



## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, DECEMBER 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, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:30 a.m. to a Closed Session in Room W133, to confer with Legal Counsel with respect to (A) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code subsection (a) of Section 54956.9: (1) Bernal, et al. v. City of San José, et al.; Names of Parties Involved: Mike C. Bernal, Susan R. Bernal, Nanetta Bernal, Lilian Bernal, Auvinen, Katherine Lira, Diana Bernal-Tuyor, Mike A. Bernal, Gary James Bernal, Domenico Loverde, Tomas J. Martinez, Authur Paul Lira, Jr., Jerimiah Lira, Sommer Kai Espinosa, Lucia A. Bernal, Guillermo Espinosa, City of San José, and Does 1 through 25; Court: Superior Court of California, County of Santa Clara; Case No.: 1-08-CV-116141; Amount of Money or Other Relief Sought: Damages according to proof; (2) In re: Wells; Amount of Money or Other Relief Sought: Administrative Appeal; (B) Conference with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: Property Street Address, Parcel Number or Other Unique Reference of Property: 95 North Third Street, San José, CA 95113; APN: 467-21-002; Negotiating Parties: Jim Ortbal, Paul Krutko, Neil Stone for the City of San José and Steve Dunn for Legacy Partners; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (C) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 (Claim Filed) with respect to anticipated Litigation of significant exposure in one (1) matter; (D) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 (Claim Not Filed) with respect to anticipated Litigation of significant exposure 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) International Association of

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## CLOSED SESSION (Cont'd.)

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; (2) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; (3) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI; (4) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP; (7) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (8) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP; (9) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (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; (11) San José Police Officers' Association; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. 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 10:40 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

Present: Council Members - Campos, Chirco, Constant, Chu, Herrera, Kalra, Liccardo,

Nguyen, Oliverio, Pyle; Reed.

Absent: Council Members - None.

## INVOCATION

Reverend Jon Talbert of WestGate Church provided the Invocation.

## PLEDGE OF ALLEGIANCE

Mayor Reed and Second and Third-Grade Students from the Discovery Charter School led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved with Items 3.2, 3.3 and 3.4 deferred to December 8, 2009. (11-0.)

## CEREMONIAL ITEMS

- 1.1 Presentation of a commendation honoring Adobe Systems co-founders, Dr. John Warnock and Dr. Charles Geschke, for exemplifying the Silicon Valley spirit of entrepreneurship and technology innovation, for their efforts to build a world class business headquartered in San José and for promoting goodwill for people and the environment. (Mayor) (Rules Committee referral 11/18/09)**

Action: Mayor Reed and Council Member Liccardo recognized and commended Adobe Systems co-founders, Dr. John Warnock and Dr. Charles Geschke, for exemplifying the Silicon Valley spirit of entrepreneurship and technology innovation, for their efforts to build a world class business headquartered in San José and for promoting goodwill for people and the environment.

- 1.2 Presentation of a commendation to Hospice of the Valley. (Chirco)**

Action: Mayor Reed and Vice Mayor Chirco recognized and commended Hospice of the Valley for their dedicated service to the community.

- 1.3 Presentation of a commendation to Creating Economic Opportunities for Women for its efforts in assisting low-income immigrant and refugee women in the City of San José. (Kalra)**

Action: Mayor Reed and Council Member Kalra recognized and commended Creating Economic Opportunities for Women for its efforts in assisting low-income immigrant and refugee women in the City of San José.

**1.5 Presentation of a proclamation declaring December 1<sup>st</sup>, 2009 as “World AIDS Day” in the City of San José. (Pyle) (Rules Committee referral 11/18/09)**

Action: Mayor Reed and Council Member Pyle proclaimed December 1<sup>st</sup>, 2009 as “World AIDS Day” in the City of San José.

**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. (11-0.)

**2.2 Final adoption of ordinances.**

- (a) **ORD. NO. 28660 – Amending Chapter 12.05 of Title 12 of the San José Municipal Code to add Section 12.05.080 and amending Section 12.12.610 of Chapter 12.12 of Title 12 to permit certain persons to request formal written advice from the City Attorney.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28660 executed on November 17, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28660](#) was adopted. (11-0.)

- (b) **ORD. NO. 28661 – Amending Chapter 8.04 of Title 8 of the San José Municipal Code to add a new Section 8.04.030 to allow for the appointment of an alternate Independent Police Auditor to assume the responsibilities of the Independent Police Auditor when the Independent Police Auditor has a conflict of interest warranting disqualification of the Office of the Independent Police Auditor.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28661 executed on November 17, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28661](#) was adopted. (11-0.)

- (c) **ORD. NO. 28670 – Rezoning certain real property situated in the area generally bounded by both side of Underwood Drive, Temple Drive, Barker Drive, Keltner Avenue, north of Williams Road, from R-M Multiple Residence District to R-M (PD) Planned Development Zoning District. PDC09-017**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28670 executed on November 17, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28670](#) was adopted. (11-0.)

- (d) **ORD. NO. 28671 – Rezoning certain real property situated on the northeast corner between Willow Street and Delmas Avenue to CN Commercial Neighborhood Zoning District. C08-044**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28671 executed on November 17, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28671](#) was adopted. (11-0.)

- (e) **ORD. NO. 28672 – Rezoning certain real property situated at the west side of North Tenth Street between East Mission and Vestal Streets (825 North Tenth Street) from LI Light Industrial to A(PD) Planned Development Zoning District. PDC06-069**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28672 executed on November 17, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28672](#) was adopted. (11-0.)

- (f) **ORD. NO. 28673 – Rezoning certain real property situated on the north side of Ford Road, approximate 550 feet easterly of Monterey Road, from R-1-1 Single-Family Residence District to A(PD) Planned Development Zoning District. PDC09-022**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28673 executed on November 17, 2009, submitted by the City Clerk.

Action: [Ordinance No. 28673](#) was adopted. (11-0.)

- 2.3 (a) **Request for an excused absence for Council Member Campos from the Regular Meeting of the Transportation and Environment Committee on November 2, 2009 due to Authorized City Business: meeting with Robert Balgenorth, President California Building Trades in Sacramento, CA to discuss the Emerald City Program and Green Economy jobs in preparation for trip to Washington, D.C. on November 19-21, 2009. (Campos) (Rules Committee referral 11/17/09)**

Documents Filed: Memorandum from Council Member Campos, dated November 17, 2009, requesting an excused absence due to authorized City business.

Action: The absence for Council Member Campos was excused. (11-0.)

- 2.4 (a) **Adopt a resolution revising the airline fee-waiver incentive program to support the development of new air service at the Norman Y. Mineta San José International Airport by revising the calculation of qualifying incentive periods, limiting incentives for new flights to underserved cities only to new flights, and requiring reimbursement of waived fees for service cancelled prior to the end of a qualifying incentive period and repealing Resolution No. 74877.**
- (b) **Adopt a resolution establishing a Focus City Promotional Fee Waiver Incentive Program to support the development of new air service at the Airport and authorizing the City Manager to negotiate and execute Focus City Agreements with passenger airlines at the Airport to implement the terms and conditions of the Focus City Program.**  
**CEQA: Resolution Nos. 67380 and 71451, File No. PP 09-192. (Airport)**  
**(Deferred from 11/17/09 – Item 2.5)**

Documents Filed: (1) Memorandum from Director of Aviation William F. Sherry, dated October 26, 2009, recommending adoption of resolutions. (2) Supplemental memorandum from Director of Aviation William F. Sherry, dated November 23, 2009, clarifying current and proposed Focus City Incentive Program for Air Service Development.

Action: [Resolution No. 75185](#), entitled: “A Resolution of the Council of the City of San José Revising the City’s Airline Air Service Promotional Fee-Waiver Incentive Program to Support the Development of New Air Service at the Norman Y. Mineta San José International Airport and Repealing Resolution No. 74877”, and [Resolution No. 75186](#), entitled: “A Resolution of the Council of the City of San José Establishing a Focus City Promotional Fee Waiver Incentive Program to Support the Development of New Air Service at the Norman Y. Mineta San José International Airport and Authorizing the City Manager to Negotiate and Execute Focus City Agreements with Passenger Airlines at the Airport to Implement the Terms and Conditions of the Focus City Program”, were adopted. (11-0.)

- 2.5 **Approve settlement and authorize payment to Ascencion Calderon and Samuel Santana in the amount of \$97,500 pursuant to a Settlement Agreement and Release, as considered by the City Council during Closed Session held on November 10, 2009. CEQA: Not a Project. (City Attorney’s Office).**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 19, 2009, approving settlement and payment authorization to Ascencion Calderon & Samuel Santana.

