

## **SAN JOSE CITY COUNCIL CLOSED SESSION AGENDA**

**August 31, 2010**

Place: City Hall, Conference Room W-133

Time: 9:30 a.m.

Item(s) to be discussed:

**A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (CLAIM FILED):**

Significant exposure to litigation pursuant to subsection (b) of Section 54956.9 of the Government Code:

1. Claimants(s): In re Claim of Ghenis  
City Department: PRNS
2. Claimants(s): In re: Claim of Banuelos  
City Department: DOT
3. Claimants(s): In re: Claim of Ortiz  
City Department: DOT
4. Claimants(s): In re: Claim of Head  
City Department: PRNS
5. Claimants(s): In re: Claim of Pham  
City Department: Police

**B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:**

Initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code:

Number of matter(s) to be discussed: 3

**C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 subsection (a):**

1. Case Name: Colvin v. City, et al.

Name(s) of Parties(s) Involved: MICHAEL COLVIN, MARY BETH MAJORS, JAMES BECKNALL, CITY OF SAN JOSE, DOES 1-20

Court: Superior Court of California, County of Santa Clara

Case No.: 1-09-CV-159895

Amount of Money or Other Relief Sought: Damages according to proof.

2. Case Name: Beltran v. City

Name(s) of Parties(s) Involved: CONSUELA BELTRAN, CITY OF SAN JOSE, DOES 1 through 50

Court: Superior Court of California, County of Santa Clara

Case No.: 1-10-CV170281

Amount of Money or Other Relief Sought: Damages according to proof.

3. Case Name: Citizens Against Airport Pollution v. City, et al.

Name(s) of Parties(s) Involved: CITIZENS AGAINST AIRPORT POLLUTION, an unincorporated association, and DOES 1 to 5, CITY OF SAN JOSE, CITY COUNCIL OF THE CITY OF SAN JOSE, and DOES 6 to 10, DOES 10 to 30; Real Parties in Interest.

Court: Superior Court of California, County of Santa Clara

Case No.: 1-10-CV-177290

- Amount of Money or Other Relief Sought: City to set aside and void approvals relating to 8<sup>th</sup> addendum to Airport Master Plan.
4. Case Name: Sky Chefs, Inc. v. City.  
 Name(s) of Parties(s) Involved: SKY CHEFS, INC., CITY OF SAN JOSE  
 Court: United States District Court, Northern District of California  
 Case No.: C09-03735 RS  
 Amount of Money or Other Relief Sought: Declaratory and injunctive relief.
5. Case Name: Elliott v. City  
 Name(s) of Parties(s) Involved: GREG ELLIOTT, CITY OF SAN JOSE, DOES 1 through 20  
 Court: Superior Court of California, County of Santa Clara  
 Case No.: 1-10-CV172738  
 Amount of Money or Other Relief Sought: Damages according to proof.
6. Case Name: City v. International Association of Firefighters, et al.  
 Name(s) of Parties(s) Involved: CITY OF SAN JOSE, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 230  
 Court: Superior Court of California, County of Santa Clara  
 Case No.: 1-06-CV-075858  
 Amount of Money or Other Relief Sought: Motion to compel arbitration.
7. Case Name: City v. Association of Building, Mechanical and Building Inspectors  
 Name(s) of Parties(s) Involved: CITY OF SAN JOSE, ASSOCIATION OF BUILDING, MECHANICAL AND BUILDING INSPECTORS

Court: State of CA Public Employment Relations Board

Case No.: SF-CO-168-M

Amount of  
Money or  
Other Relief  
Sought:

8. Case Name: Great Oaks Water, Inc. v. City, et al.

Name(s) of Parties(s) Involved: GREAT OAKS WATER COMPANY, INC., JOHN W.S. ROEDER, BETTY B. ROEDER, BETTY B. ROEDER TRUST A and WILLIAM C. MILLER, JR. and BETTY B. ROEDER, TRUSTEES OF THE WALTER S. ROEDER TRUST B, THE CITY OF SAN JOSE, THE SAN JOSE REDEVELOPMENT AGENCY, SOUTHBAY WATER RECYCLING, DOES 1 through 100

Court:

Case No.:

Amount of Money or Other Relief Sought: Damages according to proof.

9. Case Name: Murrel v. City

Name(s) of Parties(s) Involved: DAWN MURREL, CITY OF SAN JOSE, DOES 1 through 100

Court: Superior Court of California, County of Santa Clara

Case No.: 1-10-CV172575

Amount of Money or Other Relief Sought: Damages according to proof.

