



CITY OF SAN JOSÉ, CALIFORNIA

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 16, 2005

The Council of the City of San Jose convened in Regular Session at 9:33 a.m. in Council Chambers at City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room T1841 to confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of Fong, et al. v. City of San José, Redevelopment Agency, et al.; An Vinh Nguyen v. City of San José, et al. (B) to confer with Legal Counsel regarding anticipated litigation (a) of three matters where there is significant exposure to litigation pursuant to subsection (c) of Section 54956.9 of the Government Code.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:45 a.m. and reconvened at 1:31 p.m. in Council Chambers, City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

INVOCATION (DISTRICT 7)

Quori Stewart, District 7 resident and active member of the Bethesda Community Church, presented a poem of a new San Jose.

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and unanimously carried, the Orders of the Day and the Amended Agenda were approved. (10-0).

CEREMONIAL ITEMS

1.1 Presentation of a proclamation and a Neighborhood Improvement Award Plaque. (Parks, Recreation and Neighborhood Services)

HEARD IN THE EVENING

Action: Mayor Gonzales was joined at the podium by Director of Parks, Recreation and Neighborhood Services Sara L. Hensley presented proclamations and Neighborhood Improvement Award Plaques to community members and organizations dedicated to improving San José neighborhoods and communities.

1.2 Presentation of a commendation to Tony Torres and Teddy Day for rendering CPR to a community volunteer. (Parks, Recreation and Neighborhood Services)

HEARD IN THE EVENING

Action: Mayor Gonzales and Director of Parks, Recreation and Neighborhood Services Sara L. Hensley presented a commendation to Tony Torres and Teddy Day for rendering CPR to a community volunteer.

1.3 Presentation of scholarships given out annually by the Hispanic Association of City Employees (HACE) to outstanding volunteers and academically high achieving students. (Mayor/Campos/Chavez)

Action: Mayor Gonzales was joined by Vice Mayor Chavez and Council Member Campos to present scholarships to outstanding volunteers and academically high achieving students from the Hispanic Association of City Employees (HACE).

1.4 Presentation of a Proclamation for August Breastfeeding Awareness Month. (Chavez)

Action: Vice Mayor Chavez joined Mayor Gonzales at the podium to present a proclamation for August Breastfeeding Awareness Month.

1.5 Presentation of a commendation to Chris Rowher for his participation in the 2005 NFL Youth Football Summit. (Cortese)

HEARD IN THE EVENING

Action: Mayor Gonzales and Council Member Cortese presented a commendation to Chris Rowher for his participation in the 2005 NFL Youth Football Summit and contributions to the community of San José.

1.6 Presentation of a commendation to Global Netoptex, Inc. for its important contribution to the San José economy. (Mayor/Vice Mayor) (Rules Committee referral 8/10/05)

Action: Mayor Gonzales was joined at the podium by Vice Mayor Chavez to present a commendation to representatives of Global Netoptex, Inc (GNI) for its important contribution to the economy of San José.

- 1.7 Presentation of commendations to Terik Daly, Oak Grove High School and Steven Hao, Silver Creek High School for winning awards at the International Engineers School Festival. (Williams)
(Rules Committee referral 8/10/05)
HEARD IN THE EVENING**

Action: Mayor Gonzales and Council Member Williams presented commendations to Terik Daly of Oak Grove High School and Steven Hao of Silver Creek High School in honor of their achievements and awards at the International Engineers School Festival.

- 1.8 Presentation of a commendation to the Santa Clara Valley Chapter of the American Red Cross in recognition of its invaluable service to the community. (Yeager)
(Rules Committee referral 8/10/05)**

Action: Council Member Yeager joined Mayor Gonzales to present a commendation to the Santa Clara Valley Chapter of the American Red Cross in recognition of its invaluable service to the community of San José.

- 1.9 Presentation of a commendation to the Assyrian Church of the East on the occasion of their Annual Assyrian Festival from August 20-21, 2005. (Yeager)
(Rules Committee referral 8/10/05)**

Action: Mayor Gonzales and Council Member Yeager presented a commendation to the Assyrian Church of the East on the occasion of their Annual Assyrian Festival from August 20-21, 2005.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Reed and unanimously carried, the Consent Calendar was approved and the below listed actions taken as indicated, in addition, Item 2.14 was pulled by Council Member Reed.

