



REDEVELOPMENT AGENCY BOARD

MINUTES

DECEMBER 9, 2008

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FORREST WILLIAMS
SAM T. LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED – CHAIR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Call to Order and Roll Call

1:49 p.m. - Regular Session, Council Chambers, City Hall

- Open Forum
- Closed Session Report
- None.
- Orders of the Day

The Orders of the Day were approved. Items 8.1, 8.2 and 7.1 will be heard first on the agenda. (10-0-1) Absent: Campos.

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

Item 9.1 on the City Council's Agenda relating to "North San Jose Area Development Policy" was heard during the Council meeting today.

The City Council convened at 1:49 p.m. to consider Items 8.1 – 8.2 in a Joint Session.

8.1 Public Hearing and City Council and Redevelopment Agency Board approval of the Mayor's Redevelopment Budget Message.

Recommendation: City Council and Redevelopment Agency Board consideration and approval of the Mayor's Redevelopment Agency Budget Message. (Mayor)

Documents Filed: Memorandum from Mayor Chuck Reed, dated November 25, 2008, recommending the Redevelopment Agency Board and City Council approve the proposed Economic Stimulus Plan and proposed Redevelopment Agency 2008-2009 Capital Budget and amend the Five-Year Capital Improvement Program to a two-year spending plan. Memorandum from Board member Kansen Chu, dated December 5, 2008, recommending amending the Mayor's Budget Message to appropriate \$600,000 in FY 2008-09 from the Rincon de Los Esteros Industrial Development Opportunities fund for the installation of LED lights for approximately 700 locations in the North San Jose Redevelopment Project Areas.

Public Comments: Ross Signorino spoke in support of a BART extension to the airport.

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8 JOINT REDEVELOPMENT AGENCY/COUNCIL

(Cont'd)

8.1 Action: Mayor Reed opened the Public Hearing. The Mayor directed that \$600,000 be added in FY 2008-09 for San Jose Municipal Stadium and that installation of LED lights be added to the list of infrastructure improvements. Mayor Reed closed the public hearing. The Redevelopment Agency Board and City Council approved the proposed Economic Stimulus Plan and amended the Five-Year Capital Improvement Program to a Two-year Spending Plan, as revised. (11-0).

8.2 **Approval of the Agency's FY 2008-09 Amended Capital Budget and 2009-2013 CIP.**

Recommendations: Redevelopment Agency Board approval of:

- (a) The Amended Capital Budget for FY 2008-09 for the Redevelopment Agency and,
- (b) The Two-Year Spending Plan ending FY 2009-2010 for the Redevelopment Agency of the City of San Jose.

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes dated November 26, 2008, recommending City Council and Redevelopment Agency Board (a) approval of the Amended Capital Budget for FY 2008-09 for the Redevelopment Agency, and (b) approval of the Two-Year Spending Plan ending FY 2009-2010 for the Redevelopment Agency of the City of San Jose.

Action: The City Council and Redevelopment Agency Board approved (a) the Amended Capital Budget for FY 2008-09 for the Redevelopment Agency, and (b) the Two-Year Spending Plan ending FY 2009-2010 for the Redevelopment Agency of the City of San Jose. (11-0).

7 PRIVATE DEVELOPMENT

7.1 Approval of the business terms for the proposed San Pedro Square Urban Market and direction to staff.

Recommendation: Approval of business terms for the proposed San Pedro Square Urban Market and direction to staff to prepare an Owner Participation Agreement for Board consideration in early 2009. CEQA: Resolution No 72767, File No. PP08-114. [JULIAN-STOCKTON/SNI]