Action The settlement and authorization of payment to Ascencion Calderon and Samuel Santana pursuant to a Settlement Agreement and Release in the amount of \$97,500 was approved. (11-0.):

- 2.6 Approve proposed ordinance amending Section 16.32.190, the Cardroom License Renewal Provision of Chapter 16.32 of Title 16 of the San José Municipal Code, to reflect the streamlining of the license renewal procedure that was accomplished administratively under the revised Title 16, Ordinance No. 28517. CEQA: Not a Project. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 19, 2009, recommending approval of an ordinance.

Action: [Ordinance No. 28674](#), entitled: "An Ordinance of the City of San José Amending Section 16.32.190 of Chapter 16.32 of Title 16 of the San José Municipal Code to Reflect the Streamlining of the Cardroom License Renewal Procedure that was Accomplished Administratively Under the Revised Title 16, Ordinance No. 28517", was passed for publication. (11-0.)

- 2.7 As recommended by the Parks and Recreation Commission, rename Willows Senior Center, located at 2175 Lincoln Avenue, to "Willow Glen Community and Senior Center." Council District 6. (City Clerk)  
[Rules Committee referral 11/04/09 – Item A(1)(a)]**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated October 28, 2009, transmitting recommendations of the Parks and Recreation Commission. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 17, 2009, addressing fiscal costs associated with renaming the Senior Center.

Action: The Willows Senior Center, located at 2175 Lincoln Avenue, was renamed "Willow Glen Community and Senior Center." (11-0.)

- 2.8 As recommended by the Parks and Recreation Commission, name a new park, located at 1501 Almaden Road, as "Roberto Antonio Balermينو Park." Council District 7. (City Clerk)  
[Rules Committee referral 11/04/09 – Item A(1)(a)]**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated October 28, 2009, transmitting recommendations of the Parks and Recreation Commission.

Action: The new park located at 1501 Almaden Road was renamed "Roberto Antonio Balermينو Park". (11-0.)

- 2.9 Adopt a resolution authorizing the Director of Finance to execute a continuation of and first amendment to the agreement between the City of San José and First Alarm Security & Patrol to extend the initial twelve (12) month agreement term for security guard services an additional four (4) months through January 31, 2010, and to increase compensation by \$60,000 for a not-to-exceed amount of \$248,130. CEQA: Not a Project. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson, dated November 9, 2009, recommending adoption of a resolution. (2) Letter from Treatment Plant Advisory Committee Chair Chuck Reed, dated November 10, 2010, stating concurrence with the Staff recommendations.

Action: [Resolution No. 75187](#) entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a Continuation and First Amendment to the Agreement with First Alarm Security & Patrol, Inc. for Security Guard Services at the Water Pollution Control Plant”, was adopted. (11-0.).

- 2.10 Adopt a resolution to ratify the Director of Finance’s execution of an agreement between the City of San José and Schindler Elevator Corporation for elevator and escalator maintenance and repair services for an amount not to exceed \$185,500, for the initial term July 1, 2009 to June 30, 2010. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated November 9, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75188](#), entitled: “A Resolution of the Council of the City of San José Ratifying Execution of an Agreement with Schindler Elevator Corporation for Elevator Maintenance and Repair Services at Citywide Facilities Managed by General Services”, was adopted. (11-0.)

- 2.11 Report on bids and award the purchase of two (2) Automated Check-In and Sorting Systems (ACS) to the low bidder, Lyngsoe Systems, Inc. in an amount not to exceed \$539,422 that includes installation and all applicable sales taxes and authorize the Director of Finance to execute the Purchase Order. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated November 9, 2009, recommending approval of a report on bids and equipment installation.

Action: The report on bids and award of purchase of two (2) Automated Check-In and Sorting Systems (ACS) to the low bidder, Lyngsoe Systems, Inc. in an amount not to exceed \$539,422 that includes installation and all applicable sales taxes was approved and the Director of Finance was authorized to execute the Purchase Order was approved. (11-0.)

- 2.12 (a) **Approve the Fourth Amendment to an Agreement with Winzler & Kelly for consultant services to design engineering solutions to repair Upper Penitencia Creek bridges and stream damage in Alum Rock Park expanding the scope of services, extending the term of the contract from December 31, 2009 to June 30, 2011, and increasing compensation by \$200,000 to an amount not to exceed \$537,000.**
- (b) **Adopt the following Appropriation Ordinance amendments in the Construction and Conveyance Tax Fund City-Wide Parks Purposes (Fund 391):**
- (1) **Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Capital Maintenance Projects by \$200,000; and**
  - (2) **Decrease the Ending Fund Balance by \$200,000.**

**CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Jennifer Maguire, dated November 9, 2009, recommending approval of the Fourth Amendment to an agreement and adoption of an ordinance.

Action: The Fourth Amendment to an Agreement with Winzler & Kelly for consultant services to design engineering solutions to repair Upper Penitencia Creek bridges and stream damage was approved, and [Ordinance No. 28675](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes for the Capital Maintenance Projects; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" was adopted. (11-0.)

- 2.13 **Approve a first amendment to the agreement with Patton Boggs LLP, for legislative services in Washington, D.C. for FY 2009-2010 for an additional \$5,000 to their existing contract, bringing the contract total for FY 2009-2010 to \$143,000, and the total compensation including all option periods not to exceed \$638,000. CEQA: Not a Project. (Police)**

Documents Filed: Memorandum from Chief of Police Robert L. Davis, dated November 6, 2009, recommending approval of a first amendment to an agreement for legislative services.

Action: A first amendment to the agreement with Patton Boggs LLP, for legislative services in Washington, D.C. for FY 2009-2010 for an additional \$5,000 to their existing contract, bringing the contract total for FY 2009-2010 to \$143,000, and the total compensation including all option periods not to exceed \$638,000 was approved. (11-0.)

- 2.14 Approve an ordinance to amend Chapter 14.04 of Title 14 and Chapter 19.32 of Title 19 of the San José Municipal Code to address specific findings made by the City Auditor relating to subdivision agreements with private developers for the construction of public improvements, and other changes relating to the Public Works Director’s authority to enter into such agreements. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 9, 2009, recommending approval of an ordinance.

Action: [Ordinance No. 28676](#), entitled: “An Ordinance of the City of San José Amending Sections 19.32.120, 19.32.130, and 19.32.140 of Chapter 19.32 of Title 19 of the San José Municipal Code Relating to Agreements to Construct Public Improvements Prior to Approval of a Final Subdivision Map or Parcel Map; Amending Sections 14.04.160 and 14.04.170 to Increase the Contracting Authority of the Public Works Director Without Competitive Bidding Under Specified Circumstances; and Repealing Section 14.04.490 and Amending Section 14.04.510 of Chapter 14.04 of Title 14 of the San José Municipal Code Relating to the Reporting of Public Works Contracts and Change Orders to the Finance Department and Council”, was passed for publication. (11-0.)

- 2.15 Consideration of an ordinance amending Sections 20.100.290 and 20.100.300 of Chapter 100 of Title 20 of the San José Municipal Code relating to recordation of Land Use Permits, and Section 20.120.150 of Chapter 120 of Title 20 of the San José Municipal Code relating to alternative means of compliance with General Development Plans to address specific findings made by the City Auditor relating to general Development Plan implementation. CEQA: Not a Project. Citywide (Deferred from 11/17/09 – Item 4.11)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on a proposed ordinance amendment relating to recordation of land use permits and alternative means of compliance with General Development Plans, dated October 21, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated October 29, 2009, transmitting the Planning Commission recommendations of approval. (3) Proof of Publication of Notice of Public Hearing, executed on October 16, submitted by the City Clerk.

Item 2.5 was pulled from the Consent Calendar by Council Member Oliverio for further clarification by Director of Planning, Building and Code Enforcement Joseph Horwedel.

Public Comment: Terri Balandra suggested that the ordinance include additional zoning-related directives and asked that additional outreach meetings address relevant development standards.

Director of Planning, Building and Code Enforcement Joseph Horwedel addressed questions presented by the speaker and Council Member Oliverio.

**2.15 (Cont'd.)**

Action: Upon motion by Council Member Oliverio, seconded by Council Member Nguyen and carried unanimously, [Ordinance No. 28677](#), entitled: “An Ordinance of the City of San José Amending Sections 20.100.290 and 20.100.300 of Chapter 100 of title 20 of the San José Municipal Code Relating to Recordation of Land Use Permits, and 20.120.510 of Chapter 120 of Title 20 of the San José Municipal Code Relating to Alternative Mans of Compliance with General Development Plans”, passed for publication. (11-0.)

**2.16 Review of the 2008 – 2009 Annual Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 9, 2009, recommending approval of the 2008-2009 Annual Development In Lieu Fee Report.

Mayor Reed pulled Item 2.16 from the Consent Calendar for clarification on reimbursable funds.

Director of Public Works Katy Allen and Deputy Director Public Works Timm Borden offered clarification on the In Lieu Fees Program.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, the 2008 – 2009 Annual Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements was approved. (11-0.)

