

**MINUTES OF THE CITY COUNCIL**

**SAN JOSE, CALIFORNIA**

**TUESDAY, NOVEMBER 9, 2010**

The Council of the City of San José convened in regular session at 9:00 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Campos. (Excused)

Upon motion unanimously adopted, Council recessed at 9:00 a.m. to a Closed Session in Room W133 (A) Public Employment/Public Employee Evaluation pursuant to Government Code Section 54957: Name: Sharon Erickson; Title: City Auditor. (B) to confer with Legal Counsel pursuant to Section 54956.9 subsection (a) of the Government Code with respect to existing litigation: Diamond S.J. Enterprise, et al, v. City of San José; Names of Parties Involved: Diamond S.J. Enterprise, Inc., Jenny Wolfes (individually and as CEO of Diamond S.J. Enterprise, Inc.), City of San José, San José Police Department, San José Police Sergeant Brian Kneis and Does 1-200; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV081095; Amount of Money or Other Relief Sought: Damages according to proof, Injunctive Relief, Inverse Condemnation. (C) to confer with real property representatives pursuant to Government Code Section 54956.8: (1) Property: San José Family Camp, 11401 Cherry Lake Road, Groveland, CA 95321; Negotiating Parties: Albert Balagso for the City of San José and Maggie Dowd, Ranger, United States Forest Service; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiate Price based on appraisal and comparable property values; (2) Property: Zero Waste, 2100 Los Esteros Road, San José, CA 95134; Negotiating Parties: Nanci Klein, Matt Morley for the City of San José and Rich Cristina for Zero Waste Energy Development; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiate Price based on appraisal and comparable property values. (D) 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 Firefighters, Local 230 (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 International Association of Firefighters. Web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150.

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

By unanimous consent, Council recessed from the Closed Session at 11:15 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

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

Absent: Council Members - Campos. (Excused)

## **INVOCATION**

San José Vietnam War Memorial Foundation presented the invocation. (District 10)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed 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, Item 4.1 was dropped and Item 5.1 was deferred to November 16, 2010. (10-0-1. Absent: Campos.)

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a proclamation declaring the week of November 7 – 13, 2010 as “National Nurse Practitioner Week” in the City of San José. (Constant)**

Action: Mayor Reed and Council Member Constant recognized the week of November 7 through November 13, 2010 as “National Nurse Practitioner Week”.

### **1.2 Presentation of a commendation to Assembly Member Jim Beall for his ongoing dedication to public service. (Pyle/Chirco)**

Action: Mayor Reed, Vice Mayor Chirco and Council Member Pyle recognized and commended Assembly Member Jim Beall.

**1.4 Presentation of a commendation to Geoff Roach for his many contributions to the musical and artistic scene in San José as Executive Director of San José Jazz. (Liccardo)**

Action: Mayor Reed and Council Member Liccardo recognized and commended Geoff Roach.

**CONSENT CALENDAR**

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

**2.1 Approval of Minutes.**

Action: There were none.

**2.2 Final adoption of ordinances.**

- (a) **ORD. NO. 28836 – Amending Title 20 (the Zoning Code) of the San José Municipal Code to add new Sections to Part 4 of Chapter 20.70 (Downtown Off-Street Parking Requirements) and amending Chapter 20.90 (Parking and Loading) in its entirety, all to provide for required off-street bicycle parking facilities and spaces and clean air vehicle parking spaces.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28836 executed on November 2, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28836](#) was adopted. (10-0-1. Absent: Campos.)

- (b) **ORD. NO. 28837 – Amending Chapter 9.10 of Title 9 of the San José Municipal Code by amending Sections 9.10.2410 and 9.10.2430 and by adding a new Section 9.10.2480 to allow for construction debris diversion in accordance with the provisions of California Green Building Standards Code.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28837 executed on November 2, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28837](#) was adopted. (10-0-1. Absent: Campos.)

