A. CALL TO ORDER

The Rancho Cucamonga Redevelopment Agency, Fire District and City Council held a closed session on Wednesday, February 18, 2009, in the Tapia Room of the Civic Center located at 10500 Civic Center Drive, Rancho Cucamonga, California. The meeting was called to order at 5:02 p.m. by Chairman/President/Mayor Donald J. Kurth.

Present were Agencymembers/Boardmembers/Councilmembers: Rex Gutierrez, Sam Spagnolo, Diane Williams, Vice Chairman/Vice President/Mayor Pro Tem L. Dennis Michael and Chairman/President/Mayor Donald J. Kurth.

Also present were: Jack Lam, Executive Director; Pamela Easter, Assistant City Manager; James Markman, City Attorney; John Gillison, Deputy City Manager/Administrative Services and Linda D. Daniels, Redevelopment Agency Director.

B. ANNOUNCEMENT OF CLOSED SESSION ITEM(S)

Chairman/President/Mayor Donald J. Kurth announced the closed session items:

B1. LABOR NEGOTIATIONS PER GOVERNMENT CODE SECTION 54954.2 TO GIVE JOHN GILLISON, DEPUTY CITY MANAGER AND PAMELA EASTER, ASSISTANT CITY MANAGER, DIRECTION IN REGARDS TO THE MEET AND CONFER PROCESS – RDA, City, Fire

C. PUBLIC COMMUNICATIONS ON CLOSED SESSION ITEM(S)

No one was present to comment on the closed session item.

D. CONDUCT OF CLOSED SESSION

Closed session began at 5:02 p.m.

E. CITY MANAGER ANNOUNCEMENTS

No announcements were made.
F. RECESS

The closed session adjourned at 5:27 p.m. with no action taken.

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G. SPECIAL MEETING
CALL TO ORDER – 5:30 P.M.
COUNCIL CHAMBERS

The meeting of the Rancho Cucamonga Redevelopment Agency, Fire Protection District, and City Council reconvened in the Council Chambers of the Civic Center located at 10500 Civic Center Drive, Rancho Cucamonga, California. Chairman/President/Mayor Donald J. Kurth called the meeting to order at 5:37 p.m.

Present were Agencymembers/Boardmembers/Councilmembers: Rex Gutierrez, Sam Spagnolo, Diane Williams, Vice Chairman/Vice President/Mayor Pro Tem L. Dennis Michael and Chairman/President/Mayor Donald J. Kurth.

Also present were: Jack Lam, City Manager; Peter Bryan, Fire Chief; Kevin McArdle, Community Services Director; Debra McNay, Records Manager/Assistant City Clerk and Kathy Scott, Assistant City Clerk.

3. Presentations:

A. Recognition of Participants in the 2008 Silver Follies for Their Efforts in Raising Funds for Senior Center Programs and Services.

The Mayor presented certificates of appreciation to the 2008 Silver Fox Follies for their efforts in raising funds for senior center programs and services.


The Mayor presented certificates of achievement to the Pop Warner Pop Warner Football Jr. Pee Wee Wildcats for winning the Mt. Baldy Division 2 Conference Championship and the Jr. Midget Braves Cheerleaders for placing second in the Mt. Baldy Division 2 Conference. He also recognized Kaylee Wolcott of the Braves Cheer Squad and Jacob Hennie of the Wildcats for being considered for the National Pop Warner Little Scholar’s all American team

C. Recognition of Rancho Cucamonga High School Football Team for winning the CIF – Southern Section Central Division Championship.

The Mayor presented certificates of achievement to the Rancho Cucamonga High School football team for winning the SIF – Southern Section Central Division Championship.

D. Recognition of the Presenting Sponsor for the 2008 Rancho Cucamonga Community Foundation $100,000 Golf Tournament, presented by Burrtec Waste Industries.

The Mayor recognized Burrtec Waste Industries for being the Presenting Sponsor and thanked Mike Arreguin, Chuck Buquet and Stephen Wagne for their assistance with the golf tournament.