10. Case Name: City v. IAFF (Michael Baldwin)

Name(s) of Parties(s) Involved: CITY OF SAN JOSE, INTERNATIONAL ASSOCIATION OF FIREFIGHTER, LOCAL 230, MICHAEL BALDWIN

Court: Superior Court of California, County of Santa Clara

Court of Appeal of the State of CA, Sixth Appellate District

Case No.: 1-09-CV142109

H034726

Amount of  
Money or  
Other Relief  
Sought:

11. Case Name: California Building Industry Association v. City, et al.

Name(s) of Parties(s) Involved: California Building Industry Association, a California nonprofit corporation, City of San Jose, a California municipal corporation, City Council and Mayor of the City of San Jose, Does 1-200

Court: Superior Court of California, County of Santa Clara

Case No.: 1-10-CV-167289

Amount of Money or Other Relief Sought: Declaratory and Injunctive relief.

12. Case Name: Bernal, et al. v. City, et al.

Name(s) of Parties(s) 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 JOSE, AND DOES 1 – 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.

13. Case Name: Berg & Berg Enterprises, LLC v. City, et al.

Name(s) of Parties(s) Involved: BERG & BERG ENTERPRISES, LLC, CITY OF SAN JOSE; SAN JOSE CITY COUNCIL, and DOES 1-50

Court: Superior Court of California, County of Santa Clara

Case No.: 1-07-CV-091955

Amount of Money or Other Relief Sought: Damages according to proof.

14. Case Name: Cicala, et al. v. City, et al.  
 Name(s) of Parties(s) Involved: PAUL CICALA, ENRICO SAGULLO, ERICK SANCHEZ, CITY OF SAN JOSE, ROBERT DAVIS, OFFICERS ORDAZ, HIGGINS, MARFIA, KYONO and SIEGEL and DOES  
 Court: United States District Court, Northern District of California  
 Case No.: C08-04032 PVT  
 Amount of Money or Other Relief Sought: Damages according to proof.
15. Case Name: Contreras v. City, et al.  
 Name(s) of Parties(s) Involved: EMILY CONTRERAS and JOSE LUA, SR., individually and as Administrators of the Estate of Richard A. Lua, CITY OF SAN JOSE; CHIEF ROBERT DAVIS; OFFICER ERIC BACHMANN; OFFICER PATRICK LYNCH, GENEVIEVE BLACK and DOES 1 to 10  
 Court: United States District Court, Northern District of California  
 Case No.: C-10-00953-RMW  
 Amount of Money or Other Relief Sought: Damages according to proof.
16. Case Name: Diamond Enterprises, et al. v. City, et al.  
 Name(s) of Parties(s) Involved: JENNY WOLFES DIAMOND ENTERPRISES, SJ d.b.a. STUDIO 8, CITY OF SAN JOSE  
 Court: Superior Court of California, County of Santa Clara  
 Case No.: 1-06-CV071844  
 Amount of Money or Other Relief Sought: Damages according to proof.
17. Case Name: Ho v. City, et al.  
 Name(s) of Parties(s) Involved: PHUONG QUANG HO, CITY OF SAN JOSE, CHIEF ROBERT DAVIS, SGT. JEFFREY MARTIN, OFCR. STEVEN PAYNE, JR., OFCR. GABRIEL REYES, OFCR. KENNETH SIEGEL, OFCR. JEROME SMITH  
 Court: United States District Court, Northern District of California  
 Case No.: CV-10-01825 HRL

Amount of \$11 Million.  
Money or  
Other Relief  
Sought:

18. Case Name: Kerkeles v. City, et al.

Name(s) of MICHAEL KERKELES, a.k.a. MICHAEL KERK, CITY OF  
Parties(s) SAN JOSE, MATTHEW CHRISTIAN, and DOES ONE  
Involved: through TWENTY-FIVE

Court: Superior Court of California, County of Santa Clara

Case No.: 1-08-CV103523

Amount of Damages according to proof.  
Money or  
Other Relief  
Sought:

19. Case Name: Moscoso v. City et al.

Name(s) of ALEYDA MARITZA MOSCOSO, Personal Representative  
Parties(s) of the ESTATE OF JORGE LUIS TRUILLO, ROBERT L.  
Involved: DAVIS, CITY OF SAN JOSE, JOHN DOES 1 through 25

Court: United States District Court, Northern District of California

Case No.: C07 02998 JF

Amount of Damages according to proof.  
Money or  
Other Relief  
Sought:

20. Case Name: Naymark, et al. v. City, et al.

Name(s) of JANICE NAYMARK, RONALD NAYMARK, CITY OF SAN  
Parties(s) JOSE, SAN JOSE POLICE DEPARTMENT, ROBERT  
Involved: DAVIS, CITY OF CAMPBELL, CAMPBELL POLICE  
DEPARTMENT, DAVID GULLO, TOWN OF LOS  
GATOS, CITY OF MONTE SERENO, LOS  
GATOS/MONTE SERENO POLICE DEPARTMENT,  
SCOTT SEAMAN, CITY OF PALO ALTO, LYNN  
JOHNSON, CITY OF SANTA CLARA, SANTA CLARA  
POLICE DEPARTMENT, STEPHEN D. LODGE, STATE  
OF CALIFORNIA, CALIFORNIA HIGHWAY PATROL,  
MICHAEL L. BROWN, COUNTY OF SANTA CLARA,  
OFFICE OF THE SANTA CLARA COUNTY SHERIFF,  
LAURIE SMITH, and DOES 1 THROUGH 25

