



# REDEVELOPMENT AGENCY BOARD

## MINUTES

**JUNE 23, 2009**

PETE CONSTANT  
ASH KALRA  
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  
ROSE HERRERA  
JUDY CHIRCO  
NANCY PYLE

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

## Call to Order and Roll Call

10:35 a.m. - Regular Session, Council Chambers, City Hall

Absent: None.

- Open Forum
- Closed Session Report

None.

- Orders of the Day

The Orders of the Day were approved. Item 8.3, Flames Restaurant lease was deferred to August 11, 2009, and Items 8-1 – 8.5 were heard first on this agenda. (11-0)

## **8 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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*Items 9.1 – 9.2 on the City Council's Agenda pertaining to "FY 2009-2010 Cooperation Agreements" and "FY 2008-2009 and FY 2009-2010 Revenue and Appropriations Actions" were heard and action taken during the Council meeting that began at 1:30 p.m. today.*

**The City Council convened at 10:35 a.m. to consider Items 8.1 – 8.5 in a Joint Session.**

- 8.1 Authorization to submit an application to design build the expansion of the Convention Center.**

**Recommendations:**

- (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency funding of the proposed improvements for the expansion and renovation of the San Jose McEnery Convention Center.
- (b) Adoption of a resolution by the City Council authorizing the Redevelopment Agency to submit an application, together with accompanying certification letter and other relevant documents, to the State Public Works Board to permit the use of design build for the expansion and renovation of the San Jose McEnery Convention Center under Public Contract Code Section 20688.6.

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## **8 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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*(Cont'd)*

- 8.1 (c) Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to complete, execute, and submit an application, together with accompanying certification letter and other relevant documents, to the State Public Works Board to permit the use of design build for the expansion and renovation of the San Jose McEnery Convention Center under Public Contract Code Section 20688.6.

CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002.

**[MERGED]**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 11, 2009, recommending a) adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Redevelopment Agency funding of the proposed improvements for the expansion and renovation of the San Jose McEnery Convention Center, b) adoption of a resolution by the City Council authorizing the Redevelopment Agency to submit an application, together with accompanying certification letter and other relevant documents, to the State Public Works Board to permit the use of design build for the expansion and renovation of the San Jose McEnery Convention Center under Public Contract Code Section 20688.6., and c) adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to complete, execute, and submit an application, together with accompanying certification letter and other relevant documents, to the State Public Works Board to permit the use of design build for the expansion and renovation of the San Jose McEnery Convention Center under Public Contract Code Section 20688.6.

Action: Council Resolution No. 75012 and No. 75013 adopted. Agency Resolution No. 5922 adopted. (11-0)

## **8 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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### **8.2 Award of a construction contract for the San Jose Convention Center Roof Replacement Project and related PSM appropriation.**

#### **Recommendations:**

- (a) Adoption of a resolution by the Redevelopment Agency Board approving the award of a construction contract to Pioneer Contractors, Inc., the low bidder, for a base bid plus alternates 2, 4 and 5, in the amount of \$3,554,000, for construction of the San Jose McEnery Convention Center Existing Roof and Terrace Capital Repair and Replacement Project, and authorizing a construction contingency in the amount of \$355,400, for a total funding authorization of \$3,909,400. CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002.
  
- (b) City Council adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2008-2009:
  - (1) Increase the estimate for Earned Revenue by \$90,000; and,
  - (2) Establish an appropriation to the Department of Public Works for the San Jose Convention Center Roof Replacement project (PSM 580) in the amount of \$90,000.CEQA: Not a project. [Deferred from City Council agenda on June 9, 2009, item 2.12(a)(7)]

#### **[MERGED]**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 9, 2009, recommending a) adoption of a resolution by the Redevelopment Agency Board approving the award of a construction contract to Pioneer Contractors, Inc., for construction of the San Jose McEnery Convention Center Existing Roof and Terrace Capital Repair and Replacement Project, and authorizing a construction contingency in the amount of \$355,400, for a total funding authorization of \$3,909,400, b) City Council adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund for 2008-2009: (1) Increase the estimate for Earned Revenue by \$90,000; and, (2) Establish an appropriation to the Department of Public Works for the San Jose Convention Center Roof Replacement project (PSM 580) in the amount of

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## **8 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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*(Cont'd)*

- 8.2** \$90,000. Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 18, 2009, informing the Agency Board of a formal protest of bid award received from the third apparent low project bidder, Petersen-Dean, Inc., the results of staff's investigation into the allegations made, the action taken by the Agency's Executive Director, and staff's recommendations regarding the protest.