**2.17 Approve sponsored travel to Sweden for Acting Director of Transportation, Hans Larsen, from December 5, 2009 to December 12, 2009, to participate in an international conference on sustainable transportation, pursuant to San José Municipal Code Section 12.08.030(I). CEQA: Not a Project. (Transportation)**

Documents Filed: Memorandum from City Manager Debra Figone, dated November 20, 2009, recommending City-approved travel by the Acting Director of Transportation.

Action: Sponsored travel to Sweden for Acting Director of Transportation, Hans Larsen, from December 5, 2009 to December 12, 2009, to participate in an international conference on sustainable transportation was approved. (11-0.)

- 2.18 Approve the Eleventh Amendment to the Parking Lot Lease Agreement between the City of San José and Boston Properties (dba BP Almaden Associates, LLP) for the Almaden/Woz Parking Lot, to extend the term of the lease from January 1, 2010 to June 30, 2012, at the current lease rate of \$33,200 per month, for a maximum amount of \$996,000 over the extended term. CEQA: Not a Project. Council District 3. (Transportation)**

Documents Filed: Memorandum from Acting Director of Transportation Hans Larsen, dated November 9, 2009, recommending approval of the Eleventh Amendment to a Parking Lot Lease Agreement.

Action: The Eleventh Amendment to the Parking Lot Lease Agreement between the City of San José and Boston Properties (dba BP Almaden Associates, LLP) for the Almaden/Woz Parking Lot, to extend the term of the lease from January 1, 2010 to June 30, 2012 at the current lease rate of \$33,200 per month, for a maximum amount of \$996,000 over the extended term, was approved. (11-0.)

- 2.19 As referred by the Rules and Open Government Committee on November 18, 2009, consider adoption of the a resolution endorsing the San José 2010 compact to eliminate the achievement gap. (Mayor)  
[Rules Committee referral 11/18/09 – Item A(1)(a)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated November 19, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Mayor Reed pulled Item 2.19 from the Consent Calendar to offer support for the plan in closing the achievement gap for students County-wide and stressed its importance as a public safety issue.

Special Projects Director for the Santa Clara County Office of Education Don Bowles offered an overview of the program and urged collaboration that engages all sections of the Community.

Council discussion followed.

Council Member Campos urged greater public outreach for this program with periodic reports to the Neighborhood Services & Education Committee.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chirco and carried unanimously, [Resolution No. 75189](#), entitled: “A Resolution of the Council of the City of San José Supporting the SJ2020 Initiative to Eliminate the Achievement Gap”, was adopted, with Staff directed to periodically report back to the Neighborhood Service & Education Committee. (11-0.)

- 2.20 Approve travel by Mayor Reed to Washington, D.C. on November 18-19, 2009 to participate on a panel relating to local governments' fiscal stress moderated by the Wall Street Journal economics editor David Wessell, and meet with the President's senior economic advisors to discuss Silicon Valley economic issues. Source of Funds: Brookings Institute. (Mayor) (Rules Committee referral 11/18/09)**

Documents Filed: Memorandum from Mayor Reed, dated November 12, 2009, requesting approval of travel to Washington, D.C.

Action: City sponsored travel to Washington, D.C. for Mayor Reed on November 18-19, 2009 to participate on a panel moderated by the Wall Street Journal economics editor and to meet with the President's senior economic advisors to discuss Silicon Valley economic issues, was approved. (11-0.)

**2.21 Adopt a Resolution:**

- (a) Accepting the 2009-2010 Hazardous Vegetation Commencement Report compiled by the Santa Clara County Department of Agriculture and Resource Management;**
- (b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the report are a nuisance; and**
- (c) Directing the Santa Clara County Department of Agriculture and Resource Management to mail notices of a public hearing before the City Council on January 12, 2010 at 1:30 p.m. on the report to property owners of affected real properties, pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.**

**CEQA: Exempt, File No. PP06-196. (PBCE) (Rules Committee referral 11/18/09)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 18, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75190](#), entitled: "A Resolution of the Council of the City of San José Accepting and Confirming the Hazardous Vegetation Commencement Report for the Year 2009-2010 Compiled by the Santa Clara County Department of Agriculture and Resources Management; Declaring Certain Noxious or Dangerous Seasonal and Recurrent Weeds are Growing or are Likely to Grow Upon Certain Public and Private Properties or that Refuse is Situated or Likely to be Situated Upon Certain Properties within the City of San José; Declaring Such Seasonal and/or Recurrent Weeds and Refuse a Public Nuisance; and Directing that Notice of this Resolution and a Public Hearing on the Report on January 12, 2010 and 1:30 p.m. be Given Pursuant to Chapter 9.12 of the San José Municipal Code", was adopted. (11-0.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

### **3.2 Report of the Rules and Open Government Committee – October 28, 2009 Mayor Reed, Chair**

Action: Deferred to December 8, 2009 per Orders of the Day.

### **3.3 Report of the Rules and Open Government Committee – November 4, 2009 Mayor Reed, Chair**

Action: Deferred to December 8, 2009 per Orders of the Day.

### **3.4 Report of the Special Rules and Open Government Committee – November 9, 2009 Mayor Reed, Chair**

Action: Deferred to December 8, 2009 per Orders of the Day.

### **3.6 Approve an Ordinance amending Chapter 12.06 of the San José Municipal Code to require electronic filing of campaigns disclosure statements by candidate controlled committees and independent committees. (City Clerk/City Attorney's Office)**

Documents Filed: Joint memorandum from City Attorney Richard Doyle and City Clerk Lee Price, dated November 20, 2009, recommending approval of an ordinance.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, [Ordinance No. 28678](#), entitled: "An Ordinance of the City of San José Amending Chapter 12.06 of Title 12 of the San José Municipal Code to Add Section 12.06.915 to Require Electronic Filing of Campaign Disclosure Statements", was passed for publication. (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### **4.2 Approve an ordinance amending Title 5 of the San José Municipal Code to add a new Chapter 5.08 adopting a Citywide Inclusionary Housing Program. CEQA: Resolution No. 65459, File No. PP08-258. (Housing) (Deferred from 11/17/09 – Item 4.2)**

Action: Deferred to January 12, 2010 per Administration.

### **4.3 Accept the report and direct staff to prepare an ordinance to revise Title 23 of the San José Municipal Code (the Sign Ordinance) consistent with the proposed draft signage strategy and conduct additional related community outreach. CEQA: Not a Project. (Planning, Building and Code Enforcement) (Deferred from 11/17/09 – Item 4.8)**

Action: Deferred to January 12, 2010 per Administration.

- 4.4 (a) **Accept report on Request for Proposal for the purchase of a Multi-Family Loan Portfolio Management System and adoption of a resolution authorizing the Director of Finance to:**
- (1) **Execute an agreement with MK Partners, Inc. (Encino, CA) for the implementation of the Multi-Family Loan Portfolio Management System in an amount not to exceed \$246,700 including all professional and technical support services required to implement the system as well as hosting services that will be provided by Salesforce.com Inc. (San Francisco, CA) under a separate subscription agreement.**
  - (2) **Execute change orders not to exceed a contingency amount of \$40,000 to cover any unanticipated changes in the system design and implementation.**
  - (3) **Execute ten one-year options to renew the agreements for continued technical support and hosting services subject to annual appropriation of funding.**
- (b) **Adopt the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Fund (Fund 443) for 2009-2010:**
- (1) **Decrease the Ending Fund Balance by \$286,700; and**
  - (2) **Increase the Housing Department's Non-Personal/Equipment Appropriation in the amount of \$286,700.**

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

**(Deferred from 11/3/09 – Item 2.5, 11/10/09 – Item 4.4 and 11/17/09 – Item 4.**

Action: Deferred to December 8, 2009 per Administration.

