



City of Oakland Meeting Minutes

Office of the City Clerk
Oakland City Hall
1 Frank H. Ogawa Plaza
Oakland, California 94612
LaTonda Simmons, City Clerk

Concurrent Meeting of the Oakland Redevelopment Agency / City Council Oakland City Hall, 1 Frank H. Ogawa Plaza, Oakland, California, 94612

City of Oakland Website: <http://www.oaklandnet.com>

Tuesday, February 03, 2009

6:00 PM

Oakland City Hall, 3rd Floor

1 Pledge of Allegiance

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ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Present: 7 - Councilmember De La Fuente,
Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel,
Councilmember Quan, Councilmember Reid and President of the Council
Brunner

2 Roll Call / ORA & Council

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A meeting of the Joint Oakland Redevelopment Agency and City Council was held on the above date. Opening with the Pledge of Allegiance, the meeting was convened at 6:04 PM.

3 Open Forum / Citizens Comments

(Time Available: 15 minutes)

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The following individuals spoke under Open Forum:

- Kim Wright
- Saundra Eve-Fisher
- Barry Luboviski
- Sharon Cornu
- John Klein
- Deloris Allen
- Paulette V. Hogan
- Darnell Levingston

4 Modifications to the Consent Calendar, and requests from Councilmember(s) to pull an item from the Consent Calendar, shall be scheduled for the next-succeeding City Council meeting as a non-consent item.

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No Action Taken

- 5 Motion for 'Members' Requests for Reconsideration' of an Action taken at the preceding Council Meeting, shall be scheduled for the next-succeeding City Council meeting as a non-consent item. (Motion Maker must have voted on prevailing side)

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No Action Taken

- 6 Requests from Councilmember(s) to schedule an Action Item considered by Committee but not forwarded to Council, shall be scheduled for the next-succeeding City Council meeting as a non-consent item.

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No Action Taken

- 7 Approval of the Draft Minutes from the Concurrent Meeting of the Oakland Redevelopment Agency/City Council held on January 20, 2009

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A motion was made by Councilmember Quan, seconded by Councilmember Nadel, to *Approve the Minutes. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner

8. PRESENTATION OF CEREMONIAL MATTERS

- S-8.1 Subject: Reverend Father Thomas J. Paris - Recognition
From: Councilmember Jean Quan
Recommendation: Adopt A Resolution Honoring The Retirement Of Reverend Father Thomas J. Paris, Dean Of The Greek Orthodox Cathedral Of The Ascension On Lincoln Boulevard After Serving As A Greek Orthodox Priest For Forty-Eight Years

09-0063

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A motion was made by Councilmember Reid, seconded by Councilmember De La Fuente, that this matter be Adopted. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner

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9. COUNCIL ACKNOWLEDGEMENTS / ANNOUNCEMENTS

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Agency/Councilmember Reid took a point of personal privilege and requested that the meeting be adjourned in memory of Bondell Perkins, Lahori Ram, and O.L. Berry

Agency/Councilmembers Reid, De La Fuente and Quan took a point of personal privilege and requested that the meeting be adjourned in memory of Ralph Grant

Agency/Councilmember Quan took a point of personal privilege and requested that the meeting be adjourned in memory of Bill LaSalle

10. CONSENT CALENDAR (CC) ITEMS:

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10.1-CC Subject: Declaration Of A Local Emergency Due To AIDS Epidemic
 From: Office Of The City Attorney
 Recommendation: Adopt A Resolution Renewing And Continuing The City Council's
 Declaration Of A Local Emergency Due To The Existence Of A Critical Public Health Crisis
 With Regard To The AIDS Epidemic
 09-0043

This Matter was Adopted on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner

The following individuals spoke on this item:

- Darnell Levingston
- Sharon T. Kuehn
- Paulette V. Hogan

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10.2-CC Subject: Medical Cannabis Health Emergency
From: Office Of The City Attorney
Recommendation: Adopt A Resolution Renewing The City Council's Declaration Of A Local
Public Health Emergency With Respect To Safe, Affordable Access To Medical Cannabis In The
City Of Oakland
[09-0044](#)

This Matter was Adopted on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember
Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember
Quan, Councilmember Reid and President of the Council Brunner

The following individual spoke on this item:

- Paulette V. Hogan

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10.3-CC Subject: Taxi Cab Ordinance Amendment
From: City Council
Recommendation: Adopt An Ordinance Amending Oakland Municipal Code Chapter 5.64
"TAXICABS" To A) Move The Administration Of Taxi Permits From The Oakland Police
Department To The City Administrator's Office And B) Move The Initial And Annual Inspection
Of Taxis From The Oakland Police Department To The Public Works Agency
[07-1875](#)