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated November 25, 2008, recommending approval of business terms for the proposed San Pedro Square Urban Market and direction to staff to prepare an Owner Participation Agreement for Board consideration in early 2009. Information Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated November 7, 2008, providing background information about the proposed San Pedro Square Urban Market 30 days prior to its formal consideration on December 9, 2008. Memorandum from Mayor Chuck Reed, Board members Sam Liccardo, Nancy Pyle and David Cortese dated December 2, 2008, recommending 1) approval of the staff recommendation to adopt a resolution approving business terms for the San Pedro Square Urban Market and to prepare an Owner Participation Agreement for Board consideration in early 2009; 2) Direction to the Redevelopment Agency Executive Director to coordinate, in conjunction with the City Manager, key downtown stakeholders and community members to develop and bring back for Council/Board deliberation in early 2009, a concise Peralta Action Plan for mixed-use development in the blocks west of North First Street, focusing on ways that the Agency can: accelerate implementation and investment by those developers who appear "ready to build" to stimulate economic activity; leverage Redevelopment dollars to maximize private investment and commitments from federal, state, and regional sources; resolve anticipated parking shortfalls and maximize scarce parking capacity with offsetting daytime and nighttime uses; create synergies between planned residential development and complementary retail and office development, present a compelling proposal for funding in any forthcoming federal appropriation focusing on urban revitalization. Information Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated December 5, 2008, providing additional background information. Memorandum from Board member Nora Campos dated December 5, 2008, directing staff to provide answers to the sixteen questions related to the

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7 PRIVATE DEVELOPMENT

(Cont'd)

- 7.1 project, its financing and steps leading to this proposal. Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated December 8, 2008, providing responses to Board member Nora Campos' December 5 memorandum. Memorandum from Board member Nora Campos dated December 9, 2008, recommending: 1. Deferral of Council consideration of the San Pedro Square Urban Market proposal until the scope and magnitude of an investigation into the lobbying activity associated with the project is determined. 2. Direction to the City Attorney to disclose all documents that have been made public as part of the two Public Records Act requests submitted by McManis Faulkner, provide copies of all of these documents to the Mayor and Council and make them available to the public on the City's website. 3. Direction to the City Attorney to bring a recommendation to the Council to disclose any documents related to this matter that were not disclosed as part of the Public Records Act requests, including internal work product, internal correspondence and documents that have been deemed attorney client privileged. 4. Authorization for the City Auditor to select and retain a qualified Independent Investigator to conduct an investigation into the lobbying activities associated with the San Pedro Square Urban Market proposal. 5. Direction to the Auditor to complete a conflict analysis to ensure the independence and impartiality of the Independent Investigator, *and* the investigation should include but not be limited to providing answers to the following questions: (1) Which City Council members and City and Agency staff members did Tom McEnery and the other lobbyists associated with the San Pedro Square Urban Market proposal meet with and what were the topics of those meetings? (2) When did Tom McEnery and the other lobbyists first meet with City Council members and City and Agency staff members to discuss their urban market proposal? (3) What influence did Tom McEnery and the other lobbyists have in the dramatic alteration of the urban market proposal's financial terms? (4) When did Tom McEnery and the other lobbyists trigger the requirement to register under the City's Lobbyist Ordinance? (5) Have Tom McEnery and the other lobbyists committed any violations of the City's Lobbyist Ordinance?

Public Comments: Brian Grayson, Frank Penrose, Alita Bray, Tony Martino, Steve Borkenhagen, Pat Dando, Ann Webb, Mark Ritchie, Sal Caruso, Paul Schroeder, Carl Guardino, Ross Signorino, Erika Justis, and Jack Van Zandt spoke in support of Item 7.1. Joshua DeVincenzi Melander, Nancy DeVincenzi Melander, Ed Rast, and Richard Zappelli spoke in opposition to Item 7.1.

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7 PRIVATE DEVELOPMENT

(Cont'd)

- 7.1 Action: The Redevelopment Agency Board approved business terms for the proposed San Pedro Square Urban Market and directed staff to prepare an OPA for Board consideration in early 2009. (10-1) NOES: Campos.

1 CEREMONIAL ITEMS

None

2 CONSENT CALENDAR

- 2.1 **Report of the Public Safety, Finance and Strategic Support Committee – November 20, 2008.**

Board member Nguyen, Chairperson

“b.i-iii. Redevelopment Agency Monthly Financial Reports for September 2008.