4.5 **As recommended by the Historic Landmarks Commission, consider the following Historic Landmark Nominations and Mills Act Historical Property Contracts:**

- (a) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Purdy House located at 438 N. Second Street (City Landmark No. HL08-189 and California Mills Act No. MA09-010). SNI: 13<sup>th</sup> Street. Council District 3.**

- (1) **Conduct a public hearing and adopt a resolution designating the Purdy House, as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
- (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Purdy House (William and Jordan Saenz Baker, Property Owners) and adopt a resolution approving the contract.**

**The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the 438 N. Second Street as Historic Landmark No. 189 and approving associated Historical Property Contract File No. MA09-010 with the condition that “installing new fencing” not be included as an item in the Preservation Plan. CEQA: Exempt. (Planning, Building and Code Enforcement)**

4.5 (b) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Latta House located at 445 N. Third Street (City Landmark No. HL08-183 and California Mills Act No. MA09-002). SNI: 13<sup>th</sup> Street. Council District 3..**

- (1) **Conduct a public hearing and adopt a resolution designating the Latta House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
- (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Latta House (Courtney and Jonathan Carr, Property Owners) and adopt a resolution approving the contract.**

**The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Latta House as Historic Landmark No. 183 and approving associated Historical Property Contract File No. MA09-002. CEQA: Exempt. (Planning, Building and Code Enforcement)**

(c) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Frank and Nellie Wolfe House #9 located at 643 S. Sixth Street (City Landmark No. HL09-182 and California Mills Act No. MA09-001). SNI: University. Council District 3.**

- (1) **Conduct a public hearing and adopt a resolution designating the Frank and Nellie Wolfe House #9 as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
- (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Frank and Nellie Wolfe House #9 (Jason Rowan and Batsirai Mutasa, Property Owners) and adopt a resolution approving the contract.**

**The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Frank and Nellie Wolfe House #9 as Historic Landmark No. 182 and approving associated Historical Property Contract File No. MA09-001. CEQA: Exempt. (Planning, Building and Code Enforcement)**

(d) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Former Second Presbyterian Manse located at 655 S. Sixth Street (City Landmark No. HL09-187 and California Mills Act No. MA09-008). SNI: University. Council District 3.**

- (1) **Conduct a public hearing and adopt a resolution designating the Former Second Presbyterian Manse, as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**

4.5 (Cont'd.)

- (d) (2) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Former Second Presbyterian Manse (David Dudek, Property Owner) and adopt a resolution approving the contract.

The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Former Second Presbyterian Manse as Historic Landmark No. 187 and approving associated Historical Property Contract File No. MA09-008 with the condition that the Preservation Plan only include improvements to the main house. CEQA: Exempt. (Planning, Building and Code Enforcement)

- (e) Historic Landmark Nomination and Mills Act Historical Property Contract for the Petree House located at 102 S. Twelfth Street (City Landmark No. HL09-185 and California Mills Act No. MA09-005). SNI: University. Council District 3.

(1) Conduct a public hearing and adopt a resolution designating the Petree House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.

(2) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Petree House (Seamus and Jennifer Turner, Property Owners) and adopt a resolution approving the contract.

The Historic Landmarks Commission (HLC) recommends (4-0-1-1; Cohen absent, Colombe abstaining) that the City Council adopt resolutions designating the Petree House as a Historic Landmark No. 185 and approving associated Historical Property Contract File No. MA09-005. CEQA: Exempt. (Planning, Building and Code Enforcement)

- (f) Historic Landmark Nomination and Mills Act Historical Property Contract for the Cox House located at 198 S. Twelfth Street (City Landmark No. HL09-188 and California Mills Act No. MA09-009). SNI: University. Council District 3.

(1) Conduct a public hearing and adopt a resolution designating the Cox House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.

(2) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Cox House (Gary Rucker and Michael Howerton, Property Owners) and adopt a resolution approving the contract.

The Historic Landmarks Commission (HLC) recommends (4-0-1-1; Cohen absent, Colombe abstaining) that the City Council adopt resolutions designating the Cox House as a Historic Landmark No. 188 and approving associated Historical Property Contract File No. MA09-009. CEQA: Exempt. (Planning, Building and Code Enforcement)

4.5 (Cont'd.)

- (g) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Riggs House located at 577 S. Twelfth Street (City Landmark No. HL09-186 and California Mills Act No. MA09-006). SNI: University. Council District 3.**

- (1) **Conduct a public hearing and adopt a resolution designating the Riggs House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
- (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Riggs House (Suzanne Rice and Neil McCarthy, Property Owners) and adopt a resolution approving the contract.**

**The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Riggs House as a Historic Landmark No. 186 and approving associated Historical Property Contract File No. MA09-006. CEQA: Exempt. (Planning, Building and Code Enforcement)**

- (h) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Field-Gross House located at 167 S. Fourteenth Street (City Landmark No. HL09-184 and California Mills Act No. MA09-003). SNI: University. Council District 3.**

- (1) **Conduct a public hearing and adopt a resolution designating the Field-Gross House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
- (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Field-Gross House (Bernadette Drechsler, Property Owner) and adopt a resolution approving the contract.**

**The Historic Landmarks Commission (HLC) recommends (4-0-1-1; Cohen absent, Colombe abstaining) that the City Council adopt resolutions designating the Field-Gross House as a Historic Landmark No. 184 and approving associated Historical Property Contract File No. MA09-003. CEQA: Exempt. (Planning, Building and Code Enforcement)**

Action: Deferred to December 8, 2009 per Administration.

- 4.6 (a) Conduct a public hearing on the Historical Property Contract (California Mills Act No. MA09-007) between the City of San José and the owners of the Tommie Smith House, located at 55 N. Eleventh Street, (City Landmark No. HL08-181) (Brian Boguess, Property Owner) and adopt a resolution approving the contract. SNI: University. CEQA: Exempt. Council District 3. (Planning, Building and Code Enforcement)
- (b) Conduct a public hearing on the Historical Property Contract (California Mills Act No. MA09-004) between the City of San José and the owners of the Stern/Fischer Residence, located at 132 Pierce Avenue, (City Landmark No. HL01-123) (James F. Cox, Property Owner) and adopt a resolution approving the contract. The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt a resolution approving Historical Property Contract File No. MA09-004. SNI: University. CEQA: Exempt. Council District 3. (Planning, Building and Code Enforcement)

Action: Deferred to December 8, 2009 per Administration.

## NEIGHBORHOOD SERVICES

### 5.1 Report of the Neighborhood Services and Education Committee – November 12, 2009 - Council Member Campos, Chair

Documents Filed: Neighborhood Services & Education Committee Report, dated November 12, 2009.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chirco and carried unanimously, the Report of the Neighborhood Services & Education Committee and the actions of November 12, 2009 were accepted. (11-0.)

### 5.2 As referred by the Neighborhood Services and Education Committee on November 12, 2009:

- (a) Adopt the Final Greenprint 2009 Update with the changes indicated in the Final Errata Sheet;
- (b) Authorize the City Manager to make any grammatical changes, minor edits, corrections and other changes which do not impact the major policies and substance of the document during the final editing and production process; and
- (c) Adopt a resolution repealing City Council Policy 1-6 “Park and Recreation Priority for Expenditure of Funds Collected from the Construction Tax and Property Conveyance Tax” and City Council Policy 6-8 “City Improvement of School Sites for Public Recreation”.

(Parks, Recreation and Neighborhood Services)

[Neighborhood Services and Education Committee referral 11/12/09 – Item D(4)]

Action: Continued to December 8, 2009 per Administration.

**5.3 As referred by the Neighborhood Services and Education Committee on November 12, 2009, accept the Neighborhood Commission Status Report and Review of the Preliminary Draft Commission Workplan. (City Manager's Office)  
[Neighborhood Services and Education Committee referral 11/12/09 – Item D(5)]**

Documents Filed: (1) Memorandum from City Clerk Lee Price transmitting the recommendations of the Neighborhood Services & Education Committee. (2) Supplemental memorandum from Agenda Services Manager Nadine Nader, dated November 25, 2009, submitting PowerPoint slides presented by the Committee as requested.

Deputy City Manager Norberto Duenas offered an overview of the Neighborhood Commission Status Report and Review of the Preliminary Draft Commission Workplan.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously the Neighborhood Commission Status Report and the Review of the Preliminary Draft Commission Workplan were accepted. (11-0.)

## **TRANSPORTATION & AVIATION SERVICES**

**6.1 Report of the Transportation and Environment Committee – November 2, 2009  
Council Member Liccardo, Chair**

Documents Filed: The Transportation and Environment Committee Report dated November 2, 2009.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the Transportation and Environment Committee Report and the actions of November 2, 2009 were accepted. (11-0.)

## **OPEN FORUM**

- (1) Taisia McMahan and Bruce Tichinin representing “Save Our Trails” urged maintaining the Three Creeks Trail along the Willow Glen Spur Trail alignment and offered to partner with the City and the Friends of Guadalupe Parkway.
- (2) Ross Signorino expressed sympathy for the Seattle police officers who were fatally shot in the line of duty.

## RECESS/RECONVENE

The City Council recessed at 2:37 p.m. from the afternoon Council Session and reconvened at 7:01 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Pyle, seconded by Council Member Herrera, and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

## CEREMONIAL ITEMS

### 1.4 Presentation of a commendation to Alofa Talivaa for her volunteer work fundraising for disaster relief agencies. (Mayor)

Action: Mayor Reed recognized and commended Alofa Talivaa for twenty years of service to the community volunteering and fundraising for disaster relief agencies.

