



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, SEPTEMBER 1, 2009

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

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

Absent: Council Members - Constant. (Excused)

Upon motion unanimously adopted, Council recessed at 9:33 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code subsection (a) of Section 54956.9; (1) Nguyen, et al. v City of San José Department of Transportation, et al; Names of Parties Involved: City of San José, County of Santa Clara, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, State Water Resource Control Board, San Francisco Bay Regional Water Quality Control Board, and DOES 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-115637; Amount of Money or Other Relief Sought: Damages according to proof; (2) Solorio, et al. v City of San José et al; Names of Parties Involved: Apolonio Solorio, City of San José, J. Mitchell aka George Mitchell; Court: United States Court of Appeals for the Ninth Circuit; Case Nos: 08-16408 and 09-15011; Amount of Money or Other Relief Sought: Damages according to proof; (B) to confer with Legal Counsel with respect to anticipated litigation (Claim Not Filed) pursuant to Government Code subsection (b) of Section 54956.9 in one (1) matter; (C) to confer with Legal Counsel with respect to anticipated litigation (Claim Filed) pursuant to Government Code subsection (b) of Section 54956.9 Claimants: In re: Claim of Sandoval; Department: City of San José Public Works; (D) to confer with Legal Counsel with respect to anticipated litigation (Claim Filed) pursuant to Government Code subsection (c) of Section 54956.9 in one (1) matter; (E) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing

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.)

Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (2) International Association of Firefighters (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IAFF, Local 230;; 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 11:05 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

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

Absent: Council Members - Constant. (Excused)

INVOCATION

Most Holy Trinity Catholic Church Choir, led by Director Angela Tirado, performed "Go Make a Difference" for the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed, accompanied by students of Most Holy Trinity Catholic Church, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Liccardo, seconded by Council Member Herrera, the Orders of the Day and the Amended Agenda were approved. (10-0-1. Absent: Constant.)

STRATEGIC SUPPORT SERVICES

- 3.4 (a) Adopt a resolution amending Resolution No. 69200, as amended, to provide for the issuance of tax-exempt private activity Non-AMT commercial paper notes to finance and refinance project costs and capitalized interest associated with implementing the Airport Master Plan at the Norman Y. Mineta San José International Airport, including to refund or to pay debt service on other obligations of the City issued to pay such costs, and delegating to the Director of Finance and to other Officers of the City authorization to establish terms and conditions for the issuance and payment of said commercial paper notes, and to take other necessary actions, and to prepare, execute and deliver the necessary documents in connection therewith.**

3.4 (Cont'd.)

- (b) **Adopt a resolution authorizing the Director of Finance to negotiate, execute and deliver an Amended and Restated Issuing and Paying Agent Agreement with Deutsche Bank Trust Company Americas and an Amended and Restated Dealer Agreement with each of Barclays Capital Inc., Citigroup Global Markets Inc., and Morgan Stanley & Co. Incorporated relating to the City's Subordinate Commercial Paper Notes for the Norman Y. Mineta San José International Airport; and other necessary documents in connection therewith; and delegating authority to the Director of Finance and to other Officers of the City to establish terms and conditions relating thereto.**

CEQA: Resolution Nos. 67380 and 71459, File No. PP09-157. (Finance)

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson, dated August 10, 2009, recommending adoption of resolutions. (2) Supplemental memorandum from Director of Finance Scott P. Johnson, dated August 26, 2009, providing additional information related to managing the commercial paper program.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, [Resolution No. 75100](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 69200, as Amended, to Provide for the Issuance of Notes to Finance and Refinance Project Costs and Capitalized Interest Associated with Implementing the Airport Master Plan at the Norman Y. Mineta San José International Airport and to Refund or to Pay Debt Service on Other Obligations of the City Issued to Pay Such Costs; and Delegating to the Director of Finance and to other Officers of the City Authorization to Establish Terms and Conditions for the Issuance and Payment of Said Commercial Paper Notes, and to Take Other Necessary Actions and to Prepare, Execute and Deliver other Necessary Documents in Connection Therewith"; and [Resolution No. 75101](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance or Other Authorized Officers to Negotiate, Execute and Deliver an Amended and Restated Issuing and Paying Agent Agreement with Deutsche Bank Trust Company Americas and Amended and Restated Dealer Agreements with Each of Citigroup Global Markets Inc., Barclays Capital Inc. and Morgan Stanley & Co. Incorporated Relating to the City's Subordinated Commercial Paper Notes for the Norman Y. Mineta San José International Airport and Other Necessary Documents in Connection Therewith; and Delegating Authority to the Director of Finance and to Other Officers of the City to Establish Terms and Conditions Relating Thereto", were adopted. (10-0-1. Absent: Constant.)