Documents Filed: Report of the Public Safety, Finance and Strategic Support Committee, of November 20, 2008, with the Agency’s Monthly Financial Reports for September 2008 attached.

Action: The Public Safety, Finance and Strategic Support Committee report and actions of November 20, 2008, were accepted. (10-0-1) Absent: Chirco.

- 2.2 **Report of the Rules and Open Government Committee – November 5, 2008. Chair Reed, Chairperson**

- (a) Review November 11, 2008, Final Agenda: Meeting cancelled.
- (b) Review November 18, 2008, Draft Agenda.
- (c) Review November 17, 2008, Draft Capital Budget Study Session Agenda.
- (d) Assign “Time Certain” for convening Redevelopment Agency Agenda.

Documents Filed: Report of the Rules and Open Government Committee of November 5, 2008.

Action: The Rules and Open Government Committee report and actions of November 5, 2008, were approved. (10-0-1) Absent: Chirco.

2 CONSENT CALENDAR

2.3 Report of the Rules and Open Government Committee – November 12, 2008.

Chair Reed, Chairperson

- (a) Review November 18, 2008, Final Agenda.
- (b) Review November 25, 2008, Draft Agenda: Meeting cancelled.
- (c) Assign “Time Certain” for convening Redevelopment Agency Agenda.

Documents Filed: Report of the Rules and Open Government Committee of November 12, 2008.

Action: The Rules and Open Government Committee report and actions of November 12, 2008, were approved. (10-0-1) Absent: Chirco.

2.4 Report of the Rules and Open Government Committee – November 19, 2008.

Chair Reed, Chairperson

- (a) Review November 25, 2008, Final Agenda: Meeting cancelled.
- (b) Review December 2, 2008, Draft Agenda: Meeting cancelled.

Documents Filed: Report of the Rules and Open Government Committee of November 19, 2008.

Action: The Rules and Open Government Committee report and actions of November 19, 2008, were approved. (10-0-1) Absent: Chirco.

2.5 Approval of Master Agreements for civil engineering and for construction management services.

Recommendations:

- (a) Approval of a Master Agreement with Kitchell Corporation in the amount of \$100,000 for construction management services for two years; and,
- (b) Approval of the third amendment to the Master Agreement with Bellecci & Associates, Inc., in the amount of \$100,000 for a total contract amount not to exceed \$350,000, for civil engineering services, and extending the term of the agreement by one year, though April 30, 2010; and,
- (c) Adoption of a resolution adjusting the FY 2008-09 Adopted Capital Budget adding \$200,000 to the Project Support Studies project line in the Merged Redevelopment Area and amending the FY 2008-2009 Agency appropriations resolution.

CEQA: Not a project. [MERGED]

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2 CONSENT CALENDAR

(Cont'd)

- 2.5 Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated November 26, 2008, recommending (a) approval of a Master Agreement with Kitchell Corporation for construction management services, and (b) approval of the third amendment to the Master Agreement with Bellecci & Associates, Inc., for civil engineering services and extending the term of the agreement by one year, and (c) adoption of a resolution adjusting the FY 2008-09 Adopted Capital Budget and amending the FY 2008-2009 Agency appropriations resolution.

Action: The Redevelopment Agency Board approved the Master Agreement with Kitchell Corporation and the third amendment to the Master Agreement with Bellecci & Associates, Inc. Agency Resolution 5875 adopted. (10-0-1) Absent: Chirco.

- 2.6 **Approval of a Settlement Agreement and Release, with GIP Fairmont, LLC and 150 South First Street, LLC, related to the Pavilion Garage.**

Recommendation: Adoption of a resolution approving a Settlement Agreement and Release, which incorporates a Parking Operations Plan for the Pavilion Garage, with GIP Fairmont, LLC and 150 South First Street, LLC, considered by the Agency during the Closed Session held on September 23, 2008, in which the parties will dismiss their lawsuits against each other in exchange for the execution of such Parking Operations Plan for the Pavilion Garage. [SAN ANTONIO PLAZA]

Documents Filed: Memorandum from Redevelopment Agency General Counsel Richard Doyle, dated November 26, 2008, recommending adoption of a resolution approving a Settlement Agreement and Release with GIP Fairmont, LLC and 150 South First Street, LLC, in which the parties will dismiss their lawsuits against each other.