## PUBLIC HEARINGS ON CONSENT CALENDAR

### 11.1 (a) Consideration of an ordinance rezoning the real property located between Los Esteros Road and Grand Blvd (675 Los Esteros Road) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow driveway modification and a wetlands exchange on a 52.5 gross acres site (Zanker Road Resource Management, Ltd., Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). PDC08-054 – District 4

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC08-054, dated November 19, 2009, recommending approval. (2) Proof of Publication of Notice of Public Hearing, executed on October 30, 2009, submitted by the City Clerk.

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

**11.1 (a) (Cont'd.)**

Action: Upon motion by Council Member Chu, seconded by Council Member Nguyen and carried unanimously, the recommendation of the Planning Commission and Planning Director was approved, [Ordinance No. 28679](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated Between Los Esteros Road and Grand Boulevard (675 Los Esteros Road) from A(PD) Planned Development Zoning to A(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

- (b) Consideration of an ordinance of the City of San José adding a new Section 20.200.1283 to Chapter 20.200 of Title 20 of the San José Municipal Code to define transitional housing and adding a new Section 20.200.1265 to Chapter 20.200 of Title 20 of the San José Municipal Code to define supportive housing, and to provide that those uses are and shall be treated as residential uses, subject only to those restrictions on residential uses applicable to the type of residential structure or use involved. CEQA: Resolution No. 65459 and Addenda thereto, File No. PP09-175. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement dated October 28, 2009, recommending approval of a proposed ordinance to amend Title 20 of the San José Municipal Code. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 9, 2009, transmitting the Planning Commission recommendations of approval. (3) Proof of Publication of Notice of Public Hearing, executed on October 23, 2009, submitted by the City Clerk.

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

Director of Planning, Building and Code Enforcement Joseph Horwedel noted minor changes to the ordinance as it was presented during the outreach phase as outlined in his memorandum of November 9, 2009.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Herrera and carried unanimously, the recommendation of the Planning Commission and Planning Director was approved, [Ordinance No. 28680](#), entitled: “An Ordinance of the City of San José Adding a New Section 20.200.1265 to Chapter 20.200 of Title 20 of the San José Municipal Code to Define Supportive Housing and Adding a New Section 20.200.1283 to Chapter 20.200 of Title 20 of the San José Municipal Code to Define Transitional Housing, and to Provide That Those Uses Are and Shall be Treated as Residential Uses, Subject Only to Those Restrictions on Residential Uses Applicable to the Type of Residential Structure or Use Involved”, passed for publication. (11-0.)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the General Plan Public Hearings on Consent Calendar were tentatively approved and the below listed actions were taken as indicated. (11-0.)

**10.1 (a) Amendment on 1.2 acres on the east side of Oakland Road approximately 200 feet south of Service Street (1290 Oakland Road).**

**Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Heavy Industrial on a 1.2 gross acre site located on the east side of Oakland Road approximately 200 feet south of Service Street (1290 Oakland Road) (Dan Askari, owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval and Planning Commission recommends approval to Light Industrial or Heavy Industrial (6-0-1). GP08-04-04 – District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-04-04, dated November 10, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 19, 2009, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on November 17, 2009, submitted by the City Clerk.

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

Action: The City Council recommended tentative approval of the proposed General Plan Amendment. (11-0.)

**(b) Amendment on 33.6 acres on Cisco Way, north of River Oaks Parkway, southside of W. Tasman Drive and approximately 900 feet easterly of Lick Mill Blvd.**

**Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram consisting of two related parts:**

- (1) Removal of Transit/Employment Residential District Overlay (55+ DU/AC) and Floating Park designations on a 33.6 gross acre site located on Cisco Way, north of River Oaks Parkway, and**
- (2) Addition of Transit/Employment Residential District Overlay (55+ DU/AC) and Floating Park designations on a 33.6 gross acre site located on the south side of W. Tasman Drive, approximately 900 feet easterly of Lick Mill Blvd.**

**(Cisco Technology Inc, owner). CEQA: Addendum to North San José Final Area Development Policy EIR, Resolution No. 72768. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). GP09-04-02 – District 4**

## 10.1 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP09-04-02, dated November 11, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 19, 2009, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on November 17, 2009, submitted by the City Clerk.

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

Action: The City Council recommended tentative approval of the proposed General Plan Amendment. (11-0.)

(c) **Amendment on 1.7 acres one the south side of Quimby Road, approximately S400 feet easterly of Murillo Avenue (284 Quimby Road).**

**Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2.0 DU/AC) to Low Density Residential (5.0 DU/AC) on a 1.7 acre site, located on the south side of Quimby Road, approximately 400 feet easterly of Murillo Avenue (284 Quimby Road) (Huang Tammy C Et Al, Huang Euson, owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).**

**GP09-08-02 – District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP09-08-02, dated November 12, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 19, 2009, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on November 17, 2009, submitted by the City Clerk.

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

Action: The City Council recommended tentative approval of the proposed General Plan Amendment. (11-0.)

## 10.1 (Cont'd.)

- (d) **Amendment on 69 acres on the south side of Quimby Road approximately 1,000 feet westerly of Capitol Expressway (2218 Quimby Road). Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from 34 acres of Medium Low Density Residential (8.0 DU/AC), 23 acres of Industrial Park, and 12 acres of Public/Quasi-Public, all with Mixed Use Overlay, to 11.5 acres of Medium High Density Residential (12-25 DU/AC), 12 acres of Public Park/Open Space and 45.5 acres of General Commercial, with removal of Mixed Use Overlay, on a 69 gross acre site, and removal of Mixed Use Overlay on 10.5 acres of property designated Office, located on the south side of Quimby Road approximately 1,000 feet westerly of Capitol Expressway (2218 Quimby Road) (Arcadia Development Co, owner; City of San José, applicant). SNI: West Evergreen. CEQA: Addendum of Evergreen-East Hills Vision Strategy (EEHVS) Final EIR, Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). GP09-08-04 – District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP09-08-04, dated November 11, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 19, 2009, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on November 17, 2009, submitted by the City Clerk. (4) Letter from Scott Schork, Vice President BkF Engineers, dated November 25, 2009, providing comments on the proposed General Plan Amendment. (5) Letter from Henry Cord, Cord Associates, dated November 30, 2009, providing input for future implementation of the proposed project.

Council Member Herrera pulled Item 10.1(d) from the General Plan Consent Calendar for further clarification.

Mayor Reed provided meeting disclosures.

Mayor Reed opened the public hearing.

Public Comments: Henry Cord, representing Pepper Lane Properties, spoke in support of the land use designation and offered additional suggestions for the proposed site access.

Mayor Reed closed the public hearing.

Assistant Director of Planning and Code Enforcement Laurel Prevetti responded to questions from Council regarding the residential designation of the property and property ingress issues.

## 10.1(d) Cont'd.

Motion: Council Member Herrera moved approval of the General Plan Amendment with continued discussion with the developer to seek an increase in the acreage contemplated for Public Park/Open Space with additional acreage added to the existing park, and including the environmental impact report identifying unavoidable impacts for which there are no feasible mitigations, as set forth in the council packet. The motion was seconded by Council Member Pyle.

Action: On a call for the question, the City Council recommended tentative approval of the proposed General Plan Amendment, and CEQA Resolution No. 75191, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Concerning Significant Effects, Mitigation Measures, and Alternatives, and Adoption of a Statement of Overriding Considerations in Connection with the Approval of General Plan Amendment (Application File No. GP09-08-04) for which an Addendum to a Previously Certified Final Environmental Impact Report for the Evergreen-East hills Vision Strategy Project was Prepared in Accordance with the California Environmental Quality Act", was tentatively adopted with direction to Staff to continue discussion with the developer to seek an increase in the acreage contemplated for Public Park/Open Space from 12 to 14 acres, with the additional two acres added to the existing park. (11-0.)

- (e) **Tentative approval of a General Plan text amendment request to add policy language to the San Jose 2020 General Plan to facilitate intensifying economic development areas including, but not limited to those areas located on transit corridors, Major Collectors, or Arterials. (City of San José, Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). CEQA: San Jose 2020 General Plan EIR Resolution No. 65459. SNI: All. GP09-T-03 – Citywide**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP09-T-03, dated November 11, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 12, 2009, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on November 17, 2009, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comments: Vince Nguyen of Sorrento Pavillion, LLC and Teri Ha spoke in support of the General Plan Amendment. Terri Balandra (Fiesta Lanes Action Group.) recommended additional verbiage to the text of the General Plan, adding that minor exceptions to development standards in the Zoning Ordinance be determined through the development permit process with full community outreach.

## 10.1(e) Cont'd.

Mayor Reed closed the public hearing.

Assistant Director of Planning and Code Enforcement Laurel Prevetti offered a presentation on facilitating economic development and opportunities for expansion of business areas throughout the City of San José.

Extensive Council discussion followed.

Council Member Constant read changes into the record as outlined in "Action".