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Consent Calendar was approved, and the below listed actions were taken as indicated. (10-0-1. Absent: Constant.)

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28636 – Rezoning certain real property situated on the east side of Radio Avenue, approximately 160 feet north of Lincoln Court (2102 Radio Avenue: APN: 439-08-014), to A(PD) Planned Development Zoning District. PDC09-025**

Documents Filed: Proof of Publication of the title of Ordinance No. 28636 executed on August 25, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28636](#) was adopted. (10-0-1. Absent: Constant.)

- (b) **ORD. NO. 28637 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Ferma Corporation.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28637 executed on August 25, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28637](#) was adopted. (10-0-1. Absent: Constant.)

- (c) **ORD. NO. 28641 – Amending Section 23.02.410 of Chapter 23.02 of Title 23 of the San José Municipal Code and amending Section 23.04.120 of Chapter 23.04 of Title 23 of the San José Municipal Code to modify the regulations relating to programmable display signs in the downtown sign zone.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28641 executed on August 28, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28641](#) was adopted. (10-0-1. Absent: Constant.)

- 2.3**
- (a) **Request for an excused absence for Council Member Chirco from the regular meeting of the Rules and Open Government Committee on August 26, 2009 due to illness. (Chirco)
(Rules Committee referral 08/26/09)**
- (b) **Request for an excused absence for Council Member Chu from the Annual Joint City Council/Redevelopment Agency/Board of Supervisors meeting on September 30, 2009 due to Authorized City Business: 2009 Class of the Great Valley Leadership Institute for the League of California Cities' Board Executive Committee on September 30 – October 4, 2009. (Chu)
(Rules Committee referral 08/26/09)**
- (c) **Request for an excused absence for Mayor Reed from the regular meeting of the Rules and Open Government Committee on September 23, 2009 due to Authorized City Business: Travel to Washington, D.C. for the Silicon Valley Leadership Group Legislative Trip. (Mayor)
(Rules Committee referral 08/26/09)**

2.3 (Cont'd.)

Documents Filed: (1) Memorandum from Vice Mayor Chirco, dated August 26, 2009, requesting an excused absence due to illness. (2) Memorandum from Council Member Chu, dated August 24, 2009, requesting an excused absence due to authorized City business. (3) Memorandum from Mayor Reed, dated August 26, 2009, requesting an excused absence due to authorized City business

Action: The absences for Vice Mayor Chirco, Council Member Chu and Mayor Reed were excused. (10-0-1. Absent: Constant.)

2.4 **Report on Request for Proposal (RFP) for the purchase of a Park Management Software System and adoption of a resolution authorizing the Director of Finance to:**

- (a) **Execute an agreement with VGS Systems Engineering Inc., doing business as Omni Ticket Network (Orlando, FL), for the purchase of a Park Management System in an amount not to exceed \$189,634, including all hardware, software, spare parts, installation and related professional services, maintenance and support (first year), shipping and sales tax.**
- (b) **Execute change orders in an amount not to exceed \$25,000 to cover unanticipated changes in the system design and/or installation.**
- (c) **Execute four additional one-year options to extend the agreement for ongoing hosting, maintenance, and support, subject to annual appropriation of funds.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated August 10, 2009, recommending approval of a Report on Request for Proposal and adoption of a resolution.

Action: [Resolution No. 75097](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with VGS Systems Engineering, Inc. Doing Business as Omni Ticket Network for the Purchase of a Park Management System in an Amount Not to Exceed \$189,634”, was adopted. (10-0-1. Absent: Constant.)