- (c) **ORD. NO. 28838 – Amending Title 24 of the San José Municipal Code to adopt the 2010 California Building, Residential, Plumbing, Mechanical, Electrical Codes, California Existing Building Code, California Historical Building Code, California Green Building Standards Code and 2009 International Existing Building Code with certain exceptions, modifications and additions.**

2.2 (c) (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 28838 executed on November 2, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28838](#) was adopted. (10-0-1. Absent: Campos.)

- (d) **ORD. NO. 28839 – Amending Chapter 17.12 of the San José Municipal Code to adopt the 2010 California Fire Code with local amendments relating to Fire Flow, Sprinkler and Fire Alarm Systems and Standards, Access Control Devices, Breathing Air Replenishment and Public Radio Coverage, Large Battery Charging Systems and Continuous Gas Detection Systems and To Maintain Existing of Fire Protection and Regulatory Authority.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28839 executed on November 2, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28839](#) was adopted. (10-0-1. Absent: Campos.)

- (e) **ORD. NO. 28840 – Repealing Section 6.02.160 of Chapter 6.02 and amending various Sections and adding Sections to Chapter 6.60 of Title 6 of the San José Municipal Code to limit the application of the Public Entertainment Permit Ordinance to venues with occupancy greater than one hundred, limit the discretion of the Chief of Police in approving applications for permits and licenses and in setting conditions on permits and licenses, specify time lines by when an application for a permit or license must be acted upon, adjust security requirements, extend the term of Public Entertainment Permits, create a renewal process for permits and licenses, provide for managers to move between venues, clarify the application process for permits and licenses and clarify provisions to ensure consistency throughout the Code.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28840 executed on November 2, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28840](#) was adopted. (10-0-1. Absent: Campos.)

2.3 **Approval of Council Committee Reports.**

- (a) **Rules and Open Government Committee Report of October 20, 2010. (Mayor)**

Documents Filed: Report of the Rules and Open Government Committee dated October 20, 2010.

Action: The Committee Report was approved. (10-0-1. Absent: Campos.)

**2.3 (b) Community and Economic Development Committee Report of October 25, 2010. (Pyle)**

Action: Deferred to November 16, 2010 per City Clerk.

**2.4 Mayor and Council Excused Absence Requests.**

Action: There were none.

**2.5 City Council Travel Reports.**

Action: There were none.

**2.6 Adopt a resolution authorizing the City Manager to negotiate and execute a Fourth Amendment to the Amended and Restated Management Agreement with Arena Management by and between the City and San Jose Arena Management, regarding the removal of certain restrictions on the advertising of alcohol in public areas of the HP Pavilion. (City Manager's Office)**

Documents Filed: Memorandum from Assistant City Manager Edward K. Shikada, dated October 29, 2010, recommending adoption of a resolution.

Public Comments: Don Gralnek, San José Arena Management, spoke in support to the Staff recommendations.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 75626](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Fourth Amendment to the Amended and Restated Management Agreement with San José Arena Management LLC Regarding the Removal of Certain Restrictions on the Advertising of Alcohol in Public Areas of the HP Pavilion", was adopted. (10-0-1. Absent: Campos.)

**END OF CONSENT CALENDAR**

**STRATEGIC SUPPORT SERVICES**

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

City Manager Debra Figone outlined the agenda of the November 18, 2010 Special City Council Meeting which will focus on the FY 2011/12 budget process and projected \$70M deficit, annual labor negotiations, retirement reform progress and organizational and service area restructuring. She added that a supplemental memorandum will be forthcoming on these issues.

**3.2 Adopt a resolution to authorize the negotiation, execution and delivery of the amendment to the Second Amended and Restated Letter of Credit and Reimbursement Agreement by and among the City, JPMorgan Chase Bank, N.A., Bank of America, N.A., and Dexia Credit Local, acting through its New York Branch, related to the City of San José Airport Commercial Paper Program in order to extend the term of this agreement, remove Dexia Credit Local as a party to the agreement, reduce the amount of available credit, and to authorize other related actions. CEQA: Not a Project, File No. PP10-066, Agreements/Contracts (New or Amended). (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson, dated October 26, 2010, recommending adoption of a resolution. (2) Staff presentation dated November 9, 2010 summarizing the Airport Commercial Paper Program Letter of Credit Extension.