Action: Upon motion by Council Member Constant, seconded by Council Member Oliverio and carried unanimously, the City Council recommended tentative approval of the General Plan text amendment, with changes read into the record by Council Member Constant to: (1) Strengthen goals and policies for intensifying economic development areas including, but not limited to, those areas located on transit corridors, major collectors or arterials; (2) Direct Staff to return on December 15, 2009 with a resolution designating Winchester Blvd. as a Targeted Business Area; and (3) Direct Staff to continue working on the NBD (Neighborhood Business District) application that has been submitted for Winchester Blvd. and prepare a Winchester NBD General Plan overlay for Council approval at the Spring 2010 General Plan Review. Concurrently, Staff to bring forward an action to rescind the Targeted Business Area designation at the time of Council approval of the Winchester NBD designation. (11-0.)

## **END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR**

## **GENERAL PLAN PUBLIC HEARINGS**

- 10.2 Tentative approval of a General Plan text amendment request to change the Midtown Planned Community and Specific Plan to allow 1) an increase in allowable density to 125 dwelling units per acre, 2) an increase in allowable maximum height to 160 feet, and 3) changes to the Vasona Mixed Use, sub-area urban design guidelines including, but not limited to, setbacks applicable to the site. The project site located on the southwest corner of West San Carlos Street and Sunol Street (860 W SAN CARLOS ST)(Santa Clara County Transit Dist, Union Pacific Railroad, Owner; Green Republic LLP, Developer). SNI: Burbank/Del Monte. CEQA: Resolution to be Adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval with maximum building heights of 150 feet subject to Federal Aviation Administration regulations (7-0-0). GP09-T-01 – District 6**

## 10.2 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP09-T-01, dated November 12, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 19, 2009, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on November 17, 2009, submitted by the City Clerk. (4) Letter from Carl Guardino, Silicon Valley Leadership Group President, dated November 30, 2009, expressing support of the project. (5) Three email from the public expressing support of the project. (6) A “policy response” from Randi Kinman, Helen Chapman, Terri Balandra and Deborah Arant, dated December 1, 2009, supporting the plan with changes to the text plan amendments. (7) Letter from the Green Trip Advisory Committee, dated December 1, 2009, qualifying the Ohlone for “Conditional Green Trip Certification”.

A representative from Green Republic, LLP spoke to the merits of the General Plan Text Amendment and urged the Council’s support.

Mayor Reed opened the public hearing.

Public Comments: Expressing concerns regarding the project as proposed, were: Tom Rossi (Willow Glen Homeowners Association), Richard Zappelli (Willow Glen Neighborhood Association), Randy Kinman, Terri Balandra (F.L.A.G.), Helen Chapman and Deborah Arant (SHPNA), Larry Ames, Bob Sippel (RGNPA), Jean Dresden and Ed Rast.

Offering support for the General Plan Amendment were William Burch, Rob Steinberg (Steinberg Architects), David Martz, Sandra Kulli, Erik Kostelnik, Misty Mersich (Greenbelt Alliance), Ann Cheng, representing Transform and Bena Chang (SVLG).

Speaking in opposition to the General Plan Amendment were: Nancy Ianni, Syed Rizvi, Eloy Wouters, Stewart Gilbert, Jeffrey Pickaro, John Urban and Tom Sawyer.

Mayor Reed closed the public hearing.

Mayor Reed, Vice Mayor Chirco and Council Members Campos, Chu, Constant, Nguyen and Pyle offered meeting disclosures.

Extensive Council discussion followed.

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

## 10.2 (Cont'd.)

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, , the City Council recommended tentative approval of the proposed General Plan Amendment, and CEQA Resolution No. 75192, entitled: “A Resolution of the Council of the City of San José Making Certain Findings Concerning Significant Effects, Mitigation Measures, and Alternatives, and Adoption of a Statement of the Overriding Considerations in Connection with the Approval of a General Plan Text Amendment (Application File No. GP09-T-01) for which a Final Environmental Impact Report was Prepared in Accordance with the Provisions of the California Environmental Quality Act”, was tentatively adopted. (11-0.)

## 10.3 **Tentative approval of a General Plan text amendment request to change Appendix F, Mixed Use Inventory #13 residential designation from Medium High Density Residential (12-25 DU/AC) to High Density Residential (25-50 DU/AC) located on the northeast corner of Yucca Avenue and Hillsdale Avenue (Hacienda Gardens LLC/Mark Tersini, Owner/Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0). GP09-T-04 – District 9**

Documents Filed: (1) Memorandum from Vice Mayor Chirco, dated November 25, 2009, recommending approval of the Staff’s recommendation with direction to the City Manager to include additional elements as listed in “Action”. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP09-T-04, dated November 10, 2009, recommending approval. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 20, 2009, transmitting the Planning Commission recommendation of approval. (4) Proof of Publication of Notice of Public Hearing, executed on November 17, 2009, submitted by the City Clerk. (5) Letter from Ninth District Community Action Committee, dated December 1, 2009, expressing opposition to the proposed amendment to the General Plan.

Planning and Code Enforcement Senior Planner Mike Enderby offered a presentation of the General Plan Text Amendment.

Mayor Reed opened the public hearing.

Public Comments: The following spoke in opposition to the General Plan Text Amendment: Steven Gomez and Noel Carpenter (9<sup>th</sup> District Action Committee), Kevin Flanigan, Mary Flanigan, Rhonda Hansen and Gerry Hunt.

Mark Tersini, Hacienda Gardens LLC Owner/Developer, spoke in support of the project..

Mayor Reed closed the public hearing.

Motion: Vice Mayor Chirco moved approval of the Staff recommendations and her memorandum dated November 25, 2009, as outlined in “Action”. Council Member Constant seconded the motion.

### 10.3 (Cont'd.)

Action: On a call for the question, the City Council recommended tentative approval of the proposed General Plan Amendment with direction to the City Manager as outlined in Vice Mayor Chirco's memorandum of November 25, 2009 as follows: (1) Conduct extensive community outreach for any Planned Development Rezoning application on this site. Work to hold a meeting with members of the 9<sup>th</sup> District Action Committee, Planning staff and the applicant to discuss neighborhood compatibility and site design. (2) Ensure that the project massing is compatible with the surrounding neighborhood. a) Any podium project on this site shall comply with the development standards approved as part of the current zoning in 2002, which require that buildings fronting Yucca Avenue be predominately two stories, to a maximum height of 35 feet, but allow a few three story elements, to a maximum height of 45 feet. b) At the rezoning stage, strengthen these standards by establishing a set proportion of two and three story elements consistent with the proportion shown in the conceptual architecture for the current zoning. (3) Minimize traffic on surrounding streets. a) Ensure that the underground residential garage does not take access off of Yucca Avenue. b) Pursue direct vehicular access to the underground garage via the planned shared driveway that will run between Hillsdale Avenue and the shopping center parking lot to provide a direct route to Meridian Avenue. c) Allow alternate use of the shopping center parking lot for overflow parking from the residential project. (4) Consider the Planning Commission's suggestion to include requirements in the rezoning that the commercial portion of the site be built before or at the same time as the residential portion. (5) Pursue the applicant's offer of funding for traffic calming improvements through study and community outreach at the appropriate stage of the development process. (6) Achieve a high standard of design that establishes a residential character compatible with the existing neighborhood and a pedestrian-friendly environment. a) Include front stoops or porches for first floor units facing Yucca Avenue. b) Minimize the height of the above ground portion of the parking garage. c) Provide pedestrian access from the proposed development into the shopping center in order to provide residents with convenient access to community-serving retail. d) Provide street trees along the Yucca Avenue. and Hillsdale Avenue. project frontages. (11-0.)

### 10.4 **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) on a .82-acre site, located on the east side of Almaden Expressway, approximately 300 feet northerly of Fleetwood Drive (6082 Almaden Expressway) (Mazzone Benjamin W Trustee & Et Al, Owner). CEQA: Mitigated Negative Declaration. GP07-10-01 – District 10**

Action: Continued to Spring General Plan Public Hearings.

**10.5 Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Rural Residential (0.2 DU/AC) to Low Density Residential 5 (DU/AC) on a 9.76 acre site, located on the west side of Cadwallader Avenue, approximately 150 feet southerly of Prunetree Lane (3905 Cadwallader Avenue) (Cirelli Robert A Trustee & Et Al, Pianka Laura M And Michael K Et Al, Owners). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0).GP08-08-04 – District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-08-04, dated November 6, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 19, 2009, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on November 17, 2009, submitted by the City Clerk. (4) Five email from the public, dated December 1, 2009, expressing opposition to the proposed amendment to the General Plan.

Mayor Reed, Vice Mayor Chirco, and Council Members Campos, Chu, Herrera, Nguyen and Pyle provided meeting disclosures.

Mayor Reed opened the public hearing.