This Matter was Approved for Final Passage on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember
Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember
Quan, Councilmember Reid and President of the Council Brunner

The following individual spoke on this item:

- Paulette V. Hogan

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10.4-CC Subject: Samantha Hynes - Settlement Agreement
From: Office of the City Attorney
Recommendation: Adopt A Resolution Authorizing And Directing The City Attorney To
Compromise And Settle The Claim Of Samantha Hynes And Mark Mandel Her Attorney Of
Record In The Amount Of \$7,432.25 For An Automobile Collision Involving A City Vehicle On
February 27, 2008. (Police Services Agency)
[09-0045](#)

This Matter was Adopted on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember
Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember
Quan, Councilmember Reid and President of the Council Brunner
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10.5-CC Subject: Ronald Grant - Settlement Agreement
From: Office of the City Attorney
Recommendation: Adopt A Resolution Authorizing And Directing The City Attorney To
Compromise And Settle The Claim Of Ronald Grant, In The Amount Of \$28,600, As A Result
Of Property Damage Sustained As A Result Of A Failed City Sewer Main On March 14, 2008
(Public Works Agency)
[09-0046](#)

This Matter was Adopted on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember
Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember
Quan, Councilmember Reid and President of the Council Brunner
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S-10.6-CC Subject: Storm Drain Design Standards
From: Community and Economic Development Agency
Recommendation: Adopt An Ordinance Amending Title 13 Of The Oakland Municipal Code
Adding Section 13.14 To Establish Storm Drainage Design Standards
[07-1870](#)

**This Matter was Approved on Introduction for Final Passage to the
Concurrent Meeting of the Oakland Redevelopment Agency / City Council,
due back on February 17, 2009 on the Consent Agenda.**

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember
Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember
Quan, Councilmember Reid and President of the Council Brunner
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S-10.7-CC Subject: Turner Construction Company Contract Increase
From: Community and Economic Development Agency
Recommendation: Adopt A Resolution Authorizing The City Administrator, Or The City Administrator's Designee, To Increase The Contract Amount For The Construction Manager At Risk Contract With Turner Construction Company For The East Oakland Sports Center Project From Eleven Million Nine Hundred Thousand Dollars (\$11,900,000.00) By: 1) Two Million Dollars (\$2,000,000.00) In Oakland Redevelopment Agency Funds And 2) Five Million One Hundred Thousand Dollars (\$5,100,000.00) In Measure WW Regional Open Space, Wildlife, Shoreline And Park Bond Funding, For A Total Contract Amount Not To Exceed Nineteen Million Dollars (\$19,000,000.00) Subject To The Availability Of Measure WW Regional Open Space, Wildlife, Shoreline And Park Bond Funding, And Authorizing Early Termination Of The Contract In The Event That Measure WW Funds Become Unavailable
[07-1887](#)

This Matter was Adopted on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner
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S-10.8-CC Subject: Employee Bond Requirements - Amendment
From: Finance and Management Agency
Recommendation: Adopt An Ordinance Amending Ordinance No. 7997 C.M.S., Which Established A Requirement That The City Provide Bond Insurance For Specified City Employees And Officer To Insure The Honest And Faithful Performance Of Their Official Duties, To: (1) Add The City Attorney As A Bonded City Officer, (2) Authorize The City Administrator Or His/Her Designee To Approve The Bond Insurance Agreements, Subject To Approval As To Form And Legality By The City Attorney; (3) Set The Minimum Bond Coverage Limit For Each Such Employee And Officer At Two Million Dollars (\$2,000,000); And (4) Authorize The City Administrator To Provide A Master Official Bond, That Will Cover All Such Employees And Officers If The City Administrator Or Designee Determines That It Is In The City's Best Interests To Do So
[07-1881](#)

This Matter was Approved on Introduction for Final Passage to the Concurrent Meeting of the Oakland Redevelopment Agency / City Council, due back on February 17, 2009 on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner
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S-10.9-CC Subject: Service Credit Purchased Tax Deferment
From: Finance and Management Agency
Recommendation: Adopt An Employer Pickup Resolution Pre-Tax Payroll Deduction Plan For
Service Credit Purchases (Contribution Code 14)
[09-0008](#)