- 2.5 (a) **Adopt a resolution authorizing the City Manager and the City Manager’s authorized designees to negotiate and execute the Tenth Amendment to the General Banking Services Agreement with Union Bank of California (“UBOC”) to increase the maximum annual compensation by \$148,500 from \$30,000, to an amount not to exceed \$178,500 to provide final banking and transition services from July 1, 2009 through June 30, 2010.**

- 2.5 (b) **Adopt a resolution authorizing the City Manager and the City Manager's authorized designees to negotiate and execute an amendment to each of the agreements with Wells Fargo Bank for General Banking Services, Merchant Card Processing Services, and Lockbox Services to decrease the maximum annual compensation by \$148,500 from \$864,000, to an amount not to exceed \$715,500 for the initial term through June 30, 2010, and to increase the maximum annual compensation to an amount not to exceed \$864,000 in the event funds remain in the Banking Services appropriation following the termination of the agreement with UBOC, and to make other technical changes thereto.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Deputy Director of Finance Julia H. Cooper, dated August 10, 2009, recommending adoption of resolutions with approval of amendments to banking service agreements.

Mayor Reed pulled Item 2.5 from the Consent Calendar to question Staff on the Banks' responsiveness to the City's needs.

Director of Housing Leslye Krutko responded to questions regarding the Banks' level of service.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, [Resolution No. 75098](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager and the City Manager's Authorized Designees to Negotiate and Execute the Tenth Amendment to the General Banking Services Agreement with Union Bank of California to Increase the Maximum Annual Compensation by \$148,500 from \$30,000 to an Amount Not to Exceed \$178,500 to Provide Final Banking and Transition Services from July 1, 2009 Through June 30, 2010"; and [Resolution No. 75099](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager and the City Manager's Authorized Designees to Negotiate and Execute an Amendment to Each of the Agreements with Wells Fargo Bank for General Banking Services, Merchant Card Processing Services, and Lockbox Services to Decrease the Maximum Annual Compensation by \$148,500 from \$864,000 to an Amount Not to Exceed \$715,500 for the Initial Term Through June 30, 2010, and to Increase the Maximum Annual Compensation to an Amount Not to Exceed \$864,000 in the Event Funds Remain in the Banking Services Appropriation Following the Termination of the Agreement with Union Bank of California, and to Make Other Technical Changes Thereto", were adopted. (10-0-1. Absent: Constant.)

- 2.6 **Report on bids and award of contract for the Albany-Kiely Storm Drain Improvement, Phase V-VI Project to the lowest responsive bidder, Rodan Builders, Inc., in the amount of \$855,053.80 and approval of a contingency in the amount of \$85,000. CEQA: Exempt, File No. PP08-272. Council District 1. (Public Works)**

Action: Dropped per Administration.

- 2.7 Approve travel by Chief Deputy City Manager Edward K. Shikada to Montreal, Quebec, Canada on September 12-16, 2009 to attend the International City/County Management Association 95th Annual Conference. Source of Funds: City Manager's Non Personal Appropriation. (City Manager's Office)
(Rules Committee referral 9/1/09)**

Action: Dropped.

- 2.8 Approve travel by Council Member Chu to Yosemite, CA on September 30 – October 4, 2009 to attend the 2009 Class of the Great Valley Leadership Institute as nominated by the League of California Cities' Board Executive Committee. Source of Funds: Mayor/Council Travel Fund. (Chu)
(Rules Committee referral 08/26/09)**

Documents Filed: Memorandum from Council Member Chu, dated August 24, 2009, requesting approval of travel to Yosemite, CA to attend the 2009 Class of the Great Valley Leadership Institute.

Action: The travel request for Council Member Chu was approved. (10-0-1. Absent: Constant.)

- 2.9 Approve travel by Council Member Liccardo to Washington, D.C. on September 23 – 25, 2009 to attend a legislative trip with Silicon Valley Leadership Group to lobby key federal officials for BART and transit funding in the pending SAFETEA-LU reauthorization process. Source of Funds: Valley Transportation Authority. (Liccardo)
(Rules Committee referral 08/26/09)**

Documents Filed: Memorandum from Council Member Liccardo, dated August 24, 2009, requesting approval of travel to Washington, D.C. with the Silicon Valley Leadership Group.