- 2.3 Report on bids and award of contract for the Taffy Drive Main Replacement to the low bidder, San José Water Company, in the amount of \$196,341.74 and approval of a contingency in the amount of \$20,000. CEQA: Exempt, PP04-254. Council District 8. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Service Carl W. Mosher, dated July 27, 2005, recommending approval of the report on bids.

Action: The report on bids and award of contract were approved. (10-0).

2.4 Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2005-2006 #3 and authorization for the Director of Finance to negotiate the purchase orders. CEQA: See memo for CEQA designation(s). (Finance)

Documents Filed: (1) Memorandum from Finance Director Scott P. Johnson, dated July 27, 2005, recommending approval of the award. (2) Letter from Treatment Plant Advisory Committee (TPAC), dated August 8, 2005, recommending Council approval

Action: The award was approved. (10-0).

2.5 Adoption of a resolution authorizing Director of Finance to negotiate and execute:
(a) An amendment to the existing agreement with Carter & Burgess, Inc. to purchase Bentley Systems Inc. ProjectWise software and related installation, first year maintenance, and licensing, increasing compensation by \$133,073, from \$240,000 to a total maximum compensation not to exceed \$373,073; and
(b) Change orders in a contingency amount not to exceed \$10,000 for unforeseen changes/requirements that may arise in the deployment of the software.
CEQA: Resolution Nos. 67380 and 71451, PP05-081. (Finance/Airport)

Documents Filed: Memorandum from Finance Director Scott P. Johnson and Director of Aviation William F. Sherry, A.A.E, dated July 29, 2005, recommending adoption of the resolution.

Action: Resolution No. 72850, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute a First Amendment to the Agreement with Carter & Burgess, Inc. to Purchase Bentley Systems, Inc. Projectwise Software for the Norman Y. Mineta San José International Airport”, was adopted. (10-0).

2.6 Adoption of a resolution authorizing the City Manager to negotiate and execute a Turnkey Parkland Agreement with City Heights LLC, in conjunction with Barry Swenson Builder, to dedicate land for the expansion of Pellier Park, and to complete the renovation of Pellier Park as mandated by the requirements in Tentative Map No. PT 04-103. CEQA: Resolution No. 68839, and addenda thereto under File No. PDC01-100. Council District 3. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated July 27, 2005, recommending approval of the Turnkey Parkland Agreement.

Action: Resolution No. 72851, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Turnkey Parkland Agreement with City Heights, LLC in Conjunction with Barry Swenson Builder to Dedicate Parkland and Construct Improvements to Pellier Park, as Required by Tentative Map No. PT 04-013”, was adopted. (10-0).

- 2.7 **Adoption of a resolution initiating proceedings and setting August 30, 2005 at 1:30 p.m. for Council consideration on the reorganization of territory designated as McKee No. 128 which involves the annexation to the City of San José of 1.19 acres of land more or less, located at the on the east side of Kirk Avenue, approximately 110 feet southerly of Summit Avenue and adjacent to the City of San José annexations McKee Nos. 117 and 40 and the detachment of the same from Central Fire Protection, Area No.01 (Library Services) County Services and Sanitation District 2-3. CEQA: GP2020 EIR, Resolution No. 65459, File No. C04-090. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated July 27, 2005, recommending adoption of the resolution. (2) Letter from Treatment Plant Advisory Committee (TPAC), dated August 8, 2005, recommending Council approval

Action: Resolution No. 72852, adopted. (10-0).

- 2.8 (a) **Adoption of a resolution to:**
- (1) **Initiate proceedings to consider the Curtis House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.**
 - (2) **Set a public hearing on September 27, 2005 at 1:30 p.m.**
 - (3) **Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.**
- CEQA: Exempt, File No. HL05-152. Council District 3. SNI: University. (Planning, Building and Code Enforcement)**
- (b) **Adoption of a resolution to:**
- (1) **Initiate proceedings to consider the Dennis House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.**
 - (2) **Set a public hearing on September 27, 2005 at 1:30 p.m.**
 - (3) **Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.**
- CEQA: Exempt, File No. HL05-153. Council District 3. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated July 27, 2005, recommending adoption of the resolution. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated July 27, 2005, recommending adoption of the resolution. (3) Affidavit of routing for Resolution No. 72853 from City Clerk Lee Price, dated August 22, 2005. (4) Affidavit of routing for Resolution No. 72854 from City Clerk Lee Price, dated August 22, 2005.

