adoption of an urgency ordinance.

City Attorney Rick Doyle clarified changes considered for Titles 16 and 20 of the San José Municipal Code.

**3.7 (Cont'd.)**

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, Ordinance No. 28539, entitled: “An Urgency Ordinance of the City of San José Amending Ordinance No. 28517, which Amends Title 16 of the San José Municipal Code, Gaming Control Regulatory Program, to Clarify and Enhance the Scope, Terms, Conditions, and Procedures of Regulation of Cardrooms and Funding Sources, and to Make Technical Changes to the Title, in Order to Delay the Effective Date from May 7, 2009 until the Proposed Amendments to Title 20 Allowing for Relocated Cardrooms are Adopted and Take Effect and Setting Forth the Facts Constituting Such Urgency”, was adopted. (10-0-1. Absent: Chirco.)

**3.8 Report of the Rules and Open Government Committee – April 8, 2009  
Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated April 8, 2009.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Herrera and carried unanimously, the Report of the Rules and Open Government Committee and the actions of April 8, 2009 were accepted. (10-0-1. Absent: Chirco.)

**3.9 As referred by the Rules and Open Government Committee on April 29, 2009, consider a position of support for AB 821, the Clean and Health Schools Act. (Environmental Services)  
[Rules Committee referral 04/29/09 – Item 6.1(a)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated April 30, 2009, submitting the Rules and Open Government Committee recommendation of April 29, 2009, considering a position of Support for AB 821, the Clean and Healthy Schools Act.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, a position of support for AB 821, the Clean and Health Schools Act, was adopted. (10-0-1. Absent: Chirco.)

**3.10 As referred by the Rules and Open Government Committee on April 29, 2009, consider a position of support for SB 346, Hazardous Materials: Motor Vehicle Brake Friction Materials. (Environmental Services)  
[Rules Committee referral 04/29/09 – Item 6.1(c)]**

Action: Deferred to May 12, 2009 per Administration.

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 Report of the Community & Economic Development Committee – April 27, 2009 Council Member Pyle, Chair

Documents Filed: The Community & Economic Development Committee Report, dated April 27, 2009.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the Report of the Community & Economic Development Committee and actions of April 27, 2009 were approved. (10-0-1. Absent: Chirco.)

- 4.3 (a) **Authorizing the Director of Housing to reallocate up to \$4,483,700 in uncommitted Low- and Moderate-Income Housing Funds for homebuyers in eleven new construction for-sale projects to homebuyers in any new construction for-sale development in San José for a period of twelve months**
- (b) **Making findings that the use of Low- and Moderate-Income Housing Funds to provide loans to homebuyers in those housing projects that are outside a redevelopment project area benefits the Agency's redevelopment project areas; and**
- (c) **Authorizing the Director of Housing to extend availability of the funds to homeowners in new developments for a period of up to twelve additional months.**

**CEQA: Not a Project. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated April 13, 2009, recommending adoption of a resolution.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, Resolution No. 74896, entitled: “A Resolution of the Council of the City of San José Regarding the New Construction Second Mortgage Loan Program”, was adopted. (10-0-1. Absent: Chirco.)

- 4.4 (a) **Conduct a final public hearing regarding the approval of the City's Annual Action Plan 2009-2010 and take public comment.**
- (b) **Adopt the 2009-2010 Annual Action Plan, including the FY 2009-2010 funding recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program.**
- (c) **Adopt a resolution authorizing the Director of Housing to negotiate and execute all non-capital agreements and contracts not requiring CEQA/NEPA review and to negotiate all capital project agreements and contracts, including any amendments or modifications, and after CEQA/NEPA review and City Council project approval, to execute all documents for the expenditure of CDBG, ESG, HOME and HOPWA funds on behalf of the City;**
- (d) **Authorize the Housing Department to submit the FY 2009-2010 Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD), which makes the City eligible to receive and distribute approximately \$15 million.**

**CEQA: Not a Project. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Leslye Krutko, dated April 20, 2009, recommending approval of the City's Annual Action Plan, submission of the FY 2009-2010 Annual Action Plan to the U.S. Department of Housing and HUD, and adoption of a resolution. (2) Supplemental memorandum from Director of Housing Leslye Krutko, dated April 23, 2009, providing additional input received regarding the Draft Annual Action Plan. (3) Letter from the South Bay Labor Council, dated May 1, 2009, urging restoration of the Community Block Grant funding for the Housing Counseling Project and the Fair Housing Counseling Program of the Legal Aid Society. (4) Forty-eight letters from community members, dated April, 2009, urging continued funding for the Legal Aid Society Housing and Fair Housing Projects.