Director of Finance Scott Johnson summarized the Airport Commercial Paper Program Letter of Credit Extension and the Next Steps. Director of Aviation William Sherry presented highlights of the Current Airport Successes.

Council discussion followed.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, [Resolution No. 75627](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager, the Director of Finance or Their Authorized Designees to Negotiate, Execute and Deliver an Amendment to the Second Amended and Restated Letter of Credit and Reimbursement Agreement By and Among the City, JPMorgan Chase Bank, N.A., Bank of America, N.A. and Dexia Credit Local, Acting Through Its New York Branch and the Associated Fee letter Related to the City of San José Airport Commercial Paper Program and To Authorize Other Related Action Thereto”, was adopted. (10-0-1. Absent: Campos.)

**3.3 As recommended by the Rules and Open Government Committee on October 13, 2010, accept the preliminary Work Plan and proposed Evaluation Criteria to assess service delivery evaluation and options for maximizing financial benefits from the San José Municipal Water System. (City Manager’s Office)  
[Rules Committee referral 10/13/10 – Item H(3)]**

Documents Filed: (1) Memorandum from Council Member Herrera, Council Members Chu and Pyle, dated November 5, 2010, recommending direction to Staff. (2) Memorandum from City Clerk Lee Price, MMC, dated October 28, 2010, transmitting the recommendations of the Rules and Open Government Committee. (3) Supplemental memorandum from Assistant City Manager Edward K. Shikada, dated November 5, 2010, providing background on the service delivery evaluation and options for maximizing financial benefits from the San José Municipal Water System to the General Fund. (4) Article from Newsweek dated October 8, 2010, regarding our most precious natural resource, water. (5) Article from Yesmagazine.com, dated May 27, 2010, regarding how Felton, California, achieved water independence.

### 3.3 (Cont'd.)

Deputy Director of Office of Economic Development Jeff Ruster presented the report.

Motion: Council Member Herrera moved approval to direct Staff to focus efforts on Option A (a citywide voter approved transfer of 10% of Muni Water gross revenues, as outlined in the Staff Report dated October 1, 2010); to stop working on other options; and to prepare draft ballot language for annual pre-budget polling in January 2011 and consideration in the FY 2011/12 budget process. Council Member Nguyen seconded the motion.

Council Member Constant urged his colleagues to oppose the preliminary Work Plan and proposed Evaluation Criteria and to direct Staff to look at other options.

City Attorney Richard Doyle and Assistant City Manager Edward K. Shikada responded to Council questions.

Extensive discussion followed.

Public Comments: Steve Bennette spoke in opposition to the Staff recommendations.

Action: On a call for the question, the motion carried, Staff was directed to focus efforts on Option A (a citywide voter approved transfer of 10% of Muni Water gross revenues, as outlined in the Staff Report dated October 1, 2010); to stop working on other options; and to prepare draft ballot language for annual pre-budget polling in January 2011 and consideration in the FY 2011/12 budget process. (9-1-1. Noes: Constant. Absent: Campos.)

### 3.4 **As recommended by the Public Safety, Finance and Strategic Support Committee on October 21, 2010, accept the Take-Home Vehicles Audit and the Administration's Response to the Audit. (City Auditor)**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated October 28, 2010, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Auditor Sharon W. Erickson presented the report. Deputy City Manager Deanna J. Santana provided comments.

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

City Attorney Richard Doyle and Acting Chief of Police Chris Moore responded to Council questions.

Council discussion followed.

### 3.4 (Cont'd.)

Council Member Pyle concurred with the recommendations from the City Manager's Office to clearly define the purpose of take-home vehicles and to restrict their use to the greatest extent possible.

Council Member Liccardo suggested that Staff identify an area within the limits of the City where the patrol vehicles could be stored for emergency use.

Action: On a call for the question, the motion carried unanimously, the Take-Home Vehicles Audit and the Administration's Response to the Audit were accepted. (10-0-1. Absent: Campos.)

