



## MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MAY 12, 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, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

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

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133, (A) Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957: Department: Independent Police Auditor; Title: Independent Police Auditor. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (a) with respect to existing litigation: (1) Renzo's Bar & Grill, et al. v. City of San José, et al.; Name of Parties Involved: Renzo's Bar & Grill, Inc., Gholam R. Shafazand, and in his individual capacity, City of San José, San José Police Department, San José Police Sergeant John Vanek, San José Police Lieutenant David Hober, Frank Cucuzza, Jr., Cucuzza Family Partnership and Does 1-200; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-114221; Amount of Money or Other Relief Sought: Injunctive Relief and Damages According to Proof; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (c) with respect to anticipated litigation in one (1) matter; (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, 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

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.)**

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 1:30 p.m. in the Council Chambers.

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

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

## INVOCATION

The James Lick High School Choir performed “Ain’t That Good News”. (District 5)

## PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance accompanied by students from Lynhaven School and Graystone Elementary.

## ORDERS OF THE DAY

Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (9-0-2. Absent: Chirco, Constant.)

## CEREMONIAL ITEMS

### **1.1 Presentation of a proclamation declaring the month of May 2009 as “Better Speech and Hearing Month” in the City of San José. (Mayor)**

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

### **1.2 Presentation of a proclamation declaring May 10 through May 16, 2009 as “National Police Officers Memorial Week” in the City of San José. (Constant)**

Action: Mayor Reed recognized May 10 through May 16, 2009 as “National Police Officers Memorial Week” in the City of San José. Council Member Constant was absent.

### **1.3 Presentation of a commendation to the D9 Stars Lou McKellar, Misti Navarro, Kerry Boomsliter and Friends of the Cambrian Branch Library, Susan Abele, President. (Chirco)**

Action: Dropped per District 9.

### **1.4 Presentation of a proclamation declaring May 2009 as “Historic Preservation Month” in the City of San José. (Chirco/Liccardo)**

Action: Mayor Reed and Council Members Liccardo and Oliverio recognized the month of May 2009 as “Historic Preservation Month” in the City of San José.

- 1.5 **Presentation of a commendation to the San José BioCenter for winning two prestigious International Awards, the 2009 National Business Incubation Association's Randall M. Whaley Incubator of the Year Award and the Dinah Adkins Incubator of the Year Award in the Technology Category. (Kalra)**  
(Rules Committee referral 5/6/09)

Action: Mayor Reed and Council Member Kalra commended the San José BioCenter for winning two prestigious International Awards, the 2009 National Business Incubation Association's Randall M. Whaley Incubator of the Year Award and the Dinah Adkins Incubator of the Year Award in the Technology Category.

## 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. (9-0-2. Absent: Chirco, Constant.)

### 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28534 – Repealing Chapter 6.30 of Title 6 of the San José Municipal Code and Amending Chapter 6.54 of Title 6 to include regulation of Flower Street Vendors, extend the hours during which Approved Location Peddlers can peddle, authorize the City Manager to make and promulgate time, place and manner regulations reasonably necessary to promote economic growth and create a more vibrant downtown, and update definitions to ensure consistency of terms within Title 6 of the San José Municipal Code.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28534, executed on May 5, 2009, submitted by the City Clerk.

Action: Ordinance No. 28534 was adopted. (9-0-2. Absent: Chirco, Constant.)

- (b) **ORD. NO. 28535 – Amending Chapter 6.55 of Title 6 of the San José Municipal, Downtown Special Events, to reduce the area within which approved Location Peddlers' Permits may be suspended during a Designated Downtown Special Event by limiting the Suspension Area to the Special Event Boundary, authorize peddlers within the Special Event Boundary to temporarily peddle at Alternative Approved Locations outside the boundary for the duration of the Downtown Special Event, and clarify the exceptions to the requirement for Event Organizers to provide Approved Location Peddlers an equal opportunity to participate in the Downtown Special Event.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28535, executed on May 5, 2009, submitted by the City Clerk.

Action: Ordinance No. 28535 was adopted. (9-0-2. Absent: Chirco, Constant.)