Action: Agency Resolution No. 5923 adopted. Ordinance No. 28612 approved for publication. Council Resolution No. 75014 adopted. (11-0)

- 8.3 Approval of the Fourth Amendment to the Restaurant Lease with Cupertino Flames, LLC.**

**Recommendations:**

- (a) Adoption of a resolution by the City Council accepting the summary of costs and findings of the Amended Summary 33433 Report, pursuant to California Health and Safety Code Section 33433 for the lease with Cupertino Flames, LLC, for ground floor retail space at 88 South Fourth Street.
- (b) Redevelopment Agency Board approval of the Fourth Amendment to the Restaurant Lease with Cupertino Flames, LLC, for the property located at 88 South Fourth Street, increasing the total square footage of the premises, revising the schedule and scope of the project, extending the lease term, and financing the Shell Improvements through a Shell Improvement Allowance of \$260,000.
- (c) City Council approval of a First Amended Certificate of Nondisturbance and Attornment with Cupertino Flames, LLC under the terms of the Master Lease between the City and the Redevelopment Agency.

CEQA: Resolution No. 64273, Use of San Jose Downtown Strategy Plan FEIR. File No. CP98-054. **[MERGED]**

Action: Deferred to August 11, 2009.

## **8 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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### **8.4 Award of a contract to Pantano Excavating Inc., for demolition of two buildings related to the Hoffman/Via Monte Neighborhood Center Project.**

#### **Recommendations:**

- (a) Adoption of a resolution by the City Council making certain determinations required under California Health and Safety Code Section 33445 for Redevelopment Agency funding of the acquisition and demolition of existing vacant structures located at 1171 Mesa Drive and 5647 Gallup Drive, and construction of the proposed Hoffman/Via Monte Neighborhood Center Project.
- (b) Adoption of a resolution by the Redevelopment Agency Board approving the award of a contract to Pantano Excavating, Inc., the low bidder in the amount of \$95,663, and authorizing a contingency in the amount of \$9,566 for a total funding authorization of \$105,229, for the removal of asbestos containing materials and the demolition of two vacant structures located at 1171 Mesa Drive and 5647 Gallup Drive.

CEQA: Exempt, File No. PP09-131. **[HOFFMAN/VIA MONTE SNI]**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 11, 2009, recommending a) adoption of a resolution by the City Council making certain determinations required under California Health and Safety Code Section 33445 for Redevelopment Agency funding of the acquisition and demolition of existing vacant structures located at 1171 Mesa Drive and 5647 Gallup Drive, and construction of the proposed Hoffman/Via Monte Neighborhood Center Project and, b) adoption of a resolution by the Redevelopment Agency Board approving the award of a contract to Pantano Excavating, Inc., and authorizing a contingency in the amount of \$9,566 for a total funding authorization of \$105,229.

Action: Council Resolution No. 75015 adopted. Agency Resolution No. 5924 adopted. (11-0)

## **8 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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### **8.5 Second amendment to the agreement with ELS Architecture and Urban Design for the Civic Auditorium and Montgomery Theatre.**

#### **Recommendation:**

- (a) Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to negotiate and execute a second amendment to the agreement with ELS Architecture and Urban Design (ELS), in the amount of \$1,012,000, for a total contract amount not to exceed \$1,912,000, for continued architectural design services for the Civic Auditorium and Montgomery Theatre Rehabilitation Projects. CEQA: Not a project.
- (b) Adoption of a resolution by the City Council making certain findings required under California Health and Safety Code Section 33445 for Agency funding for demolition of two City owned buildings known as meeting rooms 1A and 1B, adjacent to Parkside Hall, located at 180 Park Avenue. CEQA: Resolution No. 72767, File No. PP09-137.