2.8 (Cont'd.)

Action: Resolution No. 72853, entitled: “A Resolution of the Council of the City of San José Initiating Proceedings on Its own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, to Designate the Curtis House, Presently Located at 254 South Seventeenth Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, and Resolution No. 72854, entitled: “A Resolution of the Council of the City of San José Initiating Proceedings on Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, to Designate the Dennis House, Presently Located at 237 North Autumn Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, were adopted. (10-0).

2.9 Approval of a contingency budget increase in the amount of \$23,500, from \$41,500 to a total contingency budget of \$65,000 for the Penitencia Creek Reach 2 Phase 1 Development Project. CEQA: Mitigated Negative Declaration, PP01-03-062. Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated July 27, 2005, recommending approval of the contingency budget increase.

Action: The contingency budget increase was approved. (10-0).

2.10 Adoption of a resolution authorizing the City Manager to file an application for additional Federal Surface Transportation Program (STP) funding in the amount of \$2,742,000 for the FY 2005-2006 STP Street Resurfacing Project and to commit the necessary City funding match of \$358,000, for a total project cost in the amount of \$3,100,000. CEQA: Exempt, File No. PP04-233. (Transportation)

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated July 27, 2005, recommending adoption of the resolution.

Action: Resolution No. 72855, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to File An Application for Additional Federal Surface Transportation Program (STP) Funding for Fiscal Year 2005-2006 STP Street Resurfacing Project, Committing the Necessary City Funding Match of \$358,000 for the Project, and Stating the City’s Assurance to Complete the Project, in the Total Amount of \$3,100,000”, was adopted. (10-0).

2.11 Adoption of a resolution to change the salary ranges effective August 1, 2004 for the classifications of:

- (a) Office Specialist I C (1127) and (1129) PT.
- (b) Secretary C (1157).

CEQA: Not a Project. (Employee Services)
(Rules Committee referral 8/10/05)

2.11 (Cont'd.)

Documents Filed: Memorandum from Director of Employee Services Mark Danaj, dated August 9, 2005, providing changes to the agreement and adoption of the resolution.

Action: Resolution No. 72856, entitled: "A Resolution of the Council of the City of San José Approving Amendments to the City of San José Pay Plan for Various Classifications", was adopted. (10-0).

2.12 Adoption of a resolution authorizing the City Clerk to execute an agreement with the National Association of Local Government Auditors to perform an audit of the City Auditor's Office for FY 2003-2004 and FY 2004-2005. (Mayor) (Rules Committee referral 8/10/05)

Documents Filed: Memorandum from Mayor Gonzales, dated August 9, 2005, recommending adoption of the resolution.

Action: Resolution No. 72857, entitled: "A Resolution of the Council of the City of San José Authorizing the City Clerk to Execute an Agreement with the National Association of Local Government Auditors (NALGA) to Conduct a Biennial Performance Audit of the City's Auditor's Office for Fiscal Years 2003-3004 and 2004-2005 Pursuant to the NAGLA Peer Review Guidelines in Exchange for Reimbursements of Expenses and the Provision of Reciprocal Audit Services by the City Auditor's Office", was adopted. (10-0).

2.13 Approval of two nominations to the WIN Board of Directors. (Mayor) (Rules Committee referral 8/10/05)

Action: This item was deferred to August 23, 2005.

2.14 Discussion and direction to staff of a proposed amendment to the Municipal Code which would provide that payments by an employer to an employee who works on municipal political campaigns, are to be treated as campaign contributions, subject to the City's campaign contribution limits and disclosure requirements. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Rick Doyle, dated August 12, 2005, providing a response to Council regarding the definition of a contribution under the City's Campaign Ordinance.

Public Comments: Jay Rosenthal, representing SJ Silicon Valley Chamber of Commerce/San José Coalition for Jobs Now, spoke in support of Councilmember Reed's proposed amendment.

Philip Bump, representing South Bay Labor Council, spoke in opposition to the proposal.

Discussion: Council debate and questions to the City Attorney followed.

2.14 (Cont'd.)

Action: This item was deferred to September 13, 2005, with direction to the City Attorney to provide follow-up information in response to Council questions.