- 2.3 Adopt a resolution authorizing the City Manager to:**
- (a) Negotiate and execute a joint Memorandum of Understanding (Funding MOU) between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area SUASI, to accept the 2008 SUASI grant in the amount of \$1,272,972, and to execute additional amendments and related documents without further Council action; and**
  - (b) Negotiate and execute a joint Memorandum of Understanding (Funding MOU) agreement between the City of San José and the San Mateo County Sheriff's Office, and to execute additional amendments and related documents without further Council action.**
- CEQA: Not a Project. (Police)**

Documents Filed: Memorandum from Chief of Police Robert L. Davis, dated April 20, 2009, recommending adoption of a resolution.

Action: Resolution No. 74900, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding with the City and County of San Francisco and a Memorandum of Understanding with the County of San Mateo, Related to the Fiscal Year 2008 Super Urban Area Security Initiative Grant", was adopted. (9-0-2. Absent: Chirco, Constant.)

- 2.4 Report on bids and award of contract for the Emergency Generators Installation project to the low bidder, Bayside Equipment Company, to include the base bid and Add Alternate No. 1 in the amount of \$165,332, and approval of a contingency in the amount of \$24,800. CEQA: Exempt, File No. PP09-028 (Eagle Rock Site); Exempt, File No. PP09-029 (West Yard Site); Exempt, File No. PP09-030 (Cadwallader Site). (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 20, 2009, recommending acceptance of a report on bids and award of a contract.

Action: The report on bids and award of contract for the emergency generators installation project to the low bidder, Bayside Equipment Company, to include the base bid and Add Alternate No. 1 in the amount of \$165,332 with related contingency was accepted. (9-0-2. Absent: Chirco, Constant.)

- 2.5 Report on bids and award of contract for the Hensley Historic District – San José State University to Japantown Pedestrian Corridor Project – Federal Project No. CML-5005 (093) to the low bidder, Guerra Construction Group, to include the base bid and Add Alternate No. 1, in the amount of \$1,180,778, and approval of a contingency in the amount of \$177,116. CEQA: Negative Declaration and addenda thereto, File Nos. PP02-05-115 and PP04-293. Council District 3. (Public Works/Transportation)**

Documents Filed: Joint memorandum from Director of Public Works Katy Allen and Director of Transportation James R. Helmer, dated April 20, 2009, recommending acceptance of a report on bids and award of a contract.

**2.5 (Cont'd.)**

Action: The report on bids and award of the contract for the Hensley Historic District – San José State University to Japantown Pedestrian Corridor Project – Federal Project No. CML-5005 (093) to the low bidder, Guerra Construction Group, with related contingency, was accepted. (9-0-2. Absent: Chirco, Constant.)

**2.6 Request for an excused absence for Vice Mayor Chirco from the following meeting: the Regular Rules & Open Government Committee Meeting on April 29, 2009 due to illness. (Chirco)**

Documents Filed: Memorandum from Vice Mayor Chirco, dated April 29, 2009, requesting an excused absence due to illness.

Action: The absence for Vice Mayor Chirco was excused. (9-0-2. Absent: Chirco, Constant.)

**END OF CONSENT CALENDAR**

**NEIGHBORHOOD SERVICES**

**5.2 As referred by the Neighborhood Services and Education Committee on April 9, 2009, consider approval of the following changes to the Level 1 Homework Center Program Allocations Process:**

- (a) **Allocate the school-based portion of funds to districts serving grades K-8, as a block grant based on the % of district enrollment to total City enrollment, with:**
  - (1) **A minimum of \$10,000 per site, and a requirement that each School District submit a program; and**
  - (2) **A spending plan with clear, quantifiable outcomes, performance measures, leveraging of funds and a central point of contact for the District grant to ensure accountability.**
- (b) **Recommend that the funding amounts provided to the Library system, the PRNS system, and to the competitive community-based organizations (CBOs) process remain at the same level of allocation from FY 08-09.**
- (c) **Expand the eligible use of funds to include weekend and/or summer programming provided the core service remains a safe place for homework center support.**

**(Parks, Recreation and Neighborhood Services)**

**[Neighborhood Services and Education Committee referral 4/9/09 – Item 5.1(3)(4)]**

**(Deferred from 4/21/09 – Item 5.3 and 4/28/09 – Item 5.3)**

Documents Filed: Memorandum from City Clerk Lee Price, dated April 9, 2009, transmitting the recommendations of the Neighborhood Services and Education Committee.

## 5.2 (Cont'd.)

Parks, Recreation and Neighborhood Services Staff offered an evaluation of the Homework Center Program and the City's collaboration with the Superintendents in the School-City Program.