This Matter was Adopted on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember
Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember
Quan, Councilmember Reid and President of the Council Brunner
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S-10.10-C Subject: East Bay Regional Park District Local Grant Program
C From: Office of Parks and Recreation
Recommendation: Adopt A Resolution Authorizing The City Administrator Or His Designee To
Apply For, Accept, And Appropriate Grant Funds In An Amount Not To Exceed Nineteen
Million Two Hundred Four Thousand Four Hundred Fifty Six Dollars (\$19,204,456) From The
East Bay Regional Park District Local Grant Program Under Measure WW Park Bond Extension
To Be Allocated To Various Oakland Parks And Open Space Renovation Projects And To Enter
Into A Grant Contract With The East Bay Regional Park District
[09-0018](#)

This Matter was Adopted on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember
Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember
Quan, Councilmember Reid and President of the Council Brunner
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S-10.11-C Subject: Child Abuse Center Donation
C From: Oakland Police Department
Recommendation: Adopt A Resolution Authorizing The City Administrator To Enter Into A Grant Agreement With The Child Abuse Listening, Interviewing, And Coordination Center (CALICO) In The Amount Of Twenty-Four Thousand Nine Hundred Ninety-Nine Dollars (\$24,999) For The Period Of July 1, 2008 Through June 30, 2009, To Provide Forensic Interviews, Multi-Disciplinary Child Abuse Investigations, Family Support Services, Community Outreach, And Training To The Oakland Police Department (TITLE CHANGE)
[07-1647](#)

This Matter was Adopted on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner
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S-10.12-C Subject: 2008 Urban Area Security Initiative Grant
C From: Oakland Fire Department
Recommendation: Adopt A Resolution Authorizing The City Administrator Or His Designee To:
1) Enter Into An Urban Area Security Initiative (UASI) Grant Administration Agreement With City And County Of San Francisco For Fiscal Year 2008 Urban Area Security Initiative (UASI) Grant Funds In The Amount Of Three Million Six Hundred Thousand Dollars (\$3,600,000.00) To The City Of Oakland, And
2) Accept, Appropriate And Administer Fiscal Year 2008 UASI Grant Allocations, And
3) Approve The Preliminary Spending Plan And Waive City Of Oakland Central Services Overhead (CSO) Fees Of Eighty Five Thousand Four Hundred And Sixty Nine Dollars (\$85,469), And
4) Expend Funds In Accord With The Preliminary Spending Plan Without Further Council Authorization, Including Purchases In Excess Of The City Administrator's Purchasing Authority For Equipment On The Federally Authorized Equipment List And Services Required By The Grant, Provided City Bidding Requirements And Purchasing Programs/Policies Are Followed
[07-1753](#)

This Matter was Adopted on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner
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S-10.13-C Subject: 2007 Super Urban Area Security Initiative Grant Amendment
C From: Oakland Fire Department
Recommendation: Adopt A Resolution Amending Resolution No. 81421 C.M.S. Which Authorized The City Administrator To, Among Other Things, Accept, Appropriate, And Administer The Fiscal Year 2007 Super Urban Areas Security Initiative (SUASI) Grant Allocations, To Accept And Appropriate Supplemental Fiscal Year 2007 SUASI Grant Funds In An Amount Up To Fifty-Two Thousand Dollars (\$52,000.00) For A Cumulative Fiscal Year 2007 SUASI Grant Award Allocation Of Up To Two Million Seven Hundred Nineteen Thousand And Sixty-Two Dollars (\$2,719,062.00) And Appropriate Said Funds To The Oakland Fire Department's Office of Emergency Services
[07-1754](#)

This Matter was Adopted on the Consent Agenda.

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner
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Passed The Consent Agenda

A motion was made by Councilmember Reid, seconded by Councilmember De La Fuente, including all the preceding items marked as having been adopted on the Consent Agenda. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner

11 An oral report from the Agency Counsel / City Attorney of final decisions made during Closed Session

12 A disclosure of non-confidential Closed Session Discussion pursuant to Section 2.20.130 of the Sunshine Ordinance

**COMMENCING AT 7:00 P.M. OR AS SOON AS REASONABLY PRACTICAL
THEREAFTER:**

13 Reconsideration of Ordinances pursuant to Charter Section 216

13.1 Subject: Status Report On Senate Bill S.1
From: Council President Brunner
Recommendation: Receive From The Federal Lobbyinst A Status Report On Senate Bill S.1 -
The American Recovery And Reinvestment Act Of 2009, A Bill To Create Jobs, Restore
Economic Growth, And Strengthen America's Middle Class Through Measures That Modernize
The Nation's Infrastructure, Enhance America's Energy Independence, Expand Educational
Opportunities, Preserve And Improve Affordable Health Care, Provide Tax Relief, And Protest
Those In Greatest Need, And For Other Purposes