Action: The travel request for Council Member Liccardo was approved. (10-0-1. Absent: Constant.)

- 2.10 Approve travel by Mayor Reed to Washington, D.C. on September 23 – 25, 2009 to attend a Silicon Valley Leadership Group Legislative Trip to lobby key federal officials to secure BART and other transit funding, and additional meetings with federal officials on other City issues including tax policies that effect technology companies in San José and development of San José Smart Grid. Source of Funds: Mayor's Office Budget. (Mayor) (Rules Committee referral 08/26/09)**

Documents Filed: Memorandum from Mayor Reed, dated August 26, 2009, requesting approval of travel to Washington, D.C. to attend a Silicon Valley Leadership Group Legislative Trip.

Action: The travel request for Mayor Reed was approved. (10-0-1. Absent: Constant.)

2.11 As recommended by the Rules and Open Government Committee on August 26, 2009:

- (a) Approve the District 6 Safety Fair and Movie Event as a City Council sponsored Special Event; and**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

(City Clerk)

[Rules Committee referral 08/26/09 – Item H (2)]

Documents Filed: Memorandum from City Clerk Lee Price transmitting the recommendations of the Rules and Open Government Committee of August 26, 2009.

Action: The District 6 Safety Fair and Movie Event Sponsorship and acceptance of donations to support the event were approved. (10-0-1. Absent: Constant.)

2.12 As recommended by the Rules and Open Government Committee on August 26, 2009:

- (a) Approve the District 2 Community Fest as a City Council sponsored Special Event; and**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

(City Clerk)

[Rules Committee referral 08/26/09 – Item H (3)]

Documents Filed: Memorandum from City Clerk Lee Price transmitting the recommendations of the Rules and Open Government Committee of August 26, 2009.

Action: The District 2 Community Fest Event Sponsorship and acceptance of donations to support the event were approved. (10-0-1. Absent: Constant.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.2 Report of the Rules and Open Government Committee – August 12, 2009
Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated August 12, 2009.

Public Comments: Cathy Brandhorst spoke off topic.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Pyle and carried unanimously, the Report of the Rules and Open Government Committee and the actions of August 12, 2009 were accepted. (10-0-1. Absent: Constant.)

3.3 Report of the Public Safety, Finance and Strategic Support Committee – August 20, 2009, Council Member Nguyen, Chair

Documents Filed: The Public Safety, Finance & Strategic Support Committee Report dated August 20, 2009.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Report of the Public Safety, Finance & Strategic Support Committee and the actions of August 20, 2009 were accepted. (10-0-1. Absent: Constant.)

3.5 Report of the Rules and Open Government Committee – August 5, 2009 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated August 5, 2009.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chirco and carried unanimously, the Report of the Rules and Open Government Committee and the actions of August 5, 2009 were accepted. (10-0-1. Absent: Constant.)

COMMUNITY & ECONOMIC DEVELOPMENT

**4.2 Consider an ordinance amending Part 2 of Chapter 13.48 of Title 13 of the San José Municipal Code, entitled “Designation,” to revise Section 13.48.110.C to allow the City Council greater discretion on whether to initiate the procedure for the designation of a landmark so nominated. CEQA: Not a Project. (Planning, Building and Code Enforcement)
(Continued from 6/30/09 and 8/4/09 – Item 4.2)**

Action: Continued to September 29, 2009 per Administration.

4.3 Adopt a resolution finding and declaring that each of the conditions required under California Civil Code Section 1002 appear to exist and consenting to the acquisition of a temporary right of entry by eminent domain on adjacent property located at 440 North First Street by the Ryland Mews Homeowners Association. CEQA: Not a Project. (City Attorney's Office)

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated August 21, 2008, recommending adoption of a resolution. (2) Letter from Gregory Charles of Campeau, Goodsell & Smith Law Firm, dated August 31, 2009, expressing opposition to the resolution.