Public Comment: Mark Liebman, Santa Clara Superintendent's City/Superintendent/School Collaborative offered support of the program. Bill Erlendson and Karen Fuqua, San José Unified School District voiced support for leaving management of the homework centers to the City of San José with as many of the resources going directly to the schools as possible.

Council Members Liccardo and Kalra declined support for the recommendation, citing more could be done considering the scarcity of funding resources.

Motion: Council Member Chu moved approval of the Staff recommendation with a modification of reducing the minimum allocation for the school-based portion of funds. Council Member Campos seconded the motion.

Action: On a call for the question, the motion carried, and the recommendation of the Neighborhood Services and Education Committee to approve changes to the Level 1 Homework Center Program Allocations Process was accepted with an amendment to reduce the minimum allocation for the school-based portion of funds to districts serving grades K-8 from \$10,000 to \$6,000. (7-2-2. Noes: Kalra, Liccardo. Absent: Chirco, Constant.)

## STRATEGIC SUPPORT SERVICES

### 3.2 Report of the Rules and Open Government Committee – April 22, 2009 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report, dated April 22, 2009.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Report of the Rules and Open Government Committee and the actions of April 22, 2009 were accepted. (9-0-2. Absent: Chirco, Constant.)

- 3.5 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)]  
(Deferred from 5/5/09 – Item 3.10)**

Documents Filed: (1) Memorandum City Clerk Lee Price, dated April 30, 2009, submitting the recommendations of the Rules and Open Government Committee. (2) Supplemental memorandum from Director of Environmental Services John Stufflebean, dated May 1, 2009, providing additional information on the manufacturers involved in the Brake Pad Partnership.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen, and carried unanimously, a position of support for SB 346, Hazardous Materials: Motor Vehicle Brake Friction Materials, was adopted. (8-0-3. Absent: Chirco, Constant, Kalra.)

- 3.6 As referred by the Rules and Open Government Committee on May 6, 2009, consider a position of support for SB 497 (Correa), School Recycling Programs. (Environmental Services)  
[Rules Committee referral 05/06/09 – Item 6.1(a)]**

Documents Filed: Memorandum City Clerk Lee Price, dated May 6, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, a position of support for SB 497 implementing the School Recycling Programs, was adopted. (9-0-2. Absent: Chirco, Constant.)

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

Documents Filed: The Rules and Open Government Committee Report, dated April 15, 2009.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Report of the Rules and Open Government Committee and the actions of April 15, 2009 were accepted. (9-0-2. Absent: Chirco, Constant.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### **4.1 Approve amendments to the Community & Economic Development Committee Meeting Report for April 27, 2009 to more accurately reflect the Committee actions. (City Clerk)**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 8, 2009, transmitting the recommendations of the Community and Economic Development Committee Meeting, clarifying Committee actions of April 27, 2009.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, amendments to the Community & Economic Development Committee Meeting Report for April 27, 2009 to more accurately reflect the Committee actions, were accepted. (9-0-2. Absent: Chirco, Constant.)

### **4.2 Adopt a resolution approving the release of up to \$4,000,000 of the previously approved construction loan commitment of up to \$9,875,000, to First Community Housing, or its designated affiliate, for the development of the North Fourth Street Family Apartments project to be built at 1470 North Fourth Street and made available to extremely low-income, very low-income and low-income families. CEQA: Addendum to Final EIR for the North San José Area Development Policy, Resolution No. 72768, File No. PDC06-022. Council District 3. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Leslye Krutko, dated April 20, 2009, recommending adoption of a resolution and release of a portion of the City's construction funding for reimbursement of redevelopment costs. (2) Statement and Declaration of Conflict of Interest Form, initiated by Council Member Liccardo.

Council Member Liccardo abstained due to a conflict of interest. His partner is an employee of the housing trust.

Council Member Oliverio declined support due to the unresolved issue of park fees for affordable housing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried, Resolution No. 74901, entitled: "A Resolution of the Council of the City of San José Approving the Release of a Portion of the Construction Funding for Reimbursement of Development Costs for the North Fourth Street Family Apartments", was adopted. (7-1-1-2. Noes: Oliverio. Disqualified: Liccardo. Absent: Chirco, Constant.)