[09-0050](#)

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**A motion was made by Councilmember Kaplan, seconded by
Councilmember De La Fuente, that this matter be *Received and Filed.
The motion carried by the following vote:**

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember
Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember
Quan, Councilmember Reid and President of the Council Brunner
*Council adopted the following motion that through the lobbyist the City will ask
for: A transit oriented development criteria in the distribution of funds; COPS
funding criteria should include crime rate; NSP criteria should include
foreclosure rate; Federal requirement of the state need to be not only swift but
equitable; Some of the Public Safety dollars to be used for prevention and
intervention. Additionally the City Administrator was directed to create an
inter-department team to analyze the bills and develop projects and strategies
for the various categories of funding. The lobbyist was also requested to report
on grant opportunities so Oakland can apply for the competitive grants*
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14. Consideration of items with statutory Public Hearing Requirements:

14.1 -Subject: Planning Code Amendments – Chapters 17.73 And 17.102
From: Community and Economic Development Agency
Recommendation: Conduct A Public Hearing And Upon Conclusion Adopt One Of The
Following Pieces Of Legislation:-

~~1) An Ordinance Amending The Oakland Planning Code To: (1) Amend Chapter 17.102
"General Regulations Applicable To All Or Several Zones" To Include Performance Standards
For Primary Collection Center Recycling Uses In All Zones (2) Amend Chapter 17.73 "CIX-1,
CIX-2, IG And IO Industrial Zones" To Include Regulations Concerning Primary Collection
Center Recycling Uses In CIX-1, CIX-2 And IG Zones; (2) Amend Chapter 17.10 "Use
Classifications" To Delete "Intermediate Processing Facility" As A Land Use Activity Type From
O.M.C. 17.10.586 "Recycling And Waste Related Industrial Activities"; Or
[07-1774](#)~~

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~~2) A Revised Ordinance (Including Changes To The Extent Of The Area For Which Primary
Collection Centers Are Responsible For Litter, Garbage And Shopping Cart Removal, And
Allowed Parking Areas For Facility-Owned Vehicles) Amending The Oakland Planning Code
To:-~~

~~(1) Amend Chapter 17.102 "General Regulations Applicable To All Or Several Zones" To
Include Performance Standards For Primary Collection Center Recycling Uses In All Zones;
(2) Amend Chapter 17.73 "CIX-1, CIX-2, IG And IO Industrial Zones" To Include Regulations
Concerning Primary Collection Center Recycling Uses In CIX-1, CIX-2 And IG Zones;
(3) Amend Chapter 17.10 "Use Classifications" To Delete "Intermediate Processing Facility" As
A Land Use Activity Type From O.M.C. Section 17.10.586 "Recycling And Waste Related
Industrial Activities"
[07-1774-1](#)~~

14.2 Subject: Olson 737-Oakland 1, LLC - Agreement Amendment
From: Community and Economic Development Agency
Recommendation: Conduct A Public Hearing And Upon Conclusion Adopt The Following Pieces
Of Legislatoin:

1) A Redevelopment Agency And City Resolutions Authorizing An Amendment To The
Disposition And Development Agreement With Olson 737 - Oakland 1, LLC, For The City
Center T-10 Residential Project At 14th Street, 13th Street Pedestrian Walk, Jefferson Street And
Martin Luther King, Jr. Way, To Permit The Project To Be A Rental Project, To Extend The
Dates For Project Development And Completion, To Authorize Transfer Of The Development
Right To DCA City Walk, L.P., Or To Another Qualified Entity Approved By The Agency
Administrator Without Returning To The Agency, And To Eliminate Profit-Sharing; And
[07-1802](#)

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**A motion was made by Councilmember De La Fuente, seconded by
Councilmember Reid, that this matter be Adopted. The motion carried by
the following vote:**

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember
Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember
Quan, Councilmember Reid and President of the Council Brunner
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[2009-0005 CMS.pdf](#)

2) A City Resolution Approving An Amendment To The Disposition And Development Agreement Between The Redevelopment Agency And Olson 737 - Oakland 1, LLC, For The City Center T-10 Residential Project At 14th Street, 13th Street Pedestrian Walk, Jefferson Street And Martin Luther King, Jr. Way, (A) To Permit The Project To Be A Rental Project, (B) To Extend The Dates For Project Development And Completion, (C) To Authorize Transfer Of The Project And Property To DCA City Walk, L.P., Or To Another Qualified Entity, (D) To Add Local Construction Employment Requirements, And (E) To Modify The Profit-Sharing Provision
[07-1802-1](#)

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A motion was made by Councilmember De La Fuente, seconded by Councilmember Reid, that this matter be Adopted. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner
Upon the reading of Item 14.2 by the City Clerk, the Public Hearing was opened at 8:00 p.m.