**2.15 Approval of an ordinance amending Section 4.78.020 of Chapter 4.78 of Title 4 of the San José Municipal Code to revise the definition of “cover material” for purposes of the disposal facility tax. CEQA: Not a Project. (City Attorney’s Office)
(Deferred from 8/9/05 – Item 2.8)**

Documents Filed: None.

Action: Ordinance No. 27512, entitled: “An Ordinance of the City of San José Amending Section 4.78.020 of Chapter 4.78 of Title 4 of the San José Municipal Code to Revise the Definition of “Cover Material” for Purposes of the Disposal Facility Tax”, was passed for publication. (10-0).

STRATEGIC SUPPORT SERVICES

**3.4 Approval of City Council response to the 2004-2005 Santa Clara County Civil Grand Jury Report regarding the December 2004 amendment to the Norcal Recycle Plus Agreement. (City Manager/City Attorney)
(Rules Committee referral 8/10/05)**

Action: This item was deferred to August 30, 2005.

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Acceptance of the staff report and provide direction to staff to either:
(a) Proceed with negotiations with the Gardner Family Health Network and Cornerstone Affiliates/Greystone Communities/American Baptist Homes of the West to create a joint development plan for a facility providing comprehensive outpatient health services, and a state of the art continuing care retirement community; or
(b) Prepare a work plan for a stakeholder based community planning process for the San José Medical Center site and surrounding properties on East Santa Clara Street to be brought back to City Council for approval in ninety days.
CEQA. Not a Project. (Economic Development)

Documents Filed: Memorandum from Vice Mayor Chavez, dated August 16, 2005, recommending deferral of Council action for Item 4.3 to the August 23, 2005 City Council meeting.

Action: This item was deferred to August 23, 2005.

NEIGHBORHOOD SERVICES

- 5.2 Approval of Sunday branch library service to be offered from 1-5 p.m. at the following branches beginning September 18, 2005: Berryessa, Dr. Roberto Cruz Alum Rock, Tully Community, Vineland, Santa Teresa, and West Valley, and the Rose Garden Branch when it re-opens in Fall 2005. CEQA: Not a Project. (Library)**

Documents Filed: Memorandum from Library Director Jane Light, dated July 27, 2005, recommending approval of the proposed Sunday branch library service.

Public Comments: Library employees Andrea Schacter and Yolanda Cruz; and Tim Callahan, President of MEF, spoke in opposition to the changes in Sunday branch library service.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the Sunday branch library services were approved with direction to staff to continue working with the Library Director and Municipal Employees Federation Union representatives on rebound strategies regarding library service hours. (9-1). Noes: Reed.

- 5.3 (a) Approval of an ordinance to amend the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO), Chapters 19.38 and 14.25, of the San José Municipal Code, respectively, to incorporate additions to the types of parkland and improvements acceptable for dedication and to add and/or clarify certain definitions and sections of the Ordinances.**
- (b) Adoption of a resolution to amend the associated fee schedule for PDO/PIO to:**
- (1) Provide private recreational credits for the following active elements as recommended:**
 - (a) Private dog park amenities at least 400 square feet or more in size;**
 - (b) Private garden plots;**
 - (c) Private urban plaza areas and/or public garden spaces of 1,000 square feet or more that are contiguous to a public right-of-way or on a rooftop area open to the public at least 360 days per year during daylight hours; and**
 - (d) Rooftop recreation facilities open to the public at least 360 days per year.**
 - (2) Exempt downtown core area developments from private recreational credit requirements to provide the required active recreational elements.**

(Item continued on next page.)

- 5.3 (b) Adoption of a resolution to amend the associated fee schedule for PDO/PIO to: (Cont'd.)
- (3) Provide recreational credits for the following public improvements as recommended:
- (a) Credit for land in fee or by an easement acceptable to the City Attorney and/or trail construction costs associated with completing the proposed City Trail System;
 - (b) Credit for land and/or construction costs of new community gardens; and
 - (c) Grant up to fifty percent (50%) credit for dedication of public land under the PDO and PIO that is used for multi-purpose stormwater detention and/or filtering areas developed under provisions of the City's Urban Runoff Management Plan that also provides a recreational benefit.

CEQA: Exempt, PP02-05-131. (Parks, Recreation and Neighborhood Services)
(Continued from 6/21/05 – Item 5.2)
TO BE HEARD IN THE EVENING

Action: This item was deferred to a future date.

TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) Approval of the following appropriation ordinance and funding sources resolution amendments in the Construction Excise Tax Fund:
- (1) Establish an appropriation to the Department of Transportation for Proposition 42 Street Pavement Maintenance Project in the amount of \$4,145,000.
 - (2) Increase the estimate for Earned Revenue by \$4,145,000.
- (b) Approval of a cooperation agreement with the City of Santa Clara to perform street maintenance on Stevens Creek Boulevard from west of Bret Avenue to west of Redwood Avenue, in an amount not to exceed \$800,000.
- CEQA: Exempt, PP04-039. Council District 1. (Transportation/City Manager's Office)**

Documents Filed: Memorandum from Director of Transportation James R. Helmer and Budget Director Larry D. Lisenbee, dated July 27, 2005, recommending approval of the appropriation ordinance and funding sources resolution amendments and approval of the agreement.

6.2 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Campos, and unanimously carried, the cooperation agreement was approved and Ordinance No. 27513, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Construction Excise Tax Fund for the Proposition 42 Street Pavement Maintenance Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was passed for publication, and Resolution No. 72858, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Construction Excise tax Fund”, was adopted. (10-0).

CLOSED SESSION REPORT

A. Authority of Initiate Litigation:

Authority to initiate litigation was given in two (2) matters. The names of the actions and the defendants as well as the substance of the litigation shall be disclosed to any person upon inquiry once the actions are formally commenced.

Matter No. 1:

Council Vote: Ayes: Ron Gonzales, Nora Campos, Cindy Chavez, Judy Chirco, Dave Cortese, Linda J. LeZotte, Nancy Pyle, Chuck Reed, Ken Yeager, and Forrest Williams.

No: None.

Abstain: None.

Not Present: None.

Matter No. 2:

Council Vote: Ayes: Ron Gonzales, Judy Chirco, Linda J. LeZotte, Nancy Pyle, Chuck Reed, and Ken Yeager.

No: Nora Campos, Cindy Chavez, David Cortese, and Forrest Williams.

Abstain: None.

Not Present: None.

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9692	S/S of Tully Road, 600 S/W Senter Road	7	ROEM	64 Lots	Multi- Family	Approve

OPEN FORUM—

- (1) Armando Casatillo shared a personal vision for Santa Clara Street.
- (2) Darlene Wallach reiterated concerns previously expressed about the importance of police officers identifying themselves by name and badge number. In addition, she asked that the Council’s discussion on “plugging campaign loopholes” be held in the evening.
- (3) Ross Signorino urged the Council to follow New York City’s model plan to reduce the sale of fried foods at certain fast food restaurants.

RECESS/RECONVENE

The City Council recessed at 3:06 p.m. and reconvened at 7.03 p.m. Council Chambers, City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

The City Clerk Lee Price, read the requests for continuances of applications and other actions as recommended. Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, the below noted continuances were granted. (10-0).

PUBLIC HEARINGS

11.1 Public Hearing on Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow private health care facility uses in addition to previously approved hotel, athletic club, and office space uses on a 10.48 gross acre site, located at/on the southwest corner of Piercy Road and Valley Place (5815 Silver Creek Pl) (Coyote Creek Business Park, Owner: California Center for Healthcare John G. Kelley, Developer). CEQA: Edenvale Redevelopment Expansion Area Resolution No. 67245. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required. PDC05-045 - District 2

11.1 (Cont'd.)

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC05-045, dated July 27, 2005, recommending approval of the conforming planned development rezoning. (2) Proof of publication of Notice of Public Hearing, executed on August 5, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and unanimously carried, Ordinance No. 27515, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Located on the Southeasterly Corner of Piercy Road and Silver Creek Valley Place (5815 Silver Creek Valley Place) to A(PD) Planned Development Zoning District", was passed for publication. (10-0).

11.2 **Public Hearing on and consideration of appeal of the Planning Commission's decision to deny a Conditional Use Permit to allow the off-sale of alcoholic beverages at an existing retail establishment located at the West side of S. First Street, 100 feet North of Post Street (33 S. First Street). Director of Planning, Building and Code Enforcement Recommends: Uphold the Planning Commission's decision to deny Conditional Use Permit CP04-104. CEQA: Exempt, CP04-104. (Planning, Building and Code Enforcement)** **CP04-104 -District 3**

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number CP04-104, dated March 29, 2005, recommending approval of the planned development rezoning.