Action: Agency Resolution 5876 adopted. (10-0-1) Absent: Chirco.

3 GENERAL

None

4 NEIGHBORHOOD IMPROVEMENT STRATEGIES

4.1 Approval of a FIP Agreement for the building at 409 South Second Street.

Recommendation: Approval of a Facade Improvement Program (FIP) Agreement with Tuyen Ngoc Vu, in the amount of \$330,000, including a construction contingency in the amount of \$30,000, for non-structural facade improvements to the building located at 409 South Second Street and whose tenant is the BoTown restaurant. CEQA: Downtown Strategy 2000 Final EIR, Resolution No. 72767. File Number PP07-260. **[MERGED]**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated November 26, 2008, recommending approval of a FIP Agreement with Tuyen Ngoc Vu for non-structural facade improvements to the building located at 409 South Second Street.

Action: The Redevelopment Agency Board approved the FIP Agreement with Tuyen Ngoc Vu. (10-0-1) Absent: Chirco.

5 HOUSING

None

6 PUBLIC FACILITIES AND SPACES

None

7 PRIVATE DEVELOPMENT (Cont'd)

7.2 Approval of a Reimbursement Agreement with Brocade to assist in acquisition of capital equipment for its headquarters facility.

Recommendation: Adoption of a resolution approving a Reimbursement Agreement with Brocade Communications Systems, Inc., (Brocade) for up to \$4 million to assist in acquisition of capital equipment to be installed in its industrial headquarters facility in the Rincon de Los Esteros Redevelopment Project Area, and making certain findings required by California Redevelopment Law. CEQA: Final EIR North San Jose Area Development Plan Policies Update, Resolution No. 72768 and Addenda thereto, File No H07-018. **[RINCON DE LOS ESTEROS]**

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7 PRIVATE DEVELOPMENT

(Cont'd)

- 7.2** Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated November 25, 2008, recommending adoption of a resolution approving a Reimbursement Agreement with Brocade Communications Systems, Inc., and making certain findings required by California Redevelopment Law.

Public Comments: Mike Hiruhara and Richard Zappelli spoke in support of Item 7.2.

Action: Agency Resolution 5876 adopted. (9-0-2) Absent: Campos, Pyle.

8 JOINT REDEVELOPMENT AGENCY/COUNCIL (Cont'd)

- 8.3** **Acceptance of the proposed San Jose McEnery Convention Center expansion schematic design.**

Recommendation: Acceptance by the City Council and Redevelopment Agency Board of the recommended schematic design for the proposed San Jose McEnery Convention Center expansion and direction for the Agency to proceed with design development of the project based on a budget estimate of \$300,000,000. CEQA: Resolution No. 72767. **[MERGED]**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated November 26, 2008, recommending that the City Council and Redevelopment Agency Board accept the recommended schematic design for the proposed San Jose McEnery Convention Center expansion and direct the Agency to proceed with design development of the project based on a budget estimate of \$300,000,000.

Public Comments: Ross Signorino spoke about the aesthetics of the expansion's design. Brian Grayson spoke that a supplemental EIR may be needed before approval. Tony Mirenda spoke in support of Item 8.3.

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8 JOINT REDEVELOPMENT AGENCY/COUNCIL

(Cont'd)

- 8.3 Action: The City Council and Redevelopment Agency Board accepted the recommended schematic design for the proposed expansion and directed the Agency to proceed with design development of the project. (11-0).

The City Council portion of the meeting adjourned at 4:28 p.m.

- **Adjournment**
The Redevelopment Agency Board adjourned at 4:28 p.m.

ATTEST:



HARRY S. MAVROGENES, SECRETARY