The following individuals spoke on this item:

- Andrew Slivlea
- Tony Bosowski
- Sanjiv Handa

Agency/Councilmember De La Fuente made a motion, seconded by Agency/Councilmember Reid, to close the Public Hearing, and hearing no objections, the motion passed by Ayes: Agency/Councilmember: De La Fuente, Kaplan, Kernighan, Nadel, Reid, Quan, and President of the Council Brunner -7; Excused: Agency/Councilmember Brooks-1
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14.3 Subject: Housing Trust Fund Grant
 From: Community and Economic Development Agency
 Recommendation: Conduct A Public Hearing And Upon Conclusion Adopt The Following Pieces
 Of Legislation:

1) A Resolution Authorizing The City Administrator To Apply For And Accept Up To \$2 Million In Funds From The California Department Of Housing And Community Development Under The Local Housing Trust Fund Matching Grant Program, Housing And Emergency Shelter Trust Fund Act Of 2006 (Proposition 1C) Affordable Housing Innovation Fund, And Allocating Up To \$1.3 Million For The First-Time Homebuyer Program And Up To \$700,000 For Affordable Rental And Ownership Housing Development; And

[07-1868](#)

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A motion was made by Councilmember De La Fuente, seconded by Councilmember Reid, that this matter be Adopted. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner

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2) An Agency Resolution Authorizing The Agency Administrator To Apply For And Accept Up To \$2 Million In Funds From The California Department Of Housing And Community Development Under The Local Housing Trust Fund Matching Grant Program, Housing And Emergency Shelter Trust Fund Act Of 2006 (Proposition 1C) Affordable Housing Innovation Fund, And Allocating Up To \$1.3 Million For The First-Time Homebuyer Program And Up To \$700,000 For Affordable Rental And Ownership Housing Development

[07-1868-1](#)

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A motion was made by Councilmember De La Fuente, seconded by Councilmember Reid, that this matter be Adopted. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks

ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner

Upon the reading of Item 14.3 by the City Clerk, the Public Hearing was opened at 8:10 p.m.

Agency/Councilmember De La Fuente made a motion, seconded by Agency/Councilmember Reid to close the Public Hearing, and hearing no objections, the motion passed by Ayes: Agency/Councilmember: De La Fuente, Kaplan, Kernighan, Nadel, Reid, Quan, and President of the Council Brunner -7; Excused: Agency/Councilmember: Brooks-1

[2009-0006 CMS.pdf](#)

ACTION ON NON-CONSENT ITEMS:

15 Subject: Sidewalk Safety And Maintenance - Liability
From: Office of the City Attorney
Recommendation: Adopt An Ordinance Of The City Of Oakland Adding Chapter 12.22 To The
Oakland Municipal Code To Establish Landowner Responsibility And Liability For Sidewalk
Safety And Maintenance
[07-1731](#)
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A motion was made by Councilmember Kernighan, seconded by Councilmember De La Fuente, that this matter be Tabled. The motion failed by the following vote:

Votes: ORA\Councilmember Abstained: 2 - Councilmember Quan and Councilmember Reid
ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 5 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel and President of the Council Brunner
Council rejected staff recommendations and directed that staff submit in July during the budget process a request for \$45,000 to fund a web based data system to provide on-line tree information.

Staff was also directed to proceed with the educational brochure informing property owners/citizens of their sidewalk responsibility.

The following individuals spoke on this item:

- Robert Brokl
- Valerie Winemiller
- Alison Brown
- Sanjiv Handa
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S-15.1 Subject: Spur Track Maintenance
From: Office of the City Administrator
Recommendation: Adopt The Following Pieces Of Legislation:

1) A Resolution Rescinding No. 80939 C.M.S. Adopted December 4, 2007, To: 1) Restore Resolution No. 23515 C.M.S., Passed August 30, 1949, Which Granted A Revocable Permit For The Maintenance And Operation Of A Spur Track On And Across 23rd Avenue, 29th Avenue, Derby Street, Lancaster Street And Ford Street And Upon And Along Glascock Street Between 29th Avenue And Lancaster Street In The City Of Oakland ("Fruitvale Track"), And 2) Withdraw Previous Direction Regarding The Filing Of An Action For "Adverse Abandonment" Of The Fruitvale Track With The Department Of Transportation Surface Transportation Board, And [09-0031](#)