- 4.3 Adopt a resolution making findings that the use of Low- and Moderate-Income Housing Funds to provide rehabilitation loans and grants outside a redevelopment project area benefits the Agency's redevelopment project areas and accepting the proposed changes to the Housing Rehabilitation Program as follows:**
- (a) Changes to the existing Housing Rehabilitation Program to encourage greater recapture of funds and focus resources on households in the lowest income categories;**
  - (b) Creation of new loan and grant services, including:**
    - (1) Direct Minor Repair Services for urgent home repairs;**
    - (2) Disabled Access Grants to improve home access for clients with disabilities; and**
    - (3) Green Incentive Grants to provide additional funds for clients that choose to install additional green features that are not mandated by the Housing Department.**
  - (c) Modifications to the Mobilehome Rehabilitation Program that lower the income eligibility levels for recipients of mobilehome grants, increase individual grant amounts, limit repairs to essential health and safety issues, and place a funding limit on the overall amount of Program funds to be spent on mobilehome repair each year.**

**CEQA: Not a Project. (Housing)  
(Deferred from 4/28/09 – Item 4.2)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated April 15, 2009, recommending adoption of a resolution.

Action: Upon motion by Council Member Herrera, seconded by Council Member Nguyen and carried unanimously, Resolution No. 74902, entitled: “A Resolution of the Council of the City of San José Making Findings that Use of Low and Moderate-Income Housing Funds for Housing Rehabilitation Outside of Redevelopment Project Areas is of Benefit to the Redevelopment Project Areas and Approving Changes to the Housing Rehabilitation and Mobilehome Rehabilitation Program”, was adopted. (9-0-2. Absent: Chirco, Constant.)

- 4.4 (a) **Adopt a resolution authorizing the approval of a substantial amendment to the Consolidated Plan – Annual Action Plan 2008-2009 for the following purposes:**
- (1) **Allow the Director of Housing to accept federal stimulus funding for the Community Development Block Grant (CDBG) in the amount of \$2,700,463 and a new program, Homeless Prevention and Rapid Re-housing Program, in the amount of \$4,128,763;**
  - (2) **Authorize 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 federal stimulus CDBG funds on behalf of the City;**
  - (3) **Approve an amendment to the Neighborhood Stabilization Program spending plan originally approved by the City Council on November 18, 2008; and**
  - (4) **Approve a shortened citizen participation comment period of 15 days in accordance with federal guidance related to the acceptance of federal stimulus funding.**
- (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the American Recovery and Reinvestment Act Fund (Fund 299) for 2008-2009:**
- (1) **Establish an estimate for Recovery Act – Federal Revenue – in the amount of \$6,829,226;**
  - (2) **Establish a Recovery Act - Community Development Block Grant Program appropriation to the Housing Department in the amount of \$2,700,463; and**
  - (3) **Establish a Recovery Act - Homeless Prevention and Rapid Re-housing Program appropriation to the Housing Department in the amount of \$4,128,763.**

**CEQA: Not a Project. (Housing/City Manager's Office)**

Documents Filed: Joint memorandum from Director of Housing Leslye Krutko and Budget Director Jennifer Maguire, dated April 22, 2009, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Director of Housing Leslye Krutko clarified stipulations for the CDBG funding and requirements for meeting the imposed HUD deadline.

#### 4.4 (Cont'd.)

Public Comments: Bob Dolce expressed support to the Staff recommendation but only in conjunction with a plan that Sunnyvale and the County are included in the process in a seamless approach that includes the homeless and mentally ill. Anh Theresa Tran, representing the Neighborhood Housing Services of Silicon Valley, expressed support of the plan with additional funds used to assist unemployed workers in avoiding foreclosure.

Director of Housing Leslye Krutko clarified that grant funding cannot be used for homeowners, and announced that the One Stop Center on Parkmoor Avenue will open this week to assist homeowners facing foreclosure.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Resolution No. 74903, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Accept Federal funds Under the American Recovery and Reinvestment Act of 2009”, Resolution No. 74904, 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 American Recovery and Reinvestment Act Fund”, and Ordinance No. 28541, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28349 to Appropriate Monies in the American Recovery and Reinvestment Act Fund for the Recovery Act – Community Development Block Grant Program and the Recovery Act – Homeless Prevention and Rapid Re-Housing Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (9-0-2. Absent: Chirco, Constant.)