#### **[PARK CENTER]**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 9, 2009, recommending adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to negotiate and execute a second amendment to the agreement with ELS Architecture and Urban Design (ELS), in the amount of \$1,012,000, for a total contract amount not to exceed \$1,912,000, for continued architectural design services for the Civic Auditorium and Montgomery Theatre Rehabilitation Projects. Supplemental memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 10, 2009, recommending adoption of a resolution by the City Council making certain findings required under California Health and Safety Code Section 33445 for Agency funding for demolition of two City owned buildings known as meeting rooms 1A and 1B, adjacent to Parkside Hall, located at 180 Park Avenue.

Action: Agency Resolution No. 5925 adopted. Council Resolution No. 75016 adopted. (11-0)

**The City Council portion of the meeting adjourned at 10:42 a.m.**

# 1 CEREMONIAL ITEMS

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None

# 2 CONSENT CALENDAR

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## 2.1 Approval of Board Meeting Minutes.

**Recommendation:** Approval of Redevelopment Agency Minutes for:

(a) Regular meeting of June 2, 2009

Documents Filed: Regular minutes of June 2, 2009.

Action: The Redevelopment Agency minutes of June 2, 2009, were approved. (11-0)

## 2.2 Report of the Rules and Open Government Committee – June 3, 2009.

**Chair Reed, Chairperson**

“4.1 Review June 9, 2009, Final Agenda.

4.2 Review June 16, 2009, Draft Agenda.

Documents Filed: Report of the Rules and Open Government Committee of June 3, 2009.

Action: The Rules and Open Government Committee report and actions of June 3, 2009, were approved. (9-0-2) Absent: Nguyen, Chirco.

## 2.3 Approval of an amendment to the agreement with Bill Gould Design Art & Architecture for the Starbird Teen Center Project.

**Recommendation:** Approval of the fifth amendment to the agreement with Bill Gould Design Art & Architecture, amending the contract term and schedule of performance for the Starbird Teen Center Project, extending the term of the agreement one year, through June 30, 2010, amending the scope of services; and amending the compensation schedule, with no change to the existing contract amount of \$363,690. CEQA: Exempt, File No. PP05-049. [BLACKFORD SNI]

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## 2 CONSENT CALENDAR

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- 2.3 Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 11, 2009, recommending approval of the fifth amendment to the agreement with Bill Gould Design Art & Architecture, amending the contract term and schedule of performance for the Starbird Teen Center Project, extending the term of the agreement one year, through June 30, 2010, amending the scope of services; and amending the compensation schedule, with no change to the existing contract amount of \$363,690.

Action: The fifth amendment to the agreement with Bill Gould Design Art & Architecture was approved. (11-0)

## 3 GENERAL

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- 3.1 **Approval of an agreement with the San Jose Downtown Association for promotional and marketing consulting services.**

**Recommendation:** Approval of an agreement with the San Jose Downtown Association, in an amount not to exceed \$525,000, for promotional and marketing and public space programming for the period July 1, 2009, through June 30, 2010. CEQA: Resolution No. 72767 Use of Downtown Strategy 2000, FEIR, File No. PP08-105. **[MERGED]**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 11, 2009, recommending approval of an agreement with the San Jose Downtown Association for promotional and marketing and public space programming for the period July 1, 2009, through June 30, 2010. Memorandum from Mayor Reed and Boardmembers Liccardo and Pyle, dated June 19, 2009, recommending adoption of a resolution authorizing the Executive Director to negotiate and execute the agreement with the Association with the following additions: 1) requiring quarterly payments to the Downtown Association with payments subsequent to the First Quarter contingent upon: a) Active participation in the Communications Working Group and b) Approval of the marketing plan, deliverables, and metrics by the Communications Working Group, and 2) The Executive Director of the Redevelopment Agency shall have review and final approval authority over any advertising campaign or collateral produced with Agency funds under this agreement. Such campaigns and materials will be reviewed and approved by the Communications Working Group prior to approval of the Executive Director.

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### 3 GENERAL

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(Cont'd)

- 3.1 Action: Boardmember Liccardo verbally amended the recommendation set forth in the June 19, 2009 memorandum as follows: (1) strike the word "Approval" and replace with "Review" in the second bullet to read as follows: Review of the marketing plan, deliverables, and metrics by the Communications Working Group.; and (2) Delete "and approved" in the last sentence of the recommendation to read as follows: Such campaigns and materials will be reviewed by the Communications Working Group prior to approval of the Executive Director." Agency Resolution No. 5927 adopted. (10-0-1) Absent: Kalra.