Court: Superior Court of California, County of Santa Clara

Case No.: 1-07-CV080008

Amount of Injunctive relief.  
Money or  
Other Relief  
Sought:

21. Case Name: Noreen Salinas v. City, et al.  
Name(s) of Parties(s) Involved: NOREEN SALINAS, CITY OF SAN JOSE, CHIEF ROBERT DAVIS, TASER INTERNATIONAL, INC., DOES 1 TO 10  
Court: United States District Court, Northern District of California  
Case No.: C08-02625 RS (consolidated with C09-04410RS)  
Amount of Money or Other Relief Sought: Damages according to proof.
22. Case Name: Swayzer v. City  
Name(s) of Parties(s) Involved: PRINCE SWAYZER II and DEBORAH PORTER as individuals, and JILL SCOTT as Guardian Ad Litem for J.P.S., a minor and as Administrator of the Estate of Prince Swayzer III, deceased, CITY OF SAN JOSE, TASER INTERNATIONAL INC., and DOES 1 through 100  
Court: United States District Court, Northern District of California  
Case No.: C10-03119 HRL  
Amount of Money or Other Relief Sought: Damages according to proof.
23. Case Name: Valdez, et al v. City, et al.  
Name(s) of Parties(s) Involved: FRANCISCO VALDEZ, RICARDO VASQUEZ, DANIEL MARTINEZ, JAMIL STUBBS, CITY OF SAN JOSE, SAN JOSÉ POLICE CHIEF ROBERT DAVIS, OFFICER R. AGAMAN (#4041); OFFICER MARTIN (#3894), OFFICER RICKERT (#3734), OFFICER WALLACE (#3922); OFFICER ORLANDO, DOES 1 through 2500  
Court: United States District Court, Northern District of California  
Case No.: C09 00176 RMW  
Amount of Money or Other Relief Sought: Damages according to proof.

24. Case Name: Vasquez v. City, et al.
- Name(s) of Parties(s) Involved: RAMON JOSE VASQUEZ, BRIAN FERRANTE, INDIVIDUALLY AND AS AN OFFICER OF THE SAN JOSE POLICE DEPARTMENT AND TOM MORALES, INDIVIDUALLY AS AN OFFICER OF THE SAN JOSE POLICE DEPARTMENT, DOES 1 through 50
- Court: United States District Court, Northern District of California
- Case No.: CV10-00948 LKH
- Amount of Money or Other Relief Sought: Damages according to proof.
25. Case Name: Watson - Stalker, et al. v. City, et al.
- Name(s) of Parties(s) Involved: TRACY WATSON, RENEE STALKER, OLIVIA STALKER, SHAFER WATSON, RILEY WATSON, COUNTY OF SANTA CLARA, COUNTY OF SANTA CLARA DEPARTMENT OF FAMILY AND CHILDREN SERVICES; COUNTY OF SANTA CLARA DEPARTMENT OF COUNTY COUNSEL; COUNTY OF SANTA CLARA DISTRICT ATTORNEYS OFFICE; SANTA CLARA VALLEY MEDICAL CENTER; EVERGREEN SCHOOL DISTRICT; CITY OF SAN JOSE, SAN JOSE POLICE DEPARTMENT; NORMA SPARKS, YAZMINA LETONA; SHARON BURGAN; JEWELS RAMIREZ; VU TRAN; ANN MILLER RAVEL, RIMA SINGH; AARON WEST; GEORGE KENNEDY; CLIFTON BLACK; ROSE REAL; ROBERT PRUITT; CHERYL HARMS; CLAUDIA BLODGETT; GARY KISHIMOTO; JOHN HAMILTON, ANITA NOBLE, JANET KAHLE, MARY RITTER, DAVID KEARNS, RAJUL KAZI; ROB DAVIS; WILLIAM HOYT; CRAIG BLANK
- Court: United States District Court, Northern District of California
- Case No.: C06-04029 RMW
- Amount of Money or Other Relief Sought: Damages according to proof.
26. Case Name: City v. Union Pacific Railroad Company
- Name(s) of Parties(s) Involved: CITY OF SAN JOSE, UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, and DOES ONE to FIFTEEN
- Court: Superior Court of California, County of Santa Clara

Case No.: 1-04-CV-026149

Amount of Money or Other Relief Sought: Seeking to obtain real property through eminent domain for fair market value.