#### 4.5 **Conduct a public hearing and approve an ordinance amending Title 23 of the San José Municipal Code to create the Stevens Creeks Boulevard Signage Area, establish regulations therefore, and make related clarifying changes. CEQA: Resolution No. 65459 (File No. PP-08-273). (Planning, Building and Code Enforcement).** **(Deferred from 4/7/09 – Item 4.4)**

Action: Deferred to May 19, 2009 per District 1.

- 4.6 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  
[Continued from 05/05/09 – Item 11.1(a)]**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC08-055, dated September 25, 2008, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 13, 2009, transmitting the Planning Commission recommendations of approval. (3) Proof of Publication of Notice of Public Hearings, executed on May 2, submitted by the City Clerk.

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

Action: Upon motion by Council Member Herrera, seconded by Council Member Nguyen and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 28542, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property situated at the Northwest Corner of Carla Drive and Almaden Expressway to A(PD) Planned Development Zoning District”, was passed for publication. (9-0-2. Absent: Chirco, Constant.)

- 4.7 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  
(Continued from 05/05/2009 – Item 11.2)**

Action: Continued to May 19, 2009 per Administration.

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Adopt a resolution to amend service rates for the Recycle Plus Program effective July 1, 2009, to increase rates for single-family households by 2% and increase rates for multi-family households by 4%. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated April 28, 2009, recommending adoption of a resolution.

Director of Environmental Services John Stufflebean offered a brief presentation on the Recycle Plus Program and responded to questions from Council.

Public comments: Ross Signorino expressed satisfaction with the quality of San José's recycling program.

Council Member Oliverio and Chu withheld support of this resolution pending more background information on the refuse rate index.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried, Resolution No. 74905, entitled: "A Resolution of the Council of the City of San José Adopting Service Rates for the Recycle Plus Program Effective July 1, 2009 and Superseding Resolution No. 74362", was adopted. (7-2-2. Noes: Chu, Oliverio. Absent: Chirco, Constant.)

## TRANSPORTATION & AVIATION SERVICES

- 6.2 Report on bids and award the purchase of Hold Room Furniture for the Norman Y. Mineta San José International Airport (Airport) to Zoefitg LTD (North Cornwall, United Kingdom), the low bidder, for a total amount not to exceed \$1,990,023.80, including delivery, assembly, installation and sales tax and authorize the Director of Finance to:**

- (a) **Execute purchase orders as required to meet the Airport's timeline for the opening of Terminal B; and**
- (b) **Approve a contingency in the amount of \$183,330 for any unforeseen changes or requirements that may arise prior to the completion of the furniture installation.**

**CEQA: Not a Project. (Finance)  
(Rules Committee referral 5/6/09)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated May 6, 2009, recommending acceptance of a report on bids and award of a purchase.

**6.2 (Cont'd.)**

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, the report on bids and award the purchase of Hold Room Furniture for the Norman Y. Mineta San José International Airport to Zoefitg LTD with related contingency, was accepted. (9-0-2. Absent: Chirco, Constant.)

**ENVIRONMENTAL & UTILITY SERVICES**

- 7.2 Adopt a resolution authorizing the City Manager to negotiate and execute agreements with Goodwill of Silicon Valley, the Salvation Army, and HOPE Services for recycling and reuse services for an initial term from July 1, 2008 through June 30, 2010, with a total maximum annual compensation for the period through June 30, 2009 not to exceed \$356,176 for Goodwill of Silicon Valley, \$125,870 for the Salvation Army, and \$6,201 for HOPE Services and, thereafter, subject to annual appropriation of funds for the second year of the initial term. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated April 20, 2009, recommending adoption of a resolution.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Liccardo and carried unanimously, Resolution No. 74906, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Agreements with Goodwill of Silicon Valley, the Salvation Army and Hope Services for Recycling and Reuse Services”, was adopted. (9-0-2. Absent: Chirco, Constant.)

- 7.3 (a) Approve an ordinance amending Chapter 9.10 of Title 9 of the San José Municipal Code to add Sections 9.10.152 and 9.10.153 to define “large events” and “large venues”; amend Section 9.10.1720 to increase the penalty for submitting late monthly reports by \$200, from \$100 to \$300 for every 15 days late; and amend 9.10.1445 to conform with new definitions.**
- (b) Adopt a resolution superseding Resolution Nos. 73256 and 74647 to set commercial solid waste collection franchise fees for services performed on or after July 1, 2009 by removing the annual exemption from franchise fees for franchisees that do not perform any front-loader service.**
- CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated April 28, 2009, recommending approval of an ordinance and adoption of a resolution.