E. Recognition of Spark of Love Toy Drive Volunteers and Sponsors.
The Mayor presented plaques and certificates of appreciation to the Spark of Love Toy Drive volunteers and sponsors.

**H. RECESS**

The meeting recessed at 6:24 p.m.

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**I. REGULAR MEETING**

**CALL TO ORDER – 7:00 P.M.**

**COUNCIL CHAMBERS**

The meeting of the Rancho Cucamonga Redevelopment Agency, Fire Protection District, and City Council reconvened in the Council Chambers of the Civic Center located at 10500 Civic Center Drive, Rancho Cucamonga, California. Chairman/President/Mayor Donald J. Kurth called the meeting to order at 7:05 p.m.

Present were Agencymembers/Boardmembers/Councilmembers: Rex Gutierrez, Sam Spagnolo, Diane Williams, Vice Chairman/Vice President/Mayor Pro Tem L. Dennis Michael and Chairman/President/Mayor Donald J. Kurth.

Also present were: Jack Lam, City Manager; Jim Markman, City Attorney; John Gillison, Deputy City Manager/Administrative Services; Linda Daniels, RDA Director; James Troyer, Planning Director; Peter Bryan, Fire Chief; Chief Joe Cusimano, Rancho Cucamonga Police Department; Dave Blevins, Public Works Services Director; Joe Pulcinella, Animal Services Director; Robert Karatsu, Library Director; Tamara Laye, Finance Director; Trang Huynh, Building and Safety Official; Mark Steuer, Director of Engineering Services/City Engineer; Jim Frost, City Treasurer; Jan Reynolds, City Clerk; Debra McNay, Records Manager/Assistant City Clerk and Shirl’I Griffin, Deputy City Clerk.

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**J. ANNOUNCEMENTS/PRESENTATIONS**

J1. Announcement of “Spay Day USA” Double Discount on Spay/Neuter Vouchers.

Joe Pulcinella, Animal Services Director, announced the “Spay Day USA” double discount voucher program.


The Mayor presented a proclamation to Doris Lafrenz recognizing her achievements.

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**K. PUBLIC COMMUNICATIONS**

K1. Silvia Defachelle expressed concerns with the fatality at the intersection of 19th Street and Jasper Street and requested that a traffic signal be installed.
K2. Edward Dietl thanked the City Council for their assistance in boarding up the gas station. He referenced Item 7 on the City Council Consent Calendar and suggested that a historical room on the second floor of the library be considered. He also indicated the need for historical information as a new book is being authored and urged residents to contact the Etiwanda Historical Society with information.

K3. Jim Moffatt referenced comments made by Councilmember Williams at a prior meeting and stressed that smoking was allowed in the Quakes Stadium.

K4. Bill Hanlon spoke about the upcoming Run for the Wall and invited the City Council to see the riders leave the City on May 13, 2009 at 8:00 a.m.

K5. Jim Frost addressed the planning currently being done to orchestrate the Run for the Wall and requested 600 lapel pins.

K6. Hilda Phillips suggested that the military and their families be invited to attend activities held at the Cultural Center.

K7. Robin Hvidston reported on a recent flag rally and expressed concerns with day laborers loitering on private property along Grove Avenue. She noted that people are approaching the day laborers and negotiating work.

K8. Raymond Herrera also expressed concerns with the day laborers and with the R Jumper employee who negotiated work with them on private property. He also spoke in support of Agents Ramos and Compean and encouraged the community to help the Ramos family by visiting agentramos.com.

K9. Amos Young, Partnership Specialist with Census 2010 thanked the City Council for their support and spoke about the need for an accurate count of residents in the City of Rancho Cucamonga.

K10. Shawna Wagner spoke about the need for a traffic signal at the intersection of 19th Street and Jasper Street and requested that the City Council make it a priority.

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**L. CONSENT CALENDAR – REDEVELOPMENT AGENCY**

The following Consent Calendar items are expected to be routine and non-controversial. They will be acted upon by the Agency at one time without discussion. Any item may be removed by an Agency member for discussion.