- 3.5 (a) **Approve an ordinance amending Section 3.36.580 of Part 4 of Chapter 3.36 of Title 3 of the San José Municipal Code to provide that there shall be no supplemental retiree benefit reserve distribution from the Police and Fire Department Retirement Plan during fiscal year 2010-11, upon a finding that is need to adopt the ordinance within a time period which does not allow for a sixty day review period by Board of Administration of the Police and Fire Department Retirement Plan under San José Municipal Code Section 3.36.485.A.; and refer the ordinance to the Board for study and consideration pursuant to San José Municipal Code Section 3.36.485.B.**
- (b) **Direction to staff to forward for review by the Board of Administration of the Federated City Employees Retirement Plan a draft resolution amending and restating Resolution No. 72859 to provide that there shall be no supplemental retiree benefit reserve distribution from the Federated City Employees Retirement Plan during fiscal year 2010-11.**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 5, 2010, recommending approval of an ordinance and direction to staff to forward for review by the Board of Administration of the Federated City Employees Retirement Plan a draft resolution amending and restating Resolution No. 72859.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Liccardo and carried, [Ordinance No. 28848](#), entitled: "An Ordinance of the City of San José Amending Section 3.36.580 of Part 4 of Chapter 3.36 of Title 3 of the San José Municipal Code to Suspend the Distribution of Funds from the Police and Fire Department Retirement Plan Supplemental Retiree Benefit Reserve During Fiscal year 2010-2011", was passed for publication and Staff was directed to forward for review by the Board of Administration of the Federated City Employees Retirement Plan a draft resolution amending and restating Resolution No. 72859. (8-2-1. Noes: Chu, Kalra. Absent: Campos.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.2 Adopt a resolution:

- (a) **Authorizing the Director of Finance or designee to hold Tax Equity and Fiscal Responsibility Act ("TEFRA") Hearings for the issuance of \$25,000,000 of New Issue Bond Program bonds by the California Statewide Communities Development Authority ("CSCDA") for the benefit of McCreery Courtyard Apartments Project located at 1884 Alum Rock Avenue and 71, 73 and 75 McCreery Ave, San Jose, CA.**
- (b) **Authorizing the Mayor to approve the issuance of Tax-Exempt Multifamily Housing Revenue Bonds, by the CSCDA in an aggregate principal amount not to exceed \$25,000,000 to be used for construction and permanent financing for the 93 unit affordable housing project known as McCreery Courtyard Apartments. (Housing)**

**CEQA: Mitigated Negative Declaration, File No. PDC002-082, and addendum thereto, File No. PDC04-088. Council District 5. SNI: Mayfair. (Housing/Finance)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia and Director of Finance Scott P. Johnson, dated November 1, 2010, recommending adoption of a resolution and noting that the project is faced with a financing deadline which must be met in order to keep the project and its promise of construction jobs moving forward without delay.

Action: Item 4.2 was dropped.

## NEIGHBORHOOD SERVICES

### 5.1 Adopt a resolution to:

- (a) **Implement a pilot program, through December 31, 2011, to authorize staff:**
  - (1) **To proceed with the development of any new park, trail or recreational facility for which there is (1) an appropriation of all funding necessary for the full development of the project including design and construction for all improvements and amenities set forth in the City Council approved master plan for that project and (2) identification of funding for a three-year park establishment period; and**
  - (2) **To proceed with the development of any new park, trail or recreational facility for which there is (1) an appropriation of funding for the design and construction of the project for all improvements and amenities set forth in the City Council approved master plan for the project and (2) a "donation" agreement for all work during the three-year park establishment period; and**

- 5.1 (a) (3) To use parkland fees and Construction & Conveyance taxes to fund a three-year park establishment period as part of the full cost of the development of any new park, trail or recreational facility, provided that including such funding does not prevent funding the design and building of a new park, trail, or recreational facility identified as an “existing” or “Priority 1” project in the adopted Greenprint Update.
- (b) Modify the park maintenance exemption to the City’s prevailing wage requirements approved by the City Council on February 12, 2008 to include any “donated” park establishment period services or park maintenance by a developer or other entity with, or without, an interest in a development in the City, provided that the donation is for a minimum of two years and meets the other conditions set forth in the memorandum.