City Attorney Rick Doyle responded to questions from Council.

### 7.3 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, Resolution No. 74907, entitled: "A Resolution of the Council of the City of San José Setting Commercial Solid Waste Collection Franchise Fees for Services Performed on or After July 1, 2009", was adopted, and Ordinance No. 28543, entitled: "An Ordinance of the City of San José Amending Chapter 9.10 of Title 9 of the San José Municipal Code to Add Sections 9.10.152 and 9.10.153 to Define Large Events and Large Venues; Amend Section 9.10.1720 to Increase the Late Report Penalty; and Amend Section 9.10.1445 to Conform with New Definitions", was passed for publication. (9-0-2. Absent: Chirco, Constant.)

### 7.4 **Conduct a public hearing on the applications of the following companies for Commercial Solid Waste and Recyclables Collection Franchises; approve the ordinances granting the franchises; and approve the Commercial Solid Waste and Recyclables Collection Franchise Agreements for a term from July 1, 2009 to June 30, 2012 with the option of three one-year extensions:**

- (a) **A & A Recycling.**
  - (b) **All Points Rolloff, Inc.**
  - (c) **Allied Waste Services of North America, LLC dba Allied Waste of Santa Clara County.**
  - (d) **Bernardini Enterprises, Inc. dba JD Services.**
  - (e) **Eagle Recycling, Inc.**
  - (f) **Eco Box Recycling, Inc.**
  - (g) **EMS, LLC.**
  - (h) **Environmental Resources Recovery, Inc. dba Valley Recycling.**
  - (i) **GreenWaste Recovery, Inc.**
  - (j) **GreenWaste Recovery, Inc. dba \$99 Debris Box Service.**
  - (k) **Grifall Trucking, Inc.**
  - (l) **Haul-Away Today.**
  - (m) **JHM Services, Inc.**
  - (n) **Jonna Corp dba Premier Recycle.**
  - (o) **LMH Enterprises, Inc. dba Number "1" Disposal.**
  - (p) **Los Altos Garbage Co. dba Stevens Creek Disposal and Recycling.**
  - (q) **Mission Trail Waste Systems, Inc. dba Recycle West.**
  - (r) **Pacific Coast Recycling.**
  - (s) **Panther Industries.**
  - (t) **Qualified Trucking, Inc.**
  - (u) **RD Mendes Enterprises, Inc. dba Accurate Cleaning Systems.**
  - (v) **Recycling & Waste Services.**
  - (w) **San José Conservation Corps.**
  - (x) **The Flea Market, Inc.**
  - (y) **Waste Connections of California, Inc. dba GT Waste.**
- CEQA: Exempt, File No. PP08-228. (Environmental Services)**

## 7.4 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated April 28, 2009, recommending approval of ordinances and approving agreements for issuance of commercial solid waste and recyclables collection franchises. (2) Proof of Publication of Notice of Public Hearing, executed on April 20, 2009, submitted by the City Clerk.

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

Action: Upon motion by Council Member Nguyen, seconded by Council Member Liccardo and carried unanimously, Ordinance No. 28544 through Ordinance No.28568 Granting Commercial Solid Waste and Recyclables Collection Franchises for the following: A& A Recycling, All Points Rolloff, Inc., Allied Waste Services of North America, LLC dba Allied Waste of Santa Clara County, Bernardini Enterprise, Inc. dba JD Services, Eagle Recycling, Inc., Eco Box Recycling, Inc., EMS, LLC, Environmental Resources Recovery, Inc., dba Valley Recycling, Green Waste Recovery, Inc., Green Waste Recovery, Inc., dba \$99 Debris Box Service, Grifall Trucking, Inc., Haul-Away today, JHM Services, Inc., Jonna Corp. dba Premier Recycle, LMH Enterprises, Inc. dba Number "1" Disposal, Los Altos Garbage Co. dba Stevens Creek Disposal and Recycling, Mission Trail Waste Systems, Inc. dba Recycle West, Pacific Coast Recycling, Panther Industries, Qualified Trucking, Inc., RD Mendes Enterprises, Inc. dba Accurate Cleaning Systems, Recycling & Waste Services, San José Conservation Corps., The Flea Market, Inc., and Waste Connections of California, Inc. dba GT Waste, were passed for publication. (9-0-2. Absent: Chirco, Constant.)