Meeting disclosures were provided by Mayor Reed and Council Members Campos, Herrera and Chu.

Director of Housing Leslye Krutko provided a report on the 2009-2010 Annual Action Plan. Director Krutko and Planning Administrator Sandra Murillo responded to questions from Council.

Extensive Council discussion ensued.

Mayor Reed opened the public hearing.

Public Comment: Speaking in support of continued funding for the Legal Aid Society were Raj Jayadev and Moses Aviles (Silicon Valley De-Bug), Victor Guendulain, Alicia Carvajal, Fred Hirsch, Mavis Wallace, Milford Reynolds, Javier Rodriguez, Fiorencia Alva, Tony Estremera, Guy Caputo, Doris Borks (UAW Local 2320) Janice Carolina, Jesse Dominguez, Mary Prem (Project Sentinel), Annette Kirkham and Andres Garces.

#### 4.4 (Cont'd.)

Mayor Reed closed the public hearing.

Motion: Council Member Pyle moved approval of the Staff recommendations with additional provisions to Legal Aid of Santa Clara County for its Fair Housing Program. The motion was seconded by Council Member Liccardo.

Council Member Campos requested to amend the motion to include the consolidated Action Plan amendments as set forth by the Director of Housing. The amendment was accepted by Council Members Pyle and Liccardo.

Action: On a call for the question, the motion carried unanimously, and the Annual Action Plan for FY 2009-10 was approved with the changes read into the record and one additional change—to provide three months' of assistance to Legal Aid of Santa Clara County to operate its Fair Housing Program. This timeframe will enable Legal Aid to work with the Housing Department to determine whether concerns about agency financials can be resolved. The Housing Department was directed to look at the possibility of providing federal stimulus dollars to Legal Aid should it be determined that the use is an eligible activity, and Resolution No. 74897, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute all Non-Capital Agreements and Contracts not Requiring CEQA/NEPA Review and to Negotiate all Capital Agreements and Contracts, including Amendments or Modifications, and after CEQA/NEPA Review and City Council Project Approval, to Execute all Documents", was adopted. (10-0-1. Absent: Chirco.)

#### 4.5 **Approve a Memorandum of Understanding between the City of San José and Step up Silicon Valley: The Campaign to Cut Poverty. (Housing)** **[Rules Committee referral 4/22/09 – Item 3.1(a)]**

Documents Filed: Memorandum from Agenda Services Manager Nadine Nader, dated April 23, 2009, transmitting a Memorandum of Understanding between the City of San José and the Step Up Silicon Valley Campaign to Cut Poverty.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Memorandum of Understanding between the City of San José and Step up Silicon Valley: The Campaign to Cut Poverty, was approved. (10-0-1. Absent: Chirco.)

#### 4.6 **Accept Staff's progress on the implementation of the Small Wonders Work Plan projects that improve the sidewalk level environment and public realm downtown. (Office of Economic Development)** **[Community & Economic Committee referral 04/27/09 – Item 3.1(a)]**

Action: Dropped per Orders of the Day.

- 4.7 Accept the exhibits completed and planned in FY 2008-2009 and plans for continuing City Hall Exhibits Program in FY 2009-2010. (OED)  
[Community & Economic Committee referral 04/27/09 – Item 3.1(c)]**

Action: Dropped per Orders of the Day.

- 4.7 Accept the actions taken towards the City’s goals of ending chronic homelessness, including work of Destination: Home. (Housing)  
(Community & Economic Committee referral 04/27/09 – Item 3.3)**

Action: Dropped per Orders of the Day.

- 4.8 Accept the status report on updated legislation which requires cities to make plans to reduce greenhouse gas emissions and makes changes to housing element law. (PBCE/DOT/Housing)  
(Community & Economic Committee referral 04/27/09 – Item 3.4)**

Action: Dropped per Orders of the Day.

## **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. (Planning, Building and Code Enforcement)**

Action: Deferred to May 19, 2009 per the Rules and Open Government Committee.

## TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) Approve a Fifth Amendment to the Airport Food and Beverage Concession Agreement entered into on January 29, 1999 with Host International, Inc. (“Host”) to:
- (1) Extend the term from June 30, 2009 to June 30, 2011, unless terminated earlier by the City with thirty (30) day notice; and
  - (2) Remove the Minimum Annual Guarantee requirement.
- (b) Approve a First Amendment to the Airport Food and Beverage Concession Agreement entered into on April 22, 2004 with Host to:
- (1) Extend the term from June 30, 2009 to June 30, 2011, unless terminated earlier by the City with thirty (30) day notice; and
  - (2) Remove the Minimum Annual Guarantee requirement.
- (c) Approve a Second Amendment to the Lease of Airport Premises entered into on June 29, 1999, with Host to extend the term from June 30, 2009 to June 30, 2011, unless terminated earlier with thirty (30) day notice by either party.
- CEQA: Resolution Nos. 67380 and 71451, PP09-033. (Airport)**  
**(Deferred from 4/14/09 – Item 6.3)**

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated March 23, 2009, recommending amendments to agreements with Host International, Inc.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the Fifth and First Amendments to the Airport Food and Beverage Concession Agreements with Host International, Inc., and the Second Amendment to the Lease of Airport Premises with Host were approved. (10-0-1. Absent: Chirco.)

## **PUBLIC SAFETY SERVICES**

### **8.1 (2) Discussion and action regarding disclosure of Closed Session discussion, materials and votes dealing specifically with the appointment of the Independent Police Auditor. [Rules Committee referral 04/29/09 – Item 3.1(a)]**

Documents Filed: (1) Memorandum from Mayor Reed, dated April 28, 2009, recommending a selection process for the Independent Police Auditor (IPA) position. (2) Memorandum from City Clerk Lee Price, dated April 30, 2009, submitting the Rules and Open Government recommendation of April 29, 2009. (3) Letter from the Silicon Valley De-Bug, dated May 5, 2009, requesting greater transparency and community input with the IPA hiring process. (4) Letter from Bobby Lopez, President, San José Police Officers' Association, dated May 5, 2009, asking that the Mayor and Council Members pledge to support the San José Police Department in their goals to serve the citizens of San José.

Mayor Reed offered background information regarding the selection of the Independent Police Auditor (IPA) and requested permission from the City Council to allow disclosure of parts of the closed session discussions regarding the IPA selection from April 7 and April 28, 2009.

Motion: Council Member Liccardo moved approval to allow disclosure of the closed session votes of April 7 and 28, 2009 relating to the selection of the Independent Police Auditor. The motion was seconded by Council Member Oliverio.

City Attorney Rick Doyle clarified issues regarding disclosures of the closed sessions. Extensive Council discussion followed.

Council Member Pyle voiced concerns over modifying the intent of closed sessions.

Action: On a call for the question, the motion carried, and approval of full disclosure of the voting record for the Independent Police Auditor was authorized. (9-1-1. Noes: Pyle. Absent: Chirco).

Mayor Reed disclosed the following voting record of the closed sessions of April 7 and 28, 2009: On April 7, 2009, there were two votes taken regarding the selection of the Independent Police Auditor. The first motion was a motion to appoint Chris Constantin as the new Independent Police Auditor. That vote carried on a 7-3 vote, with Mayor Reed, Council Members Chu and Campos voting no. Vice Mayor Chirco was absent. During a following discussion, the matter was reconsidered, and the vote was unanimous in favor of appointing Chris Constantin as the new IPA, with Vice Mayor Chirco absent.

**8.1 (2) Discussion and action regarding disclosure of Closed Session discussion, materials and votes dealing specifically with the appointment of the Independent Police Auditor. (Cont'd.)**

On April 28, 2009, Council considered a motion made by Council Member Liccardo to allow the Mayor's disclosure of his statement in Closed Session that Chris Constantin's brother was a San José Police Officer. That motion failed on a 4-6 vote with Mayor Reed and Council Members Constant, Oliverio and Liccardo voting in favor, and Vice Mayor Chirco absent.

The decision to allow disclosure of comments made in closed session was deferred to the Closed Session Meeting of May 12, 2009. Noes: Reed, Constant, Liccardo; Oliverio.

**8.1 (1) Discussion and action regarding procedures for the selection of an Independent Police Auditor.**

First Motion: Council Member Constant made a motion to accept the process for the selection of an Independent Police Auditor as outlined in Mayor Reed's memorandum, dated April 28, 2009. The motion was seconded by Council Member Nguyen.