L1. Approval of Minutes: February 4, 2009 (Regular Meeting)

L2. Approval of Check Register dated January 28 through February 10, 2009, for the total amount of $794,750.80.


L4. Approval of a Purchase and Sale Agreement (PSA) between AGS Twenty Four Seven LLC (AGS) and the Redevelopment Agency for the acquisition of approximately 5.4 acres located at the southeast corner of Church Street and Arbor Lane known as APN: 0227-452-23 and an appropriation in the amount of $4,900,000, plus a closing cost contingency of $50,000, to be funded from fund 620 Economic Development Reserve Fund Balance to Acct. No. 2620801-5600.
MOTION: Moved by Michael, seconded by Spagnolo, to approve the staff recommendations in the staff reports contained within the Consent Calendar. Motion carried 5-0.

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**M. CONSENT CALENDAR – FIRE PROTECTION DISTRICT**

The following Consent Calendar items are expected to be routine and non-controversial. They will be acted upon by the Fire Board at one time without discussion. Any item may be removed by a Board member for discussion.

M1. Approval of Minutes: February 4, 2009 (Regular Meeting)

M2. Approval of Check Register dated January 28 through February 10, 2009, for the total amount of $73,617.57.


M4. Approval to adopt an Annexation Map showing Assessor Parcel Numbers 0207-241-31 & 46 (Church of God of Prophecy, New Beginnings Family Worship Center, Inc.), located at 8137 9th St., to be annexed into CFD 85-1.

RESOLUTION NO. FD 09-002

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE RANCHO CUCAMONGA FIRE PROTECTION DISTRICT, RANCHO CUCAMONGA, CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 85-1, ADOPTING AN ANNEXATION MAP (ANNEXATION NO. 09-1) SHOWING PROPERTY PROPOSED TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 85-1

M5. Approval to adopt a Resolution of Intention to Annex Territory referred to as Annexation No. 09-1 (APNs: 0207-241-31 & 46, Church of God of Prophecy, New Beginnings Family Worship Center, Inc.), into Community Facilities District No. 85-1, specifying services provided, to set and specify the special taxes to be levied within the annexation and set a time and place for a public hearing related to the annexation.

RESOLUTION NO. FD 09-003

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE RANCHO CUCAMONGA FIRE PROTECTION DISTRICT, RANCHO CUCAMONGA, CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 85-1, DECLARING ITS INTENTION TO AUTHORIZE THE ANNEXATION OF TERRITORY (ANNEXATION NO. 09-1) TO COMMUNITY FACILITIES DISTRICT NO. 85-1

MOTION: Moved by Spagnolo, seconded by Williams, to approve the staff recommendations in the staff reports contained within the Consent Calendar. Motion carried 5-0.

**N. CONSENT CALENDAR – CITY COUNCIL**
The following Consent Calendar items are expected to be routine and non-controversial. They will be acted upon by the Council at one time without discussion. Any item may be removed by a Councilmember for discussion.

N1. Approval of Minutes: February 4, 2009 (Regular Meeting)

N2. Approval of Check Register dated January 28 through February 10, 2009, for the total amount of $6,967,691.39.


N4. Approval to authorize the advertising of the “Notice Inviting Bids” for the construction of Arrow Route Pavement Rehabilitation from Milliken Avenue to Rochester Avenue, to be funded from Prop. 1B funds, Acct. No. 1194303-5650/1690194-0.

RESOLUTION NO. 09-023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING PLANS AND SPECIFICATIONS FOR THE ARROW ROUTE PAVEMENT REHABILITATION FROM MILLIKEN AVENUE TO ROCHESTER AVENUE, IN SAID CITY AND AUTHORIZING AND DIRECTING THE CITY CLERK TO ADVERTISE TO RECEIVE BIDS

N5. Approval of Parcel Map 19091, located on the south side of Foothill Boulevard between Hermosa and Center Avenues, submitted by Mohammad R. Mojabe and Elizabeth Mojabe.