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A motion was made by Councilmember De La Fuente, seconded by President of the Council Brunner, that this matter be Adopted. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner
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2) A Resolution Authorizing The City Administrator To Negotiate And Execute A Letter Of Understanding And Subsequent Cooperative Agreement With The California Department Of Transportation ("Caltrans") To Close The Railroad Crossing At 5th Avenue, Known As The Hanlon Lead, Provided That Certain Railroad Safety And Community Improvements Are Implemented On And Around The Fruitvale Track With Funding Provided By Caltrans, All In Connection With Caltrans 5th Avenue Seismic Retrofit Project
[09-0031-1](#)

A motion was made by Councilmember De La Fuente, seconded by President of the Council Brunner, that this matter be Adopted as Amended. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner
Council amended the resolution as follows: Negotiations regarding the letter of understanding with Caltrans will include a discussion of indemnity provision; the City Administrator is directed to return to Council with the subsequent Cooperative Agreement with Caltrans which shall address access and indemnity issues; and the City Administrator is directed to work with the CPUC and UPR to address emergency access issues to Glascock Street.

The following individuals spoke on this item:

- Michael Stewart
 - Ryan Walker
- [81783 CMS.pdf](#)

S-15.2 Subject: Measure Y Violence Prevention Strategies
From: Department of Human Services
Recommendation: Action On A Report And Request For The City Council To Approve
Recommendations For Funding Measure Y Violence Prevention Program Strategies And The
Competitive Proposal Process For The Three Year Funding Cycle Beginning Fiscal Year
2009-2010
[07-1734](#)
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A motion was made by Councilmember Reid, seconded by Councilmember Nadel, that this matter be Approved. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Noes: 1 - Councilmember De La Fuente
ORA\Councilmember Ayes: 6 - Councilmember Kaplan, Councilmember
Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid
and President of the Council Brunner

The following individuals spoke on this item:

- Gary Sirbu
- Deane Calhoun
- Judy Cox
- Celsa Snead
- Richard de Jauregui
- Laura Moran
- Adrian Kirk
- Sanjiv Handa

During the discussion of this item, a motion was moved, seconded and carried to extend the meeting past 10:30pm

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The Roll Call was modified to note Council President Brunner absent at 11:28 PM and Councilmember Kaplan absent at 11:32 PM

16 Subject: Salary Schedule Amendments
From: Finance And Management Agency
Recommendation: Adopt An Ordinance Amending The Salary Schedule Of Ordinance No. 12187
C.M.S. (The Salary Ordinance) To Add: The Permanent Full Time Equivalent Classification,
Archivist; The Permanent Part Time Equivalent Classifications of Case Manager I, Permanent
Part-Time; Budget And Grants Administrator, Permanent Part-Time; Animal Control Officer,
Permanent Part-Time; And Recreation Attendant II, Permanent Part-Time; And To Re-Title
Youth Sports Program Coordinator To Sports Program Coordinator

[07-1857](#)

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A motion was made by Councilmember Kernighan, seconded by Councilmember De La Fuente, that this matter be Approved on Introduction for Final Passage to the Concurrent Meeting of the Oakland Redevelopment Agency / City Council, due back on February 17, 2009. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Absent: 2 - Councilmember Kaplan and President of the Council Brunner
ORA\Councilmember Ayes: 5 - Councilmember De La Fuente, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan and Councilmember Reid

The following individual spoke on this item:

- *Sanjiv Handa*

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The Roll Call was modified to note Councilmember Kaplan present at 11:32 PM

17 Subject: Oakland Tourism Business Improvement District
From: Office of the City Administrator
Recommendation: Adopt A Resolution To Establish The Oakland Tourism Business Improvement District (OTBID) Proposed By The Oakland Convention & Visitors Bureau, Declare The Results Of The Majority Protest Proceedings, And Authorizing The City Administrator To Negotiate And Enter Into A Professional Services Agreement With The Oakland Convention & Visitors Bureau To Operate The OTBID
[07-1393-1](#)
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A motion was made by Councilmember De La Fuente, seconded by Councilmember Quan, that this matter be Continued to the Concurrent Meeting of the Oakland Redevelopment Agency / City Council, due back on February 17, 2009. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Absent: 1 - President of the Council Brunner
ORA\Councilmember Ayes: 6 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan and Councilmember Reid

The following individual spoke on this item:

- Scott Peterson

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The Roll Call was modified to note Council President Brunner present at 11:40 PM

S-18 Subject: Vacant Building Registration
From: Councilmember Desley Brooks
Recoomendation: Adopt The Following Pieces Of Legislation