Action: This item was dropped.

11.3 **Public Hearing on and consideration of approval of an ordinance on a rezoning from CG Commercial General Zoning District to DC Downtown Primary Commercial Rezoning to allow residential uses on a 0.09 gross acre site, located at/on the northwest corner of N. 2nd Street and Devine Street (257 N 2nd St.) (Fazekas Daryl, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).** **C04-067 - District 3**

Documents Filed: Memorandum from Secretary of the Planning Commission Stephen Haase, dated July 28, 2005, recommending approval of the proposed rezoning.

Action: This item was continued to September 13, 2005.

**11.4 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from CP Commercial Pedestrian Zoning District and R-2 Two-Family Residence Zoning District to A(PD) Planned Development Rezoning to allow up to 17 single-family attached residences on a 0.75 gross acre site, located at/on the northeast corner of Almaden Avenue and W. Alma Avenue (1390 Almaden Ave.) (Neighborhood Housing Svcs Silicon Vly, Owner). SNI: Washington. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1-1) , with the following Condition to No. 3 as follows: Provide on-site parking that conforms to the Residential Design Guidelines with up to a 16 percent reduction due to the site’s proximity to alternative modes of travel, including a passenger rail station.
PDC05-019 - District 3**

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated August 11, 2005, recommending approval of the proposed rezoning with a revision to Condition No. 3 in the staff report, as follows: (a) Provide on-site parking that conforms to the Residential Design Guidelines with up to a 16 percent reduction due to the site’s proximity to alternative modes of travel, including a passenger rail station. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated August 5, 2005, transmitting Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC05-019, dated August 3, 2005, recommending approval of the planned development rezoning.(3) Proof of publication of Notice of Public Hearing, executed on July 15, 2005, submitted by the City Clerk.

Mayor Gonzales opened the public hearing.

Public Comments: Ron Guyman spoke in support of the rezoning.

Mayor Gonzales closed the public hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and unanimously carried, Ordinance No. 27516, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Almaden Avenue and West Alma Avenue (1390 Amaden Avenue) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0).

**11.5 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-M Multiple Residence Zoning District to A(PD) Planned Development Rezoning to allow six single-family attached residences in an existing building on a gross 0.17 acre site, located on the east side of 10th Street, approximately 150 feet south of San Salvador Street (422 S. 10th Street) (José and Patricia Amaya, Owner). SNI: University. CEQA: Exempt.
PDC05-025 - District 3**

Documents Filed: None.

Action: This item was continued to August 30, 2005.

- 11.6 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from the R-M Residential District to the A(PD) Planned Development Zoning District to allow the demolition of an existing single-family residence and the construction of three detached and two attached residential units on a 0.33 gross acre site, located on the south side of State Street, approximately 100 feet westerly of Essex Street (1391 State Street) (Victor J. Martina, Owner). PDC05-002 - District 4**

Documents Filed: Proof of publication of Notice of Public Hearing, executed on July 6, 2005, submitted by the City Clerk.

Action: This item was dropped.

- 11.7 Public Hearing on and consideration of approval of an ordinance on a Conforming Conventional Rezoning from the R-1-8 Single-Family Residence District to the R-M Multiple Residence District to allow for multi-family residential uses on a 0.13 gross acre site, located on the northerly side of Michigan Avenue, approximately 200 feet southwest of Pacific Street (Isidiro Ancheta, Owner). CEQA: San José 2020 General Plan Environmental Impact Report. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required. C05-057 - District 4**

Documents Filed: Memorandum from Council Member Reed, dated August 16, 2005, recommending Council defer Item 11.7 pending a community meeting by the applicant.

Action: This item was continued to August 30, 2005.

- 11.8 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planned Development Rezoning to allow up to 109 single-family attached residences and the demolition of existing industrial buildings on a 4.0 gross acre site, located on the northeast corner of Autumnvale Drive and Trade Zone Blvd. (2450 Autumnvale Dr.) (Autumnvale Associates, Inc., Adams Capital Management Co. Edwin Kawamoto, Owner). CEQA: Mitigated Negative Declaration. PDC04-109 - District 4**

Documents Filed: None.