Public Comments: Mark Lazzarini (DAL Properties) requested approval of the General Plan Amendment. Also offering support for the project were: Ed Abelite, David Margolati, Robert Tedrow, Laurie Pianke, Cheryl Larlos, Dianna Ingle, Deena Luce, and Rich DeLaRosa.

The following expressed opposition to the General Plan Amendment due to the increased land use density on the site: Bonnie Mace, Kathryn Dean, Jerry Dean, Karin Lele, Anju Bansal, Sateesh Lele, Nitin Chandra, Deborah Garner, Karen Greenwell, Deena Luce, Anita Vanhall and Javier Castelblanco.

Mayor Reed closed the public hearing.

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

Motion: Council Member Herrera moved approval of the General Plan Amendment with direction to Staff as stated in “Action”. Council Member Pyle seconded the motion.

Action: On a call for the question, and carried unanimously, the City Council recommended tentative approval of the proposed General Plan Amendment, with Staff directed to work with the Applicant during the zoning process to: (a) Achieve a density of 2.5 dwelling units per acre as represented by the developer; and (b) Design the new development in a manner sensitive to the site’s topography and adjacent neighbors. (11-0.)

- 10.6 Tentative approval of a General Plan Text Amendment request to amend the San José 2020 General Plan and Evergreen Specific Plan text to allow the construction of 35 residential units in excess of the 2,996 residential units allowed in the Evergreen Specific Plan, for the area located on the south of the Village Square, bounded by Cortona Drive, Classico Avenue and Ruby Avenue (4035 Evergreen Village Square)(Shapell Industries, Owner). CEQA: Use of the Evergreen Specific Plan, FEIR, Resolution No. 63179, and Addendum to the Evergreen-East Hills Vision Strategy FEIR, Resolution No. 74741. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval with only 12 units (4-3-0). GPT09-08-01 – District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GPT09-08-01, dated November 6, 2009, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 19, 2009, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on November 17, 2009, submitted by the City Clerk. (4) Email from Todd Jones and Randy Waltz, Silver Creek Fitness Club, expressing support to the General Plan Amendment.

Mayor Reed opened the public hearing.

Public Comments: Speaking in support of the General Plan Amendment were Kelly Erardi, representing the applicant (Shapell Industries), Ed Abelite, Charles Welsh and Danielle Bechwati. Bonnie Mace supported the project with certain conditions.

Mayor Reed closed the public hearing.

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

Council discussion ensued.

Action: Upon motion by Council Member Herrera, seconded by Council Member Nguyen and carried unanimously, the City Council recommended tentative approval of the proposed General Plan Amendment, with Staff directed to ensure that residential development does not precede the retail component. (11-0.)

- 10.7 Tentative approval of a General Plan Amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram land use designation from Combined Industrial/Commercial to High Density Residential (25 - 50 DU/AC) on a 2.88-acre site, located on the east side of Monterey Road, approximately 700 feet northerly of Tully Road (Owner/Developer Emergency Housing Consortium). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends no change to the General Plan, recognizing that employment land offsets exist should the amendment be approved, and Planning Commission recommends approval (5-0-1-1). GP08-07-04 – District 7**

## 10.7 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Nguyen, dated November 24, 2009, recommending approval of the General Plan Amendment. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-07-04, dated November 2, 2009, recommending approval. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 13 2009, transmitting the Planning Commission recommendation of approval. (4) Proof of Publication of Notice of Public Hearing, executed on October 27, 2009, submitted by the City Clerk. (5) Letter from Housing & Community Development Advisory Commission Chair Bonnie Mace, dated November 25, 2009, expressing approval of the General Plan Amendment.

Assistant Director of Planning and Code Enforcement Laurel Prevetti provided an overview of the Staff recommendation and responded to questions from the Council.

Mayor Reed opened the public hearing.

Public Comments: Speaking in support of the General Plan Amendment were Jonathan Noble (Charities Housing), Jenny Kiklaus (EHC Life Builders), and Bonnie Mace (Housing & Community Development Advisory Commission).

Mayor Reed closed the public hearing.

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

Motion: Council Member Nguyen moved approval of her memorandum of November 24, 2009, in support of the Planning Commission's recommendation. Council Member Liccardo seconded the motion.

Council Member Liccardo requested to amend the motion to direct Staff to provide an information memorandum as outlined in "Action". Council Member Nguyen accepted the amendment.

Action: On a call for the question, the City Council recommended tentative approval of the proposed General Plan Amendment, with direction to Staff to provide an information memorandum: (a) Explaining the employment land offset for recent affordable housing actions, and (b) Considering future modification(s) to the Framework for the Preservation of Employment Lands to consider affordable housing on existing housing sites as being exempt from the Framework. (11-0.)

**10.8 Tentative denial of a General Plan amendment request to add the Mixed Industrial Overlay to a 3.5-acre site designated Industrial Park on the San José 2020 General Plan Land Use/Transportation Diagram (D & J Construction Inc., Et Al, Owner/New Harvest Christian Fellowship, Applicant). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (6-1-0).  
GP09-04-01 – District 4  
(Deferred from 6/16/09 – Item 10.5)**

Documents Filed: (1) Memorandum from Council Member Chu, dated November 30, 2009, recommending approval of the General Plan amendment. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GPT09-04-01, dated May 20, 2009, recommending denial. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 29, 2009, transmitting the Planning Commission recommendation of approval. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 20, 2009, continuing the proposed General Plan Amendment to the Fall 2009 General Plan Hearing. (5) Proof of Publication of Notice of Public Hearing, executed on November 20, 2009, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joseph Horwedel outlined Staff's concerns in supporting this General Plan Amendment.

Mayor Reed opened the public hearing.

Public Comments: Speaking in support of the General Plan Amendment and the importance of services provided to the community by New Harvest Christian Fellowship were thirty-eight members of the public: Abel Rios, Joseph Johnsten, Louis Cabrera, Joseph Apolinar, So Tien, Zuping Ma, Jason Tan, Peggy Chou, Margie Yee, Bradley Yee, Francisco Nanez, Marie Gonzalez, Alice Rios, Rudy Galvan Sr., Pamela Sheridan, Darlene Galvan, Gilbert Lopez, Rachel Cadena, Monica Levario, Javier Reynoso, Miguel Alvarado, Tommy Lopez, RJ Gutierrez, Christi Nanez, Samantha Frysinger, Ishmael Jimenez, Connie He, James Katayama, Kaiwen Au, Susan Newton, Peidong Shen, Tammy Eliseian, Kaili Shen, Jing Chen, Waiming Yuen, Marcos Rodriguez, Alina Ren, and Ken Yeuing.

Mayor Reed closed the public hearing.

Council discussion ensued.

Vice Mayor Chirco and Council Member Oliverio expressed their objections to the conversion of industrial land and each voiced that they would not be supporting this General Plan Amendment.

Action: Upon motion by Council Member Chu, seconded by Council Member Nguyen and carried, the City Council recommended tentative approval of the proposed General Plan Amendment. (9-2. Noes: Chirco, Oliverio.)

**10.9 Adopt a resolution approving all General Plan amendment actions taken on December 1, 2009, and adoption of related CEQA resolutions. (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 23, 2009, submitted by the City Clerk.

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

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75193](#), entitled: "A Resolution of the Council of the City of San José Specifying the Council's Determinations on Proposed Amendments to the San José 2020 General Plan Pursuant to Title 18 of the San José Municipal Code", was adopted. (11-0.)

**ADJOURNMENT**

The Council of the City of San José was adjourned at 11:54 p.m. in memory of Art Savage, the Sharks first General Manager, who led the negotiations which brought the team San José.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

rmk/12-01-09MIN

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

**NOTICE OF CONTRACTS EXECUTED BY COUNCIL APPOINTEES**

In accordance with Municipal Code Section 4.04.080, titled “Quarterly Reports”, the following is a list of contracts executed by Council Appointees or designees during the first quarter of Fiscal Year 2008-2009 (April 1, 2009 – June 30, 2009). The list includes contracts or amendments to contracts for services with a value greater than \$100,000 and up to \$250,000, contracts or amendments to contracts for grants with a value greater than \$100,000 and up to \$250,000, or contracts and amendments to contracts for equipment, supplies, and material with a value greater than \$100,000 and up to \$1 million. Contract amounts are rounded to the nearest dollar. No Council action is being requested with respect to this report.