Public Comments: Michael Terrizzi, representing Ryland-Mews Homeowners Association; Emilie Gatfield, Ryland Homeowners Association; and Gregory Charles, representing Cindy and Scott Goodsell, spoke in opposition to the resolution.

City Attorney Richard Doyle brought attention to literature provided in the packet regarding "eminent domain", and disclosed that the City is in ownership of the former Police Auditor's condominium.

Senior Deputy City Attorney Tom Murtha responded to questions on eminent domain actions.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to questions from Council.

Vice Mayor Chirco advised that she supports the motion reluctantly, having reservations relative to property-owner rights.

Action: Upon motion by Council Member Liccardo, seconded by Pyle and carried unanimously, [Resolution No. 75102](#), entitled: "A Resolution of the Council of the City of San José Finding and Declaring that Each of the Conditions Required Under California Civil Code Section 1002 Appear to Exist and Consenting to the Acquisition of a Temporary Right of Entry by Eminent Domain on Adjacent Property Located at 440 North First Street by the Ryland Mews Homeowners Association", was adopted. (10-0-1. Absent: Constant.)

- 4.4 Consideration of an ordinance of the City of San José extending a temporary moratorium on the establishment of new Bail Bonds Establishments for a period of twenty-two (22) months and fifteen (15) days, pending the review and possible amendment of land use regulations applicable to such establishments, and setting forth the findings to support such extension of the temporary moratorium, and making the effectiveness and applicability of the provisions of the ordinance retroactive to October 9, 2009. CEQA: Exempt, File No. PP09-102.**
Citywide
(Planning, Building and Code Enforcement)
(Continued and Renoticed from 8/25/09 – Item 4.5)

Action: Continued to September 15, 2009.

- 4.5 Consideration of an ordinance rezoning the real property located on the west side of San Felipe Road, approximately 600 feet south of Delta Road (4203 San Felipe Road) to allow up to eight (8) single-family detached residences and one (1) 12,000 square foot office building on a 2.98 gross-acre site (Hawkstone San Felipe LLC, Owner/Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval and the Planning commission voted 5-0-2 to transmit their comments and concerns without a formal recommendation.**
PDC09-003 – District 8
(Continued from 8/11/09 – Item 11.3 and 8/25/09 – Item 4.2)

Documents Filed: (1) Memorandum from Council Member Herrera, dated September 1, 2009, approving the Staff recommendation with additional direction. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC09-003, dated July 1, 2009, recommending approval. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated August 13, 2009, transmitting the Planning Commission recommendations of approval.

Mayor Reed provided meeting disclosures.

Public Comments: Reyad Katwan; the Applicant; Carla Evans, representing the Evergreen Business Association; and Ulf Sandberg spoke in support of the proposed rezoning. Bonnie Mace, District 8 CRT, urged attention to the riparian corridor guidelines.

Motion: Council Member Herrera moved approval of the Staff recommendation with direction to Staff to continue working with the Applicant in the Planned Development permit stage. The motion was seconded by Council Member Liccardo.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to questions from Council.

Vice Mayor Chirco expressed reservations with the amount of setback from the riparian corridor, but supported the proposal since it was within policy guidelines.

4.5 (Cont'd.)

Action: On a call for the question and carried unanimously, the recommendation of the Planning Director was approved, [Ordinance No. 28642](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of San Felipe Road, Approximately 600 Feet South of Delta Road (4203 San Felipe Road) from R-1-5 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District”, was passed for publication, with direction to Staff to continue to work with the Applicant in the Planned Development (PD) permit stage to minimize the impacts this project may have on Thompson Creek and its riparian habitat. (10-0-1. Absent: Constant.)

NEIGHBORHOOD SERVICES

5.2 **Accept the response to the 2008-09 Santa Clara Civil Grand Jury Report titled “Los Lagos Golf Course – San José’s Financial Sand Trap.” CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated August 19, 2009, recommending approval of the 2008-2009 Santa Clara Civil Grand Jury Report response. (2) Powerpoint presentation outlining the Grand Jury Report response.