### 4 NEIGHBORHOOD IMPROVEMENT STRATEGIES

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None

### 5 HOUSING

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None

### 6 PUBLIC FACILITIES AND SPACES

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#### 6.1 Approval of amendments to agreements for Tree Establishment Services.

**Recommendation:** Approval of the third amendment to the agreement with Anderson Tree Care, in the amount of \$200,000 for a total contract amount not to exceed \$470,000, for tree establishment services and extending the term of the agreement by 18 months, through December 31, 2010. CEQA: Exempt. File No. PP08-035. [MERGED] (Deferred June 16, item 6.1)

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 4, 2009, recommending approval of the third amendment to the agreement with Anderson Tree Care for tree establishment services and extending the term of the agreement through December 31, 2010.

Action: The third amendment to the agreement with Anderson Tree Care was approved. (9-0-2) Absent: Kalra, Campos.

## 6 PUBLIC FACILITIES AND SPACES

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### 6.2 Agreement with David J. Powers & Associates for preparation of an analysis for the Autumn Street Improvement Project.

**Recommendation:** Adoption of a resolution authorizing the Executive Director to negotiate and execute an agreement with David J. Powers & Associates, in an amount not to exceed \$400,000, for the preparation of an analysis in conformance with the National Environmental Policy Act for the Autumn Street Improvement Project. CEQA: Resolution No. 74870. [MERGED]

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 17, 2009, recommending adoption of a resolution authorizing the Executive Director to negotiate and execute an agreement with David J. Powers & Associates, in an amount not to exceed \$400,000, for the preparation of an analysis in conformance with the National Environmental Policy Act for the Autumn Street Improvement Project.

Action: Agency Resolution No. 5926 adopted. (9-0-2) Absent: Kalra, Campos.

## 7 PRIVATE DEVELOPMENT

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### 7.1 Approval of the first amendment to the Reimbursement Agreement with Stion Corporation, Inc.

**Recommendations:** Approval of the first amendment to the Reimbursement Agreement with Stion Corporation, to accelerate the early release of \$300,000, for the acquisition of capital equipment for Stion Corporation's production facility at 6321 San Ignacio Avenue. CEQA: Not a project. [EDENVALE]

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 11, 2009, recommending approval of the first amendment to the Reimbursement Agreement with Stion Corporation.  
Public Comments: Chet Farris, Stion Corporation, spoke in support of item 7.1.

Action: The first amendment to the Reimbursement Agreement with Stion Corporation was approved. (11-0)

## **7 PRIVATE DEVELOPMENT**

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### **7.2 Approval of an amendment to the Sublease and Co-Sponsorship Operating Agreement with the San Jose State University Research Foundation.**

**Recommendation:** Approval of the fourth amendment to the Sublease and Co-Sponsorship Operating Agreement with the San Jose State University Research Foundation for the operation of the San Jose BioCenter, extending the Agency's obligation to pay the base rent for the BioCenter through June 30, 2010, for an amount not to exceed \$476,526. CEQA: Not a project. [EDENVALE]

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 11, 2009, recommending approval of the fourth amendment to the Sublease and Co-Sponsorship Operating Agreement with the San Jose State University Research Foundation for the operation of the San Jose BioCenter.

Action: The fourth amendment to the Sublease and Co-Sponsorship Operating Agreement with the San Jose State University Research Foundation was approved. (11-0)

### **7.3 Ratification of the incorporation of the San Jose BioCenter as a nonprofit corporation.**

**Recommendation:** Ratification of the incorporation of the San Jose BioCenter as a non-profit corporation and direction to the Executive Director to complete the corporate formation process. CEQA: Not a project. [EDENVALE]

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 16, 2009, recommending ratification of the incorporation of the San Jose BioCenter as a non-profit corporation and direction to the Executive Director to complete the corporate formation process.

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## **7 PRIVATE DEVELOPMENT**

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**7.3** Action: The Board ratified the incorporation of the San Jose BioCenter as a non-profit corporation, and the Executive Director was directed to complete the corporate formation process. (11-0)

- **Adjournment**  
The Redevelopment Agency Board adjourned at 11:08 a.m.

**ATTEST:**

  
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**HARRY S. MAVROGENES, SECRETARY**