## PUBLIC SAFETY SERVICES

### 8.1 **Accept the report related to the impact of cardroom gambling on crime in the City of San José for the period July 1, 2007 to June 30, 2008. CEQA: Not a Project. (Police)**

Documents Filed: Memorandum from Chief of Police Robert L. Davis, dated April 20, 2009, recommending acceptance of the Gaming Control Unit Report.

Chief of Police Robert L. Davis offered an introduction to the report. Gaming Control Unit Sergeant Richard Fong presented the annual report related to impact of cardroom gambling on crime in the City of San José.

Council discussion followed.

Public Comment: Ross Signorino expressed concerns over the social implications of gambling.

### **8.1 (Cont'd.)**

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the report related to the impact of cardroom gambling on crime in the City of San José for the period July 1, 2007 to June 30, 2008, was accepted. (9-0-2. Absent: Chirco, Constant.)

### **OPEN FORUM**

Ross Signorino voiced concern that speakers at last week's Council Meeting Open Forum were treated unfairly by not being allowed to bring signs into the Council Chambers.

### **RECESS/RECONVENE**

The City Council recessed at 4:05 p.m. from the afternoon Council Session and reconvened at 7:08 p.m. in the Council Chambers, City Hall.

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

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

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Pyle, seconded by Council Member Liccardo, and carried unanimously, the below noted continuances and actions were taken as indicated. (9-0-2. Absent: Chirco, Constant.)

### **3.4 Public Hearing on the Proposed Operating and Capital Budgets for the Fiscal Year 2009 -2010, the Proposed Five-Year Capital Improvement Program for 2010-2014, the Proposed Fees and Charges Report for the Fiscal Year 2009-2010. (City Manager's Office)**

Documents Filed: (1) Memorandum from Mayor Reed, dated May 6, 2009, requesting Staff preparation of a memorandum to address the community's questions and suggestions regarding the proposed budget. (2) Proof of Publication of Notice of Public Hearing, executed on April 20, 2009, submitted by the City Clerk.

Mayor Reed presented opening comments regarding the Proposed Operating and Capital Budgets for the Fiscal Year 2009-2010, the Proposed Five-Year Capital Improvement Program for 2010-2014, and the Proposed Fees and Charges Report for the Fiscal Year 2009-2010.

Director of Employee Relations Alex Gurza, Director of Finance Scott P. Johnson, Director of Parks, Recreation and Neighborhood Services Albert Balagso, Director of Environmental Services John Stufflebean and Deputy City Manager Ed Shikada responded to questions and presented budget strategies for their departments.

### 3.4 (Cont'd.)

City Manager Debra Figone provided closing comments.

Public Comments: One hundred-twelve members of the public spoke in support of maintaining continued funding for various City-wide services and offered strategies for cost savings, as follows: Yolanda Cruz, Tom Bradford, Erik Larsen, Greg Ramirez (AFSCME); Marilyn Kirby, Nancy Ostrowski (AEA), Patrick Skillsky (ABMEI), Robert Parra (MACLA), Roberto Fierro and Francisco Lopez (Northside Community Center); Estrella Gilano, Caroline Martin, Connie Langford, Ulysses Sanches (Northside), Patti Palmer (Youth Science Institute), Pam Helmke, Miles Standish, Todd Martin, Dave Updike, Joseph Guerrero, Roger Abe, Roger Lasson, Jesse Bick, Susan Bailey, Will Bick, Angelina Gonzales, Melanie Helmke, Norman Kline, Brenda Smith, Daniela Ortiz, Judy Purrington, Susan Krane, Penny Aguila (Ethnic & Cultural community Advisory Committee), Marc Boyd, Jerry Munghi, Corazon Tomalinas, Reese Willner, Steven Levin, Bob Boydston, Wilma Hashii, Susan Abele, Bob Sippel (RGNPA), Elizabeth Guimarin, Terry Reilly, Beverly