Action: This item was continued to August 30, 2005.

- 11.9 Public Hearing on and consideration of approval of an ordinance on Planned Development Prezoning from County to the A(PD) Planned Development Prezoning to allow up to 2 existing single-family residences on a 2.0 gross acre site, located on the north side of Fleming Avenue, approximately 350 feet east of Fourier Drive (1238 Fleming Ave.) (Carl R. and Helen M. Gunnels, Trustee, Owner). CEQA: **Exempt**. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). PDC05-015 - District 5**

11.9 (Cont'd.)

Documents Filed: Memorandum from Secretary of the Planning Commission Stephen Haase, dated July 28, 2005, recommending adoption of the ordinance. (2) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC05-015, dated July 19, 2005, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on July 15, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, a correction to CEQA designation from “Exempt” to “Mitigated Negative Declaration” was made and Ordinance No. 27517, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Fleming Avenue Approximately 350 Feet East of Fourier Drive (1238 Fleming Avenue) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0).

11.10 Public Hearing on and consideration of approval of an ordinance on Conforming Conventional Rezoning from R-M Residential Multiple District to CN Commercial Neighborhood Rezoning to allow commercial uses on a 0.22 gross acre site, located on the southwest side of Park Avenue, approximately 150 feet northwest of Emory Street (1819 Park Ave.) (Mehdi Mahmoodvandi, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required. C05-065 - District 6

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number C05-065, dated July 25, 2005, recommending approval of the planned development rezoning.(2) Proof of publication of Notice of Public Hearing, executed on August 5, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, and unanimously carried, Ordinance No. 27518, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Side of Park Avenue Approximately 150 Feet Northwest of Emory Street (1819 Park Avenue) to CN – Commercial Neighborhood Zoning District”, was passed for publication. (10-0).

11.11 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-1-8 Residence District to A(PD) Planned Development Rezoning to allow 10 single-family detached residences on a 1.0 gross acre site, located at/on the west side of Delmas Avenue, approximately 170 feet north of Dorothy Avenue (1203 Delmas Ave.) (Greg Schatzel, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-1). PDC04-099 - District 6

Documents Filed: None.

11.11 (Cont'd.)

Action: This item was continued to August 30, 2005.

11.12 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from IP Industrial Park to LI(PD) Planned Development Rezoning to allow up to 58,555 square feet of industrial and commercial uses on a 3.86 gross acre site, located at the east side of Senter Road, approximately 200 feet northwesterly of Quinn Avenue (2266 Senter Road) (Victor J. Lobue, Trustee, et al., Owner: Green Valley Corporation, dba Barry Swensen Builder, Developer). SNI: Tully/Senter. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

PDC04-111 - District 7

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated August 11, 2005, recommending approval of the proposed rezoning. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated August 5, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-011, dated August 2, 2005, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on July 29, 2005, submitted by the City Clerk.

Action: Ordinance No. 27519, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Senter Road, Approximately 200 Feet Northwesterly of Quinn Avenue (2266 Senter Road) to LI(PD) Planned Development Rezoning District", was passed for publication. (10-0).

11.13 Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from R-1-5 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow two single-family detached residences on a 0.57 gross acre site, located on the southeast side of Elwood Drive, approximately 100 feet southerly of Nikette Way (Masoumi Efat K and Mosoumi Mosen K, Owner). CEQA: Draft Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

PDC04-059 - District 10

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated July 27, 2005, recommending approval of the proposed rezoning. (2) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-059, dated July 19, 2005, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on June 10, 2005, submitted by the City Clerk.

11.13 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and unanimously carried, a correction was made to CEQA designation from “Draft Mitigated Negative Declaration” to “Mitigated Negative Declaration”, and Ordinance No. 27520, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated Southeast Side of Elwood Drive Approximately 100 Feet Southerly of Nikette Way to A(PD) Planned Development Zoning District”, was passed for publication. (10-0).

OPEN FORUM

- (1) Mark Trout shared personal commentary on religious beliefs.

ADJOURNMENT

The Council of the City of San José was adjourned at 7:34 p.m. in memory of Joanne Shirakawa, mother of former Vice Mayor George Shirakawa, Jr.; and in memory of Kathleen F. Harris, of the City of San José’s Legislative Office in Sacramento.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, C.M.C, CITY CLERK
EW/8-16-05