RESOLUTION NO. 09-024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING PARCEL MAP 19091

N6. Approval to award a contract to Auerbach Pollock Friedlander Performing Arts/Media Facilities Planning and Design Company (CO 09-137) for consulting services relating to the design and installation of a cost savings automated orchestra pit lift for the Victoria Gardens Cultural Center and the appropriation of available Cultural Center restricted funding totaling $28,500 plus the expenditure of a 5% contingency in the amount of $1,450, totaling $29,950, to be funded from Acct. No. 1615303-5650/1702615-0.

N7. Approval of a Professional Services Agreement with Gyroscope, Inc. (CO 09-138) of Oakland, California, to conduct a feasibility study, funded by a grant from the California State Library, for the second floor of the Paul A. Biane Library in the amount of $85,000, plus a 10% contingency in the amount of $8,500, to be funded from Acct. No. 1302601-5300.

N8. Approval to accept the bids received and award and authorize the execution of the contract in the amount of $856,375.00 to the apparent low bidder, Republic Intelligent Transportation Services, Inc. (CO 09-139), and authorize the expenditure of a 10% contingency in the amount of $85,637.50, for the Foothill Boulevard Traffic Signal Controller Replacement Project, to be funded from Transportation Funds, Acct. No. 1124303-5650/1492124-0 and appropriate an additional amount of $360,000.00 to Acct. No. 1124303-5650/1492124-0 from Transportation Fund balance.

N9. Approval of Community Services Update Report.
N10. Approval to release Maintenance Guarantee Bond for Parcel Map 16445, located on the north side of Sixth Street, about 1,000 feet east of Archibald Avenue, submitted by Chang Revocable trust.

N11. Approval to release Maintenance Guarantee Bond for Tract 16776, located on the north side of Base Line Road, approximately 1,200 feet east of Etiwanda Avenue, submitted by Van Daele Communities, LLC.

N12. Approval to release Faithful Performance Bond No. 6395816 retained in lieu of Maintenance Guarantee Bond, in the amount of $1,087,302.00, for the Construction or Modification of Traffic Signals and Safety Lighting at Five Locations Improvements, Contract No. 06-081.

N13. Approval to release Faithful Performance Bond No. 7592601, retained in lieu of a Maintenance Bond, in the amount of $268,682.00, for the Arrow Route Pavement Rehabilitation from Hermosa to Haven Avenue improvements, Contract No. 07-090.

N14. Approval to accept the 12 KV Electrical Distribution Improvements at the north and south sides of Foothill and Rochester and the southeast corner of Haven and Jersey improvements, Contract No. 07-207, as complete, release the bonds, accept a Maintenance Bond, authorize the City Engineer to file a Notice of Completion, and approve the final contract amount of $572,992.40.

RESOLUTION NO. 09-025


N15. Approval to accept the Beryl Street Storm Drain and Pavement Rehabilitation Improvements from Alta Loma Drive to Sunflower Street, Contract No. 08-024 as complete, release the bonds, accept a Maintenance Bond, authorize the City Engineer to file a Notice of Completion and approve the final contract amount of $3,352,505.22.

RESOLUTION NO. 09-026

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, ACCEPTING THE BERYL STREET STORM DRAIN AND PAVEMENT REHABILITATION IMPROVEMENTS FROM ALTA LOMA DRIVE TO SUNFLOWER STREET, CONTRACT NO. 08-024, AND AUTHORIZING THE FILING OF A NOTICE OF COMPLETION FOR THE WORK

MOTION: Moved by Michael, seconded by Spagnolo, to approve the staff recommendations in the staff report. Motion carried 5-0.