1) An Ordinance Amending The Oakland Muncipal Code To Add A New Chapter 8.54 Requiring The Registration Of Vacant Buildings; And

[07-1717](#)

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Continued to Concurrent Meeting of the Oakland Redevelopment Agency / City Council on 3/3/2009

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2) An Ordinance Amending Ordinance No. 12880 C.M.S. (Master Fee Schedule) To Add New Fees For Registering Vacant Buildings
07-1717-1

A motion was made by Councilmember Reid, seconded by Councilmember De La Fuente, that this matter be Continued to the Concurrent Meeting of the Oakland Redevelopment Agency / City Council, due back on March 3, 2009. The motion carried by the following vote:

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember Quan, Councilmember Reid and President of the Council Brunner
The following comments were submitted from:

Councilmember Quan:

I feel that the Vacant Building Registration Ordinance (Item S-18) needs further refinement and request that it be sent back to committee to address the following issues:

- 1) Given the slowness of the current real estate market, the time to register a vacant property in the Ordinance should be lengthened from 45 to 90 days to avoid needless bureaucratic complexity. According to the Oakland Association of Realtors, the average current time for a property to remain on the market is approximately 75 days, so 90 days would address this issue. Otherwise we will involve a large number of properties unnecessarily in a bureaucratic procedure.*
- 2) I do favor provisions of the Fresno & Riverside foreclosure legislation that require that the owner of the foreclosed property present a plan for securing the vacant property and the property be subject to official inspection.*
- 3) It is not clear when the 120 day period without fee starts. Since certain properties have proven particularly difficult to sell in the current real estate market, be made certain that the additional 120 days without fee to sell difficult properties should begin at the time of registration noted in Item 1*
- 4) Rental properties should be treated differently from single parcels. Currently, the owner of a 10 to 20 unit building would have to register a rental unit as a vacant property every time a renter leaves this unit. Additionally, registering vacant rental units in the Vacant Building Ordinance may be duplicative of stipulations associated with the Residential Rent Adjustment Program Ordinance.*
- 5) We need to be clear as to what actually constitutes a vacant property. As the ordinance currently is written, having utilities turned on or receiving mail may be a qualifier for occupancy. Clearly, such a simple definition of occupancy could lead to abuse by absentee owners and a more stringent definition is needed in order to insure that simply having a building's utilities turned on would preclude its owner from paying vacancy fees.*
- 6) Finally, we should explore who bears responsibility for all fees associated*

with vacant properties.

Councilmember Kernighan:

Two proposed changes to the proposed Vacant Building Registration Ordinance as follows:

1/Section 8.54.030-Scope

The requirements of this Chapter shall be applicable to all residential and non-residential buildings that have remained unoccupied for their intended and authorized use for more than one-hundred twenty (120) consecutive calendar days.

2/ Section 8.54.040 - Definitions

Vacant non-residential building shall mean the physical absence of an approved occupancy by the legal or equitable owner or a legally authorized occupant or tenant in a building or portion thereof for more than one hundred twenty (120) consecutive calendar days. Occupancies located above or below the ground floor of a Building shall not be considered as vacant for the purposes of this definition.

Vacant residential building shall mean the physical absence of an approved occupancy by the legal or equitable owner or a legally authorized occupant or tenant in a building for more than one hundred twenty (120) consecutive calendar days.

In addition Councilmember Kernighan stated that the "Perata Bill" \$1,000 fine should go to the person that owns the building vs. the land owner. The enforcement fees collected could then be used toward dedicated staffing for the program

Vice Mayor De La Fuente

The nuisance and blight problems created by vacant properties are a drain to city resources and compromise the overall safety in our neighborhoods and commercial corridors. However, I do not believe that the proposed Vacant Building effectively addresses the mounting vacant building problem and, in my opinion, creates a bureaucratic burden that would be difficult for Oakland residents and businesses to navigate.

Oakland has two very distinct vacant building problems that should be approached on separate tracks to address 1) bank owned foreclosed and abandoned properties, and 2) buildings owned and held by private individuals that have been shut down and left to decay. Each problem has a unique set of circumstances that will require specific solutions to trigger the appropriate action. Combining the two problems casts the net too wide and potentially affects law abiding property owners who maintain and care about their

properties.

The ordinances adopted by the City of Fresno and the City of Perris in Riverside County specifically and proactively target foreclosed properties by requiring lending institutions to conduct an inspection of properties in order to determine occupancy and clearly evaluate measures needed to secure the property. Evidence of the inspection must be submitted prior to recording a notice of default with the County recorder.