**CEQA: Not a Project, File No. PP10-068, General Procedure and Policy Making. (Parks, Recreation and Neighborhood Services)**

Action: Deferred to November 16, 2010.

## **OPEN FORUM**

Regarding the recent law enforcement raids on medical cannabis dispensaries, the following speakers urged the City Council to intervene and ensure safe access to medical cannabis: Matthew Sena, Paul Stewart (Medicinal Cannabis Collection Coalition), Michael Gamminc, Don Duncan (Americans for Safe Access), Lauren Vazquez (Silicon Valley ASA), Hector Gonzalez, Jennifer Rath, Clinton Cronin (Northern California Natural Collective), Aisha Alexander, Gabriel Greechston, Seher Khan, Ed Esters, Lauren Payne and Reina Burnes. City Manager Debra Figone mentioned the City Council Special Meeting on December 13, 2010 regarding this topic and offered to provide an update on the issues in an information memorandum.

Mark Trout complained about the Open Forum process.

## **ADJOURNMENT**

The Council of the City of San José adjourned the afternoon session at 4:41 p.m.

## RECESS/RECONVENE

The City Council recessed at 4:41 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Campos. (Excused)

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Constant, seconded by Council Member Nguyen, and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Campos.)

## CEREMONIAL ITEM

### 1.3 Presentation of a proclamation declaring the month of November 2010 as “Sikh Awareness and Appreciation Month” in the City of San José. (Herrera)

Action: Mayor Reed and Council Member Herrera recognized the month of November 2010 as “Sikh Awareness and Appreciation Month”.

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 Adopt resolutions ordering the reorganization/annexation of the following territories:

- (a) **Penitencia No. 77:** An approximately 119 gross acre County island generally bounded by both sides of Golf Drive, the west side of Toyon Avenue, both sides of Penitencia Creek Road and both sides of Gridley Street and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.
- (b) **McKee No. 136:** An approximately 31 gross acre County island generally bounded by Patt Avenue to the north, McKee Road to the south, North White Road to the east, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.
- (c) **McKee No. 135:** An approximately 64 gross acre County island generally bounded by Gay Avenue to the north, North Capitol Avenue to the west, Alum Rock Avenue to the south, and a line approximately 950 feet southwesterly of North White Road to the east and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.

- 4.1 (d) **Capitol No. 57: An approximately 127 gross acre County island generally bounded by Florence Avenue to the north, South White Road to the east, Story Road and Lower Silver Creek to the south, and South Capitol Avenue to the west and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.**

**CEQA: The environmental impacts of this project were addressed by a Final EIR entitled, “San José 2020 General Plan,” and certified on August 16, 1994, by the City of San José City Council. Council Districts 4 and 5. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 19, 2010, recommending adoption of resolutions. (2) Four Proofs of Publications of Notices of Public Hearing, all four executed on September 10, 2010, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comments: Mary Larsen spoke in opposition to the annexation of Penitencia No. 77.

Mayor Reed closed the public hearing.

Motion: Vice Mayor Chirco moved approval of the Staff recommendations. Council Member Pyle seconded the motion.

As requested by Council Member Chu, Director of Planning, Building and Code Enforcement Joseph Horwedel explained the history of pocket annexations.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75628](#), entitled: “A Resolution of the Council of the City of San José Making Certain Determinations and Order the Reorganization of Certain Inhabited, Unincorporated Island Territory Designated as Penitencia No. 77, Subject to Liability for General Indebtedness of the City”; [Resolution No. 75629](#), entitled: “A Resolution of the Council of the City of San José Making Certain Determinations and Order the Reorganization of Certain Inhabited, Unincorporated Island Territory Designated as McKee No. 136, Subject to Liability for General Indebtedness of the City”; [Resolution No. 75630](#), entitled: “A Resolution of the Council of the City of San José Making Certain Determinations and Order the Reorganization of Certain Inhabited, Unincorporated Island Territory Designated as McKee No. 135, Subject to Liability for General Indebtedness of the City” and [Resolution No. 75631](#), entitled: “A Resolution of the Council of the City of San José Making Certain Determinations and Order the Reorganization of Certain Inhabited, Unincorporated Island Territory Designated as Capitol No. 57, Subject to Liability for General Indebtedness of the City”, were adopted. (10-0-1. Absent: Campos.)