Rose Hopper (Friends of San José rose Garden); Ethan Rotman, Rachele Tagud, Charlie Chan, Christy Ngo, Bob Brownstein, Angee Helstrom-Alvarez, Lisa Jensen, Carol Garvey, Diane Fisher, Brian Darrow (Community Budget Working Group); Gay Gale (CAMP), Jon Max Reger (OE-3), Rosa Pereida (Alma Neighborhood Association), Cathy Kimball (San José Institute of Contemporary Art), George Kammerer, Melainie Lanstrom, Nora Raggio, Rosa Castaneda, Ernest Brown, Kris Kernahan, Leslee Hamilton, Mike Flaughner (Parks Commission), Michael Maximovich, Han Van, Monica Sanchez, Lupe Sanchez, Maddie Duran, Alexis Martinez, Dennis Cohen Goetz, Jacob Hutchinson, Lucio and Brenda Martinez, Jacob Hopper, (Los Paseos Youth Center), Margaret Yamasaki (MEF), Boo Bullis (COA Advisory Council), Paul Alvarado, Tony Nguyen (Friends of Edenvale), Carl Honaker, Heather Lerner, Ray Turner, Angel Long (DeBug), Nick Leon, Elizabeth Munoz, Yolanda Guerra, Paul Gonzalez, Hector Armienta, Donna Lydon, Adan (WACC), Deborah Morilto and Steve Barrientos (Alma Community Center), Claire Powell, Richard Zappelli (Willow Glen Neighborhood Association), Chloe Bronzan, Lupe Guzman and Jeff Bornefield (CCPY); Helen Chapman (SHPNA), David Eisbach, Don Gagliardi, Bruce Labodie, Carol Carter, James LaRheir (Naglee Park Neighborhood Association), Brian Glusovich (Arbor Glen HOA), Kim Laney, Colleen Whitney, Tina Morrill, Lizabeth Yee Lefaver, Ken Bick, Raymond Wong, Julie Lam Shian Hong, and Ruiping Gao (Overfelt Gardens CMF).

Mayor Reed thanked all members of the public for participating in the budget discussion and adjourned the Public Hearing on the Proposed Operating/Capital Budgets for the Fiscal Year 2009-2010, including Proposed Fees and Charges for the City of San José.

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 9:37 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

Rmk/05-12-09 MIN

**Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoeca.gov/clerk/agenda.asp> or <http://www.sanjoeca.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

The Joint Redevelopment Agency Board convened at 3:37 p.m. to consider Item 8.1 in a Joint Session.

- 8.1 (a) **Expressing the desire of the City of San Jose to support the A's, if Major League Baseball favors a relocation of the A's to San Jose, and expressing the willingness of the City of San Jose to work with the A's to develop a Major League Baseball Park on the site located at Park Avenue and Autumn/Montgomery Streets; and,**
- (b) **Establishing negotiating principles for the development of a Major League Baseball stadium in the Diridon area of downtown San Jose; and,**
- (c) **Directing the Executive Director and City Manager to commence a community engagement program regarding a baseball stadium and other potential development activities in the Diridon area.**

**CEQA: Not a Project. [MERGED]**

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated May 8, 2009, responding to City Council/Agency Board referral of April 7, 2009.

Deputy Executive Director of the Redevelopment Agency John Weis provided a presentation on development of a Major League Baseball Stadium in the Diridon area.

Mayor Reed and Council Members Liccardo and Herrera provided meeting disclosures.

Council discussion followed.

Public Comment: Michael Mulcahy (Pro Baseball for San José, Inc.) and Larry Stone expressed their support for the development of a Major League Baseball Park in San José. Scott Sofer expressed concerns over the economic feasibility of the proposed ballpark. Ross Signorino suggested the placement of a dome on the stadium to reduce the noise factor.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Redevelopment Agency Resolution 5907, and Resolution No. 74908, entitled: "A Resolution of the Council of the City of San José Expressing the Desire to Support the A's if Major League Baseball Favors a Relocation of the A's to San José and Expressing a Willingness to Work to Develop a Major League Baseball Park on the Site Located at Park Avenue and Autumn/Montgomery Streets; Establishing Negotiating Principles for the Development of a Major League Baseball Stadium in the Diridon Area of Downtown San José; and Directing the City Manager to Commence a Public Engagement Program Regarding a Baseball Stadium and other Major Planning Activities in the Diridon Area", were adopted. (9-0-2. Absent: Chirco, Constant.)

The Council of the City of San José and Redevelopment Agency Board was adjourned at 4:05 p.m.