Public Comment: Fred Villasenor suggested that Mayor Reed recuse himself from the IPA hiring process.

Action: On a call for the question, the motion carried unanimously, and the process for the selection of an Independent Police Auditor as outlined in the memorandum from Mayor Reed, dated April 28, 2009, was approved. (10-0-1. Absent: Chirco.)

Second Motion: Council Member Constant moved approval for Mayor Reed to be allowed to disclose the comments that he made in closed session in order to clear up any allegations of impropriety that were made. Council Member Liccardo seconded the motion.

Council Member Liccardo requested to amend the motion to allow all Council Members to disclose their discussions during closed session. Council Member Constant accepted the amendment.

Substitute Motion to the First Motion: Council Member Nguyen moved that the selection of the Independent Police Auditor return to closed session for a more complete discussion. Council Member Pyle seconded the motion.

Discussion followed.

Action: On a call for the question, the substitute motion carried, and the selection of the Independent Police Auditor was returned to closed session for more complete discussion before revealing all contents of the IPA discussion. (6-4-1. Noes: Constant, Liccardo, Oliverio; Reed. Absent: Chirco.)

- 8.2 As recommended by the Rules and Open Government Committee on April 8, 2009:**
- (a) Accept the introductory scope and preliminary timeline for Consortium for Police Leadership and Equity (CPLÉ) to present to the City Council its organization and methodology for doing research related to racial and gender equity in policing.**
  - (b) Accept the preliminary quarterly status report schedule to the Public Safety, Finance & Strategic Support Committee.**
- (City Manager’s Office)**  
**(Rules Committee referral 4/8/09 – Item 10.2)**  
**(Continued from 4/21/09 – Item 8.1)**

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Liccardo, dated April 30, 2009, recommending an approval process for continued community dialogue on public safety concerns. (2) Joint Memorandum from Council Members Kalra and Nguyen, dated May 1, 2009, modifying recommendations for the Consortium for Police Leadership in Equity following outreach to the community. (3) Memorandum from City Clerk Lee Price, dated April 9, 2009, submitting recommendations from the Rules and Open Government Committee of April 8, 2009, regarding the Consortium for Police Leadership in Equity.

Public Comment: (1) Bobby Lopez (SJPOA) asked that the Mayor and Council commit themselves to the safety concerns of the community and provided a pledge letter asking for their support. (2) Skyler Porres (ACLU of Northern California) spoke in support of Council Members Kalra and Nguyen’s memorandum of May 1, 2009. (3) Ross Signorino congratulated the police department on their service to the public. (4) Raj Jayadev (De-Bug) asked for collective problem-solving and greater transparency. (5) George Beattie (SJPOA) asked that the Consortium be used effectively to resolve the issue.

Acting IPA Shivaun Nurre assured the Council and the Community that the Office of the Independent Police Auditor’s doors are still open.

Motion: Council Member Liccardo moved approval of the Staff recommendation with an amendment to include direction as outlined in the memorandum he co-signed with Mayor Reed, dated April 30, 2009, recommending an approval process for continued community dialogue on public safety concerns. The motion was seconded by Council Member Constant.

Substitute Motion: Council Member Nguyen moved approval of the memorandum dated May 1, 2009 that she co-authored with Council Member Kalra, offering four additional recommendations to the City Manager’s memorandum “Consortium for Police Leadership in Equity”. Council Member Kalra seconded the motion. The substitute motion failed. (4-6-1. Noes: Chu, Constant, Liccardo, Oliverio, Pyle; Reed. Absent: Chirco.)

Action: On a call for the question, the motion carried unanimously, the Staff recommendations were accepted with additional direction as outlined in the joint memorandum from Mayor Reed and Council Member Liccardo, dated April 30, 2009. (10-0-1. Absent: Chirco.)

## **PUBLIC HEARINGS ON CONSENT CALENDAR**

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the northwest corner of Carla Drive and Almaden Expressway from the R-1-5 Residential Zoning District to the A(PD) Planned Development Zoning District to allow three single-family detached residences on a 0.79 gross acre site (Robert Bagheri, Owner). CEQA: Exempt. The Director of Planning, Building and Code Enforcement and the Planning Commission recommend approval (7-0-0).  
PDC08-055 – District 10**

Action: Continued to May 12, 2009 in the Afternoon per Rules Committee.