- 11.2 Consider an ordinance rezoning the real property located on the southwest corner of West San Carlos Street and Sunol Street (860 W. San Carlos Street) from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to remove three existing warehouse buildings and allow up to 800 attached residential units and up to 30,000 square feet for commercial use on a 8.25 gross acre site (Auzerais Investment, Inc, Green Valley Corp, Santa Clara County Transit Dist, The George Figone Exemption Trust, The Sunol Street Trust, Owner; Green Republic LLP, Developer). SNI: Burbank/Del Monte. CEQA: EIR Resolution No. 75192.**

**PDC08-061 – District 6**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 25, 2010, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC08-061, dated October 10, 2010. (2) Supplemental memorandum from Planning Commission Secretary Joe Horwedel, dated October 28, 2010, transmitting the recommendation of the Planning Commission. (3) Staff presentation dated November 9, 2010 outlining the Ohlone Project. (4) Proof of Publication of Notice of Public Hearing, executed on October 8, 2010, submitted by the City Clerk. (5) Letter from Terri Balandra, dated November 9, 2010, proving observations and lessons learned during the meetings about Ohlone Towers.

Senior Planner Mike Enderby presented the report.

Mayor Reed presented meeting disclosures.

Robert Steinberg, Steinberg Architects, presented an overview of the project. Michael Van Avery, Republic Urban Properties, LLC, representing the Applicant, provided additional comments.

Mayor Reed opened the public hearing.

Public Comments: Speaking in support to the Ohlone Towers Project were Helen Chapman, President, Shasta Hanchett Park Neighborhood Association, Terri Balandra, Richard Zappelli, Willow Glen Neighborhood Association and Shiloh Ballard, Silicon Valley Leadership Group. Jonathan Martinez, Shasta Hanchett Park Neighborhood Association, added that he does not support Plan 3.

Michael Van Avery, Republic Urban Properties, LLC, presented rebuttal comments.

Mayor Reed closed the public hearing.

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

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

## 11.2 (Cont'd.)

Discussion ensued.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Director and Planning Commission was approved, and [Ordinance No. 28849](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of West San Carlos Street and Sunol Street (860 West San Carlos Street) From HI Heavy Industrial and Combined Industrial/Commercial to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Campos.)

## 11.3 Consider an ordinance rezoning the real property located on the east side of Almaden Expressway approximately 250 feet north of Redmond Avenue (16440 Almaden Expressway) from R-1-1 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow for the development of up to nine (9) single-family detached units on a 0.95 gross acre site (Logan Susan J, Owner). CEQA: Mitigated Negative Declaration. PDC07-064 – District 10

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 14, 2010, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-064, dated October 10, 2010. (2) Supplemental memorandum from Planning Commission Secretary Joe Horwedel, dated October 12, 2010, transmitting the recommendation of the Planning Commission. (3) Proof of Publication of Notice of Public Hearing, executed on October 15, 2010, submitted by the City Clerk.

Mayor Reed opened the public hearing. Erik Schoennauer, representing the Applicant, Hudson Industrial Equities, Inc., stated that he was available for questions.

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the recommendation of the Planning Director and Planning Commission was approved and [Ordinance No. 28850](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Almaden Expressway, Approximately 250 Feet North of Redmond Avenue (16440 Almaden Expressway) From R-1-1 Single Family Residence Zoning District to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Campos.)

## ADJOURNMENT

The Council of the City of San José was adjourned at 8:05 p.m. in memory of Penelope Pries, known affectionately as Yiayia Penny, was a longtime San Jose resident and beloved member of the Greek-American community. (Constant)

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

smd/11-09-10 MIN

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