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O. CONSENT ORDINANCES

The following Ordinances have had public comment at the time of first reading. Second readings are expected to be routine and non-controversial. The Agency, Fire Board, or Council will act upon them at one time without discussion. The City Clerk will read the title. Any item can be removed for discussion by an Agencymember, Boardmember, or Councilmember.
O1. CONSIDERATION OF AN ORDINANCE ADOPTING CURB NUMBERING REGULATIONS AND AMENDING TITLE 8 OF THE RANCHO CUCAMONGA MUNICIPAL CODE

ORDINANCE NO. 807 (second reading)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, ADOPTING CURB NUMBERING REGULATIONS AND AMENDING TITLE 8 OF THE RANCHO CUCAMONGA MUNICIPAL CODE

O2. CONSIDERATION OF AN ORDINANCE AMENDING REGULATIONS RELATING TO THE SALES OF GOODS AND MERCHANDISE FROM VEHICLES, AND AMENDING TITLE 8 OF THE RANCHO CUCAMONGA MUNICIPAL CODE

ORDINANCE NO. 808 (second reading)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, ADOPTING REGULATIONS RELATING TO THE SALES OF GOODS AND MERCHANDISE FROM VEHICLES, AND AMENDING TITLE 8 OF THE RANCHO CUCAMONGA MUNICIPAL CODE

O3. CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA REVISITING SOLID WASTE REGULATIONS BY PROHIBITING SCAVENGING FROM REFUSE AND RECYCLING RECEPTACLES, AND AMENDING TITLE 8 OF THE RANCHO CUCAMONGA MUNICIPAL CODE

ORDINANCE NO. 809 (second reading)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, REVISITING SOLID WASTE REGULATIONS BY PROHIBITING SCAVENGING FROM REFUSE AND RECYCLING RECEPTACLES, AND AMENDING TITLE 8 OF THE RANCHO CUCAMONGA MUNICIPAL CODE

MOTION: Moved by Williams, seconded by Michael, to approve Ordinance Nos. 807, 808 and 809 for second reading. Motion carried 5-0.

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P. ADVERTISED PUBLIC HEARINGS

CITY COUNCIL

The following items have been advertised and/or posted as public hearings as required by law. The Mayor will open the meeting to receive public testimony.

P1. CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA AMENDING ELECTRIC RATES, FEES, AND CHARGES PURSUANT TO THE REQUIREMENTS AND AUTHORITY OF CHAPTER 3.46 OF TITLE 3 OF THE RANCHO CUCAMONGA MUNICIPAL CODE.

RESOLUTION NO. 09-027
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, AMENDING ELECTRIC RATES, FEES, AND CHARGES PURSUANT TO THE REQUIREMENTS AND AUTHORITY OF CHAPTER 3.46 OF TITLE 3 OF THE RANCHO CUCAMONGA MUNICIPAL CODE

Michael TenEyck presented the staff report.

Mayor Kurth opened the public hearing. With no speakers, Mayor Kurth closed the public hearing.

MOTION: Moved by Williams, seconded by Gutierrez, to adopt Resolution No. 09-027. Motion carried 5-0.

### Q. CITY MANAGER’S STAFF REPORTS

The following items have no legal publication or posting requirements.

**Q1. UPDATE ON TAXICAB SERVICE IN THE CITY OF RANCHO CUCAMONGA**

Tamara Lane, Finance Director, presented the staff report.

John Gillison, Deputy City Manager/Administrative Services, responded to Councilmember Spagnolo’s inquiry regarding the optimum number of taxicabs in the City. Mr. Gillison noted that the market dictates the number.

In response to Mayor Kurth, Mr. Gillison confirmed the adequacy of the background screening. It was noted that cabs coming from other cities could drop off passengers in the City without obtaining a City permit. Mr. Gillison also stated that the fees charged for permits are reasonable and just cover the cost to provide the service.

Mayor Pro Tem Michael stated that these regulations help to protect the community. He inquired if the cab companies would sign a letter committing that all of their drivers were licensed in the City.

Councilmember Williams inquired if people telephoning the cab company could ask if the cab driver being sent to them was registered in the City. Mr. Gillison believed that this was a reasonable suggestion.

**Q2. UPDATE ON E-WASTE DISPOSAL** *(Oral Report & PowerPoint Presentation)*

Linda Ceballos, Environmental Program Manager, presented an update on E-waste disposal.