Public Comments: Ross Signorino voiced concern regarding the City subsidizing the golf course.

Director of Parks, Recreation and Neighborhood Services Albert Balagso provided a presentation on the Administration’s proposed response to the Grand Jury Report.

Mayor Reed recommended clarification on Item #6, regarding the market assessment changes depending upon alternative uses proposed for the land, proposing that further analysis should be conducted to fully document the true land values for the properties.

Motion: Council Member Nguyen moved approval of the Staff recommendation, with clarifications to be made relating to land value analysis as recommended by Mayor Reed. The motion was seconded by Vice Mayor Chirco.

Council Member Campos requested to amend the motion to refer the report to the Neighborhood Services & Education Committee for review before returning to full Council. Council Member Nguyen and Vice Mayor Chirco accepted the amendment.

5.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the response to the 2008-09 Santa Clara Civil Grand Jury Report was accepted, as amended, clarifying the response to Finding/Recommendation #6 as it relates to the land value analysis. Issues regarding the City-owned golf courses were referred to the Neighborhood Services & Education Committee. (10-0-1. Absent: Constant.)

TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – August 17, 2009 Council Member Liccardo, Chair

Documents Filed: The Transportation and Environment Committee Report dated August 17, 2009.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the Report of the Transportation and Environment Committee and the actions of August 17, 2009 were accepted. (10-0-1. Absent: Constant.)

6.2 Adopt a resolution authorizing the Director of Finance to execute an amendment to the Agreement with Ampco Systems Parking, Inc. to extend the term of agreement for an additional twelve months ending October 31, 2010, to be able to make changes to the services as the Airport undergoes construction, and to increase the maximum compensation by \$4,500,000 for the final term. CEQA: Resolution Nos. 67380 and 71451, File No. PP09-151. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated August 10, 2009, recommending adoption of a resolution.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 75103](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Amendment to the Agreement with Ampco Systems Parking, Inc. for Parking Management Services and the San Jose Airport”, was adopted. (10-0-1. Absent: Constant.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 As recommended by the Transportation and Environment Committee on August 17, 2009, direct the City Attorney's Office to draft an ordinance amending the San José Municipal Code to prohibit the use of potable water for indoor uses for which recycled water is allowed in non-residential buildings and condition development approval on the installation of plumbing that allows for the use of recycled water, in compliance with provisions of the Plumbing Code. (Environmental Services)
[Transportation and Environmental Committee Referral – Item 6.1(d)(2)]**

Action: Deferred to September 29, 2009 per Rules and Open Government Committee of August 26, 2009.

PUBLIC SAFETY SERVICES

- 8.1 Approve the following actions and 2009-2010 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund resulting from implementation of the new Gaming Control Ordinance (Title 16) and in order to achieve a service delivery model that is fully cost recovery and implement greater operational efficiencies:**
- (a) Gaming Control Administration/Regulation Unit:**
 - (1) Adopt a resolution amending the adopted 2009-2010 Fees and Charges Resolution No. 72737 (the Schedule of Fees & Charges) as amended, to decrease the Cardroom Card Table Fee from \$25,527 per table to \$22,162 per table.**
 - (b) Gaming Control Licensing/Work Permit Unit:**
 - (1) Adopt the following 2009-2010 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
 - (a) Increase the Police Department's 2009-2010 General Fund Personal Services appropriation by \$219,956;**
 - (b) Decrease the Police Department's 2009-2010 General Fund Non-Personal/Equipment appropriation by \$80,378;**
 - (c) Increase the revenue estimate in the General Fund for Licenses and Permits by \$139,578.**
 - (2) Authorize the addition of 2.0 Senior Auditor positions in the Police Department Division of Gaming Control as of January 2, 2010, with interim assistance obtained through January 2010.**
 - (3) To make the following changes to the Work Permit Fees by adopting a resolution amending the adopted 2009-2010 Fees and Charges Resolution No. 72737 (the Schedule of Fees & Charges) as amended to:**
 - (a) Change the Work Permit to Work Permit Fees – Cardroom Employee Work Permit and increase from \$333 per initial issue plus fingerprint fees to \$470 per initial issue plus fingerprint fees;**

8.1 (Cont'd.)