27. Case Name: Carrasco v. City, et al.

Name(s) of Parties(s) Involved: ARTHUR CARRASCO, HECTOR SOLORIO; VIRGINIA SOLRIO; LOUISA MALDONADO; CITY OF SAN JOSE, DOES 1 through 100

Court: Superior Court of California, County of Santa Clara

Case No.: 1-10-CV-165390

Amount of Money or Other Relief Sought: Damages according to proof.

28. Case Name: Toan Nguyen v. City

Name(s) of Parties(s) Involved: TOAN THANH NGUYEN, ANN THUY NGUYEN, CITY OF SAN JOSE DEPARTMENT OF TRANSPORTATION, CITY OF SAN JOSE DEPARTMENT OF PUBLIC WORKS

Court: Superior Court of California, County of Santa Clara

Case No.: 1-08-CV-115637

Amount of Money or Other Relief Sought: Damages according to proof.

29. Case Name: Lefall, et al. v. City

Name(s) of Parties(s) Involved: DION LEFALL, GEORGE LOUIE, GLORIA VAUGHN, AND DERRICK JACKSON, CITY OF SAN JOSE

Court: Superior Court of California, County of Santa Clara

Case No.: 1-07-CV-094037

Amount of Money or Other Relief Sought: Damages according to proof.

- 30.** Case Name: Simmons v. City, et al.  
 Name(s) of Parties(s) Involved: HUGH PATRICK SIMMONS, MICHELLE SIMMONS, SAN JOSE ELECTRICAL CONTRACTOR, INC., PACIFIC DREAM HOMEBUILDERS, DREAM HOMEBUILDERS, ROYAL CABINETRY & DESIGNS, INC., THOMAS F. SRAMEK, ACEVEDO TRUCKING, RODOLFO ACEVEDO, SUZANNE SRAMEK, CITY OF SAN JOSE, DOES 2-100  
 Court: Superior Court of California, County of Santa Clara  
 Case No.: 1-09-CV148054  
 Amount of Money or Other Relief Sought: Damages according to proof.
- 31.** Case Name: De La Rosa, et al v. City, et al.  
 Name(s) of Parties(s) Involved: RICHARD E. DE LA ROSA, DENNIS FONG, JOSE MENDOZA, CITY OF SAN JOSÉ, AVO MAKDESSIAN, DOES 1-100  
 Court: Superior Court of California, County of Santa Clara  
 Court of Appeal, 6th Appellate District  
 Case No.: 1-03-CV-817097  
 H031583  
 Amount of Money or Other Relief Sought: Damages according to proof.
- 32.** Case Name: Licking Enterprises, Inc. v. City, et al.  
 Name(s) of Parties(s) Involved: LICKING ENTERPRISES, INC. CITY OF SAN JOSE, a municipal corporation; SAN JOSE CITY COUNCIL; RON GONZALES, CINDY CHAVEZ, PAT DANDO, KEN YEAGER, CHUCK REED, FORREST WILLIAMS, LINDA J. LEZOTTE, NORA CAMPOS, GEORGE SHIRAKAWA, JR., DAVID D. CORTESE, JOHN DIQUISTO, sued in their official capacities  
 Court: United States District Court, Northern District of California  
 Case No.: C07-00735 RMW (PVT)  
 Amount of Money or Other Relief Sought: Damages according to proof.

33. Case Name: Smith v. City, et al.  
 Name(s) of Parties(s) Involved: TED SMITH, CITY OF SAN JOSE, SAN JOSE ELECTIONS COMMISSION, and DOES 1-20  
 Court: Superior Court of California, County of Santa Clara  
 Case No.: 1-07-CV-089167  
 Amount of Money or Other Relief Sought: Damages according to proof.
34. Case Name: Vietnamese-American Community of Northern California v. City, et al.  
 Name(s) of Parties(s) Involved: VIETNAMESE-AMERICAN COMMUNITY OF NORTHERN CALIFORNIA; CITY OF SAN JOSE; CITY COUNCIL OF SAN JOSE  
 Court: Superior Court of California, County of Santa Clara  
 Case No.: 1-08-CV-107082  
 Amount of Money or Other Relief Sought: For declaratory and injunctive relief according to proof.

**D. CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54957.6:**

City Negotiator: City Manager designee Alex Gurza

Employee Organization(s):

1. Organization or Name and Title of Unrepresented Employees: **International Association of Firefighters (IAFF), Local 230 (IAFF#230)**
- Nature of negotiations: wages/salaries, hours, working conditions, etc.
- Name of Existing Contract or MOA: Memorandum of Agreement Between City of San José and International Association of Firefighters (IAFF), Local 230
- How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/employeerelations/moa.asp>  
 Telephone – Employee Relations: (408) 535-8150