**City Attorney’s Contract Activity**

Contractor	Description of Contract	Amount
Hanson Bridgett Marcus Vlahos Rudy LLP	Legal services to assist with the development of City owned property for soccer stadium and other projects. Third amendment to extend term and increase compensation by \$25,000.	\$175,000
Hogan & Hartson LLP	Legal services related to aviation matters subject to the Federal Aviation Administration at the Norman Y. Mineta San Jose International Airport. Fifth amendment to extend term, amend compensation rates, and increase compensation by \$60,000.	\$200,000
McPharlin, Sprinkles & Thomas LLP	Legal services to assist with bankruptcy matters. Amendment to Second Continuation Agreement to extend term and increase compensation by \$25,000.	\$175,000

**The City Auditor’s Office has no contract activity to report.**

**The City Clerk’s Office has no contract activity to report.**

**NOTICE OF CONTRACTS EXECUTED BY COUNCIL APPOINTEES (CONT'D.)**

**City Manager's Contract Activity**

Department	Contractor	Description of Contract	Amount
Airport	Albion Environment, Inc.	Provides Airport with technical advice, monitoring and analysis of wildlife issues at the Airport. The Airport Department completed the required Qualifications Based Consultant Selection process.	\$188,000
City Manager Office	Cortex Applied Research INC	Per Council direction on 9/30/08, an RFP was issued and an award was granted to Cortex to perform a review of the governance of the two Retirement Boards (the Federated City Employees Retirement System and the Police/Fire Department Plan) structure and governance of the board of administration of each retirement system.	\$110,000
ESD	Global Fluency	As noted in the Transportation & Environment Committee Memo from the meeting of February 4, 2008, Item G: Communications Strategy for Plant Master Plan, staff has been working aggressively with the consultants to provide strategic communications planning and media relations consulting services for the three-year effort to gain community input on and support for an operational and land use master plan that will address the critical infrastructure needs of the region's wastewater treatment facility for the next 30 years. This is a non-general fund expenditure.	\$250,000

(Item continued on the next page)

**NOTICE OF CONTRACTS EXECUTED BY COUNCIL APPOINTEES (CONT'D.)**

**City Manager's Contract Activity (Cont'd.)**

Department	Contractor	Description of Contract	Amount
ITD	ThirdWave Corporation	The Sunshine Reform Task Force has provided the Mayor and Council with a number of recommendations to achieve its goal of government transparency. The objective of this project is for the Consultant to work with the City in reviewing, assessing and recommending improvements for the City's external websites for Open Government activities.	\$209,450
Manager (OED)	Didler Hess and Stephen Glassman Studio	Design, fabricate and install a work of art at the Norman Y. Mineta International Airport's Concourse Wall Activated Artwork Platform.	\$125,000
Police	County of Santa Clara	Provide Criminal Justice Information Control (CJIC) Services, which is used by the Police Department to update criminal justice files.	\$145,000
Public Works	MRF Geosystems Corporation	This project will provide the CITY with an Integrated Enterprise Geographic Information System (GIS) and Sewer Management System (SMS). The goal of this project is to reconcile the GIS master list of sanitary sewer assets with the SMS sanitary sewer assets to ensure both systems are consistent and to further improve enterprise data access.	\$115,000

**NOTICE OF CONTRACTS EXECUTED BY COUNCIL APPOINTEES (CONT'D.)**

**Director of Finance Contract Activity – Services**

Department	Contractor	Description of Contract	Amount
Environmental Services	Advanced Solutions	Provide and Install Catch Basins.	\$110,000
Fire	Industrial Safety Supply	Testing and Repair Services for Self Contained Breathing Apparatus (SCBA). Amendment to add \$10,000.	\$150,000
General Services	Graebel/Erickson	Drayage/Moving Services. Amendment to add \$40,000.	\$240,000
General Services	Hoblit Motors	Provide and Install Push Bumper.	\$163,003
General Services	TAC Americas Inc.	HVAC Hardware, Software, Support. Amendment to add \$40,000.	\$194,715
PRNS	A Pro Pest Control	Pest Control Services. Amendment to add \$40,000.	\$110,000
PRNS	Fricke Parks Press	Printing of Citywide Activity Guide. Amendment to add \$43,000.	\$137,063
PRNS	Petalon Landscape Mgmt.	Landscape Management Services. Amendment to add \$35,000.	\$115,000
PRNS	Rog & Co.	Landscape Management Services at BMX Park. Amendment to add \$35,000.	\$115,000
Transportation	Arbortek Tree Service	Structural Tree Pruning Services.	\$200,000
Transportation	Coast Landscape Management	Landscape Maintenance Services (Minimal Islands).	\$125,000
Transportation	Coast Landscape Management	Landscape Maintenance Services (Median Islands).	\$111,000
Transportation	Flora Terra Landscape Mgmt.	Landscape Management for Evergreen Districts 2 & 3.	\$240,000
Transportation	San Jose Transport Inc.	Asphalt Trucking Services. Amendment to add \$6,000 for Purchase Order issued in Fiscal Year 2008/09.	\$106,000
Transportation	San Jose Transport Inc.	Asphalt and Debris Hauling Services. Amendment to add \$50,000.	\$150,000
Transportation	Scheidt & Bachmann USA	Maintenance of Parking Revenue Control Equipment. Amendment to add \$50,000.	\$200,000
Transportation	Streetlight Restor'n	Light Pole Painting Services	\$240,000
Transportation	Valley Crest Landscape	Landscape Maintenance Services for Silvercreek District. Amendment to add \$140,000.	\$240,000
Transportation	Wilson Concrete Co.	Concrete Sidewalk Removal/Repair. Amendment to add \$100,000.	\$200,000

**NOTICE OF CONTRACTS EXECUTED BY COUNCIL APPOINTEES (CONT'D.)**

**Director of Finance Contract Activity – Equipment, Materials, and Supplies**

Department	Contractor	Description of Contract	Amount
Aviation	Dale Brisco Inc.	Baggage Conveyor Carrier Arm and Wheel Assembly.	\$138,837
Environmental Services	Thermo Process Instruments	Laboratory Supplies and Chemicals. Amendment to add \$30,000.	\$120,000
Finance	Computerland	Citywide for Desktop Computers and Monitors.	\$750,000
Fire	Laerdal Medical Corp.	Simman 3G Patient Simulator and Simbaby Infant Simulator.	\$120,128
General Services	Albany Ford Inc.	Standard Cab Dual Rear Wheel Cab and Chassis Trucks (2).	\$127,258
General Services	Altech Hiline	Hiline Step Van with Mounted Aerial Lift.	\$215,660
General Services	Buckles Smith	Electrical Parts and Supplies. Amendment to add \$150,000.	\$400,000
General Services	Coast Counties	2009 Combination Sewer Cleaning Trucks (2).	\$620,822
General Services	Coast Counties	Cab, Chassis Asphalt Dump Trucks (2).	\$315,038
General Services	Coast Counties	Cab, Chassis and Body Transfer Trucks (2).	\$226,032
General Services	Frontier Ford	Cab, Chassis with Animal Transport Body (3).	\$192,060
General Services	Harris Stratex Networks	Components to Upgrade Existing Digital Microwave.	\$159,878
General Services	Maita Chevrolet Geo & GMAC	2010 Unmarked Police Package Sedans (9).	\$197,434
General Services	Mission Valley Ford	2010 Trucks with Maintenance Body (3).	\$138,625
General Services	Motorola CE Inc.	Quantar Database Station/Repeaters (3)	\$107,166
General Services	Municipal Maintenance Equip	Regenerative Air Street Sweepers (2).	\$383,490
General Services	Municipal Maintenance Equip	Street Sweepers (2)	\$391,485
General Services	San Francisco Ford Lincoln Mercury	Cab and Chassis with Maintenance Body (2).	\$175,917
General Services	Toyota Material Handling	Electric Carts (12).	\$194,450
General Services	Toyota Sunnyvale	Prius Hybrid Gas/Electric Vehicles (9).	\$222,313
Information Technology	Nortel Networks Inc.	Networking Hardware and Software. Amendment to add \$285,000.	\$985,000
Police	San Diego Police Equipment	Ammunition. Amendment to add \$28,800.	\$201,800

**NOTICE OF CONTRACTS EXECUTED BY COUNCIL APPOINTEES (CONT'D.)**

**Director of Finance Contract Activity – Equipment, Materials, and Supplies  
(Cont'd.)**

Department	Contractor	Description of Contract	Amount
Police	Western Contract Interiors	System Furniture for New Police Substation. <sup>1</sup>	\$900,820
Transportation	Granite Construction	Asphalt Concrete. Amendment to add \$90,000 for Purchase Order issued in Fiscal Year 2008/09.	\$300,000
Transportation	Granite Construction Co.	Asphalt Concrete.	\$350,000
Transportation	Granite Rock – Aromas	Seal Coat Aggregate.	\$150,000
Transportation	Reed & Graham	Asphalt Concrete. Amendment to add \$45,000 for Purchase Order issued in Fiscal Year 2008/09.	\$838,958
Transportation	Reed & Graham	Asphalt Concrete.	\$250,000
Transportation	Weco Industries	Sewer Maintenance Supplies. Amendment to add \$3,000.	\$101,000

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