- (b) (3) (b) **Change the Renewal to Work Permit Fees – Cardroom Employee Work Permit Renewal Fee and decrease from \$333 per renewal plus fingerprint fees to \$307 per renewal plus fingerprint fees;**
- (c) **To add a Third Party Providers of Proposition Player Service Work Permit Fee as follows: \$470 per initial issue plus fingerprint fees;**
- (d) **To add a Third Party Providers of Proposition Player Service Work Permit Renewal Fee as follows: \$307 per renewal plus fingerprint fees;**
- (e) **To increase the General (Non-Criminal) Fingerprint Fee from \$10 per card to \$20 per card.**
- (4) **To make the following changes to the Cardroom License Fees by adopting a resolution amending the adopted 2009-2010 Fees and Charges Resolution No. 72737 (the Schedule of Fees & Charges) as amended to:**
 - (a) **To remove the note under the service description under “Cardroom License Application Fee Deposit,” and add the explanation that “Cardroom License” refers to all categories of Licenses required under Title 16, including: Key Employee, Stock Ownership, Funding Source (Third Party Providers of Proposition Player Service), Funded Player and Funding Source Employee, Financial Source and Landowner, and amend the fee as follows: \$10,000 initial deposit for costs plus additional time billed at actual costs of the application processing and investigation, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel, and lodging for any City employees. Additional deposits after the initial deposit may be required depending on the length, complexity, and scope of the investigation. At such time as a licensing hearing is requested by the applicant, a further deposit to pay the anticipated costs of the licensing hearing shall be required, including the cost of the hearing officer billed at top salary step, and the cost of services of the City Attorney’s Office;**

8.1 (Cont'd.)

- (b) (4) (b) To add a Cardroom License Renewal Application Fee Deposit and add the explanation that “Cardroom License” refers to all categories of Licenses required under Title 16, including: Key Employee, Stock Ownership, Funding Source (Third Party Providers of Proposition Player Service), Funded Player and Funding Source Employee, Financial Source and Landowner, and establish the fee as follows: \$5,000 initial deposit for costs plus additional time billed at actual costs of the application processing and investigation, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel, and lodging for any City employees. Additional deposits may be required after the initial deposit depending on the length, complexity, and scope of investigation. At such time as a licensing hearing is requested by the applicant, a further deposit to pay the anticipated costs of the licensing hearing shall be required, including the cost of the hearing officer billed at top salary step, and the cost of services of the City Attorney’s Office shall be required.
- (5) Adopt a resolution amending the adopted 2009-2010 Fees and Charges Resolution No. 72737 (the Schedule of Fees & Charges) as amended to: Amend the “Cardroom Permit Amendment Fee” fee as follows: \$5,000 initial deposit per amendment for costs plus additional time billed at actual costs of the application processing investigation, and holding the licensing hearing before the hearing officer, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel, and lodging for any City employees. Additional deposits after the initial deposit may be required depending on the length, complexity, and scope of the investigation and application hearing. The final cost of services, including the cost of services of the City Attorney’s Office at the application hearing shall also be included in the final fee determination by the Chief of Police at the close of the application hearing.
- (6) Adopt a resolution amending the adopted 2009-2010 Fees and Charges Resolution No. 72737 (the Schedule of Fees & Charges) as amended to Change the title “Appeal Hearing Deposit” to “Regulatory Action and Cease and Desist Hearing Fee” and amend the fee as follows: payment of the City’s reasonable costs of investigation and prosecution of the case, including attorneys’ fees incurred by the City up to the date of the hearing;

CEQA: Not a Project. (Police/City Manager’s Office)

Action: Deferred to September 29, 2009 per Administration.

OPEN FORUM

Cathy Brandhurst commented about gaming control and expressed concerns about the safety of customers in card rooms.

ADJOURNMENT

The Council of the City of San José was adjourned at 3:15 p.m. in memory of the late Senator Edward M. Kennedy for his decades of service in the United States Senate.
(Mayor/Kalra)

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

rmk/09-01-09MIN

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