Councilmember Gutierrez requested a copy of the PowerPoint presentation.

In response to Councilmember Williams, Ms. Ceballos noted that most apartment complexes have a recycling program. As this is not mandatory, she suggested that residents contact their apartment manager and request participation.

**Q3. ADOPTION OF THE 2009 UPDATED EMERGENCY OPERATIONS PLAN IN ACCORDANCE WITH THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) AND THE STANDARDIZED EMERGENCY MANAGEMENT SYSTEM (SEMS).** *(PowerPoint Presentation)*
RESOLUTION NO. 09-028

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, ADOPTING THE UPDATED 2009 EMERGENCY OPERATIONS PLAN (EOP) IN ACCORDANCE WITH THE FEDERAL NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) AND THE STATE STANDARDIZED EMERGENCY MANAGEMENT SYSTEM (SEMS)


MOTION: Moved by Michael, seconded by Gutierrez, to approve Resolution No. 09-028. Motion carried 5-0.

Q4. APPROVAL OF THE SOURCES OF PAYMENT AND NECESSARY BUDGET APPROPRIATION FOR THE RANCHO CUCAMONGA REDEVELOPMENT AGENCY’S SHARE OF THE STATE BUDGET DEFICIT REDUCTION (EDUCATIONAL REVENUE AUGMENTATION FUND) FOR FISCAL YEAR 08/09 (FUND 2505801-5519 TO PAY $660,450 AND FUND 2500801-5519 TO PAY $5,944,060) TOTALING $6,604,510

Linda Daniels, Redevelopment Director, presented the staff report.

MOTION: Moved by Williams, seconded by Gutierrez, to approve Resolution No. 09-028. Motion carried 5-0.

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R. COUNCIL BUSINESS

The following items have been requested by the City Council for discussion.

R1. STATUS REPORT ON THE DRAFT CHINO BASIN WATER EFFICIENT LANDSCAPE ORDINANCE (Oral Report)

Mayor Pro Tem Michael updated the City Council on the draft Chino Basin Water Efficient Landscape ordinance and requested that it be scheduled for consideration by the City Council on March 18, 2009.

R2. COUNCIL ANNOUNCEMENTS (Comments to be limited to three minutes per Councilmember.)

Councilmember Spagnolo spoke about employment opportunities with the Census Bureau. He also invited the community to a flag burning ceremony on February 21, 2009 hosted by the VFW.

Councilmember Gutierrez expressed condolences to the Nelson family and suggested that the meeting be adjourned in the memory of Grant Nelson. He noted that many families are struggling and encouraged the community to support Anthony’s Italian Kitchen and all the businesses in the City.

Mayor Pro Tem Michael referenced the goal setting workshop last week. He credited the City for foreseeing the economic crisis and implementing an attrition management plan to reduce costs. As a result, he noted that the City is more secure than other cities. Mayor Pro Tem Michael noted that the City Council had pledged to maintain existing service levels and will not be eliminating positions. He commented on the special meeting held earlier this evening and was pleased with the amount of business and community involvement.

Councilmember Williams stated that staff has been very creative and forward thinking in responding to the
the economic crisis. She noted the employment opportunities with the Census and urged people interested in applying to use the practice test. Councilmember Williams invited the community to the Library’s Black History Month activities on Friday night. She reported on the upcoming 2009 Cucamonga Challenge and encouraged the community to participate by going to cucamongachallenge.com.

Mayor Kurth invited everyone to participate in the Black History Month activities at the Library on Friday.

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S. IDENTIFICATION OF ITEMS FOR NEXT MEETING

It was noted that a report on the draft Chino Basin water efficient landscape ordinance should be scheduled for March 18, 2009.

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Q. ADJOURNMENT

Mayor Kurth adjourned the meeting at 9:35 p.m. in the memory of Grant Nelson.

Respectfully submitted,

Debra L. McNay, MMC
Assistant City Clerk/Records Manager

Approved: March 4, 2009