## **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). CEQA: Mitigated Negative Declaration. The 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**

Action: Continued to May 12, 2009 in the Afternoon per Rules Committee.

## **OPEN FORUM**

Marilyn Kirby spoke in opposition to excessive rental reserve fees being levied on mobile homes and provided a data sheet for Council's review.

Ross Signorino objected to the filing of anonymous complaints with the San José Elections Commission and suggested the regulations be amended to prohibit them.

Elisa Marino Alvarado urged community involvement and transparency in the IPA hiring process. Expressing concerns regarding the San José Police Department and urging greater citizen's oversight of police activities to ensure fair treatment to minorities were: Brian Helmle (Cop Watch), Maria Dolores Castillo, Ernest Chavez (Students for Justice), Donna Wallach (Justice for Palestinians), Noreen Salinas, Luis Carrillo (Youth Against Violence for Education), Juozas Gaigalas, Ali Rahnoma, Saul Loya, Patricia (no last name provided), Javier Perez, Art Calderon, Aaron Resendez, Steve Arevilo, Timoteo Vasquez, Sharat Lin (San José Peace and Justice Center), Jaime Alvarado, Adrian Sanchez and Victor Guendulain,

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 7:30 p.m. in memory of Frank Jirik, former Chief Operating Officer of San José Arena Management/San José Sharks.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

rmk/5-5-09.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/COUNCIL

The Joint Redevelopment Agency Board convened at 6:45 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

- 8.1**
- (a) Redevelopment Agency Board approval of an Owner Participation Agreement, in the amount of \$105,250, with Yu Ai Kai Japanese American Community Senior Service for improvements to the City-owned building located at 110 East Jackson Street in the Japantown Redevelopment Project Area.**
  - (b) Adoption of a resolution by the City Council making certain determinations required by law for Redevelopment Agency funding of a public project**  
**CEQA: Exempt, File No. PP09-093 [JAPANTOWN]**

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated April 23, 2009, recommending an Owner Participation Agreement with Yu Ai Kai Japanese American Community Senior Service.

Action: Upon motion by Council Member Liccardo, seconded by Constant and carried unanimously, the Redevelopment Agency approval of an Owner Participation Agreement with Yu Ai Kai Japanese American Community Senior Service for improvements to the City-owned building was accepted, and Resolution No. 74898, entitled: “A Resolution of the Council of the City of San José Making Certain Determinations Required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency Funding of Improvements for the Ua Ai Kai Japanese American Community Senior Service”, was adopted. (10-0-1. Absent: Chirco.)

- 8.2 Public Hearing concerning a proposed Plan Amendment to authorize the collection of tax increment from the “Diridon Area” of the Strong Neighborhoods Initiative (SNI) Project Area, followed by Redevelopment Agency Board and City Council consideration and actions:**
- (a) Adoption of resolutions by the Redevelopment Agency Board and City Council approving the Report to Council on the proposed Amendment to the SNI Project Area to authorize the collection of tax increment from the Diridon Area, a portion of the SNI Project Area generally bounded by Santa Clara Street on the north, the UP railroad on the west, San Carlos Street on the south, and the Guadalupe River/Los Gatos Creek and Highway 87 on the east.**
  - (b) Approval of an ordinance by the City Council adopting the proposed Amendment to the SNI Redevelopment Plan to authorize the collection of tax increment from the Diridon Area and making certain findings.**  
**CEQA: Not a project [MERGED]**

## 8.2 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Constant and carried unanimously, Resolution No. 74899, entitled: “A Resolution of the Council of the City of San José Approving the Report to Council on the Proposed Amendment to the Strong Neighborhoods Initiative (SNI) Project Area, Authorizing the Collection of Tax Increment from the ‘Diridon Area’, a Portion of the SNI Generally Bounded by Santa Clara Street on the North, the Up Railroad on the West, San Carols Street on the South, and the Guadalupe/Los Gatos Creek and Highway 87 on the East” and Redevelopment Agency Resolution No. 5906 were adopted, and Ordinance No. 28540, entitled: “An Ordinance of the City of San José 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”, passed for publication.. (10-0-1. Absent: Chirco.)

The Council of the City of San José and Redevelopment Agency Board was adjourned at 7:30 p.m.