I do not foresee banks lining up at Oakland's door to register their properties unless there is a mechanism that compels them to take action before they move to foreclose. As such, the city may not learn about the vacant foreclosed properties until a problem occurs at which point our blight and nuisance ordinances would be the most viable tools to abate the problem - not the proposed vacant building ordinance. There is also a high probability that most if not all of the fees assessed against banks will end up as liens. In many cases, the fees and liens we generate through the proposed ordinance are likely never to be paid because of, both, the City and the bank's interest in facilitating the sale of foreclosed properties and having them occupied by responsible property owners as soon as possible.

The failure by some private property owners to rehabilitate buildings and bring them into productive use requires not only punitive measures like the proposed escalating fee but other types of incentives to facilitate development of their properties. My concern is that the ordinance will have the opposite affect intended and actually serve as permission for these problem landlords to keep properties vacant and shut down as long as they continue to pay their fees. I do not see the ordinance creating an immediate shift in the disposition of these buildings or resolving the problems they create.

Stuck in the middle of the City's efforts to implement the proposed ordinance would be ordinary law abiding property owners who will register their property, comply with a set of burdensome regulations and pay for a program that in my opinion will have no real effect.

I am prepared to make a motion to reject the ordinance in its current form and request that staff return with a policy that directly targets foreclosed properties like the ordinance adopted by the City of San Jose and a separate program or ordinance that creates viable incentives for private property owners to restore vacant buildings to productive use and monetary penalties for inaction.

Councilmember Kaplan

Code enforcement is essential to the success of the program given that if the enforcement takes place and fines are assessed the program could be self-funding. The registration should include more than just foreclosed properties, there should be different regulations for residential areas vs. non-residential areas, program should also include an option for people that sign up to have the information be public, so individuals looking for vacant property can have access to the information providing a more functional

benefit.

The following individual spoke on this item:

- Elizabeth Hopes

S-19 Subject: Police Chief Recruitment
 From: Office of the City Administrator
 Recommendation: Adopt A Resolution Waiving The Request For Proposal Or Qualifications
 Selection Process For A Professional Services Contract With A Qualified Law Enforcement
 Executive Search Firm To Conduct A Nationwide Search And Recruitment For The Position Of
 Chief Of Police Of The Oakland Police Department For An Amount Not To Exceed \$50,000.00
[09-0065](#)

**A motion was made by Councilmember Quan, seconded by
Councilmember Kaplan, that this matter be Adopted. The motion carried
by the following vote:**

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Ayes: 7 - Councilmember De La Fuente, Councilmember
Kaplan, Councilmember Kernighan, Councilmember Nadel, Councilmember
Quan, Councilmember Reid and President of the Council Brunner

The following individual spoke on this item:

- Sanjiv Handa

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S-20 Subject: Hiring Of The Chief Of Police
From: Vice Mayor De La Fuente and President Brunner
Recommendation: Adopt A Resolution Confirming The Recommendation Of The City Council
That 1) The Mayor Conduct A National Search To Fill The Position Of Chief Of Police, 2) That
The Next Chief Of Police Be Hired From Outside The Department, And 3) That The Next Chief
Of Police Have Experience In Urban Policing
[09-0066](#)

**A motion was made by Councilmember Nadel, seconded by
Councilmember Quan, that this matter be Adopted as Amended. The
motion carried by the following vote:**

Votes: ORA\Councilmember Excused: 1 - Councilmember Brooks
ORA\Councilmember Noes: 2 - Councilmember De La Fuente and President of
the Council Brunner
ORA\Councilmember Ayes: 5 - Councilmember Kaplan, Councilmember
Kernighan, Councilmember Nadel, Councilmember Quan and Councilmember
Reid

Council amended the resolution as follows:

*Delete #2 That the next Chief of Police be hired from outside the Department
and amend the language in #3 to read The City Council recommends the
following criteria be considered in the evaluation of candidates: a. experience
in urban policing, b. commitment to continuing the reforms of the Oakland
Police Department, c. commitment to the concept of community policing, d.
commitment to the value and coordination of prevention, and intervention
services with enforcement actions and e. commitment to putting a strategy
forward that would reduce crime*

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Continuation of Open Forum

ADJOURNMENT OF COUNCIL SESSION

**(Meeting shall conclude no later than 10:30 p.m., unless extended by Majority Vote of the
Council)**

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*There being no further business, and upon the motion duly made, the
Agency/Council adjourned the meeting in memory of Blondell Perkins, O.L.
Berry, Lahori Ram, Ralph Grant and Bill LaSalle at 12:13 AM*

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