



## CITY OF SAN JOSÉ, CALIFORNIA

---

### MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, SEPTEMBER 13, 2005**

The Council of the City of San Jose convened in Regular Session at 9:32 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 In Re: Jonassen, In re Garden City, Inc., Martinez v. City of San José, et al., County of Santa Clara v. City of San José, et al., City of Milipitas v. City of San José, et al., City of Santa Clara v. City of San José, et al.; (B) confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association, (2) International Association of Firefighters, (3) Confidential Employees Organization.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:45 a.m. and reconvened at 1:33 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 8)**

Sarah Stein of Ballet San José Silicon Valley, performed to music, entitled, "Italiana".

### **PLEDGE OF ALLEGIANCE**

Mayor Gonzales led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Williams, seconded by Council Member Yeager, and unanimously carried, the Order of the Day and the Amended Agenda were approved. (10-0).

## **CEREMONIAL ITEMS**

- 1.1 Presentation of a commendation to the San José Grand Prix Heroes and the Executive Advisory Board for their generosity and service to the City of San José through making the San José Grand Prix a great success and for establishing a lasting tradition of exceptional racing in San José. (Chavez/LeZotte/Cortese)**

Action: Mayor Gonzales, Vice Mayor Chavez, and Council Member LeZotte presented a commendation to the San José Grand Prix Heroes and the Executive Advisory Board Members to honor their generosity and service towards the City of San José .

- 1.2 Presentation of commendations to Ballet San José Silicon Valley students and company members for their outstanding competitive performances at the 2005 Dance Grand Prix Italia. (Chavez/Cortese)**

Action: Vice Mayor Chavez and Council Member Cortese presented commendations to Ballet San José Silicon Valley students and company members in honor of their outstanding competitive performances at the 2005 Dance Grand Prix Italia.

- 1.3 Presentation of a commendation to Toyota for donating \$10,000 towards the construction of Calabazas BMX Park. (LeZotte)**

Action: Council Member LeZotte joined Mayor Gonzales to present a commendation to Toyota for their generous donation of \$10,000 towards the construction of Calabazas BMX Park.

- 1.4 Presentation of a commendation to O'Connor Hospital on the occasion of the inaugural gala, "Spirit of O'Connor", benefiting their new endovascular surgical suite. (Yeager)  
(Rules Committee referral 9/7/05)**

Action: Council Member Yeager and Mayor Gonzales presented a commendation to Robert Currie of O'Connor Hospital on the occasion of the inaugural gala, "Spirit of O'Connor", benefiting their new endovascular surgical suite.

## **CONSENT CALENDAR**

Upon motion by Council Member Chavez, seconded by Council Member Reed and unanimously carried, the Consent Calendar was approved. (10-0).

- 2.1 Approval of Minutes.  
(a) Closed Session Minutes of February 22, 2005.**

Documents Filed: The minutes of February 22, 2005 Closed Session.

2.1 (Cont'd.)

Action: The minutes were approved. (10-0).

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 27521** – Amends Chapter 3.28 of Title 3 of the San José Municipal Code to implement State Law regarding benefits for registered domestic partners and to add provisions relating to plan-approved domestic relations orders and amending section 3.44.010 of Chapter 3.44 of Title 3 of the San José Municipal Code to implement cost-of-living adjustments for surviving registered domestic partners.

Documents Filed: Proof of publication of title of Ordinance No. 27521 executed on August 30, 2005, submitted by the City Clerk.

Action: Ordinance No. 27521 was adopted. (10-0).

- (b) **ORD. NO. 27523** – Amends Chapter 3.48 and Chapter 3.50 of Title 3 of the San José Municipal Code regarding additional deferrals to the Deferred Compensation Plan and the PTC 457 Plan for those employees returning from active military service.

Documents Filed: Proof of publication of title of Ordinance No. 27523 executed on August 30, 2005, submitted by the City Clerk.

Action: Ordinance No. 27523 was adopted. (10-0).

- (c) **ORD. NO. 27524** – Amends Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code, which lists all infractions, to update the list of infractions.

Documents Filed: Proof of publication of title of Ordinance No. 27524 executed on August 30, 2005, submitted by the City Clerk.

Action: Ordinance No. 27524 was adopted. (10-0).

- (d) **ORD. NO. 27531** – Rezones certain real property situated on the east side of Almaden Road approximately 680 feet northerly of Curtner Avenue (2190 Almaden Road) to A(PD) Planned Development Zoning District. PDC03-047

Documents Filed: Proof of publication of title of Ordinance No. 27531 executed on September 6, 2006, submitted by the City Clerk.

Action: Ordinance No. 27531 was adopted. (10-0).

- (e) **ORD. NO. 27532** – Rezones certain real property situated approximately 190 feet easterly of the intersection of Blossom Hill Road and Poughkeepsie Road to CN Commercial Neighborhood Zoning District. C05-069

2.2(e) (Cont'd.)

Documents Filed: Proof of publication of title of Ordinance No. 27532 executed on September 6, 2006, submitted by the City Clerk.

Action: Ordinance No. 27532 was adopted. (10-0).

- (f) **ORD. NO. 27533 – Rezones certain real property situated on the west side of Delmas Avenue approximately 170 feet north of Dorothy Avenue (1203 Delmas Avenue) to A(PD) Planned Development Zoning District. PDC04-099**

Documents Filed: Proof of publication of title of Ordinance No. 27533 executed on September 6, 2006, submitted by the City Clerk.

Action: Ordinance No. 27533 was adopted. (10-0).

- (g) **ORD. NO. 27534 – Rezones certain real property situated on the north side of Michigan Avenue, approximately 200 feet southwesterly of Pacific Street to R-M Multiple Residence District. C05-057**

Documents Filed: Proof of publication of title of Ordinance No. 27534 executed on September 6, 2006, submitted by the City Clerk.

Action: Ordinance No. 27534 was adopted. (10-0).

- (h) **ORD. NO. 27535 – Rezones certain real property situated on the southwest corner of Monterey Road and Goble Lane to A(PD) Planned Development Zoning District.**

Documents Filed: Proof of publication of title of Ordinance No. 27535 executed on September 6, 2006, submitted by the City Clerk.

Public Comments: William Garbett spoke in opposition to the ordinance.

Action: Ordinance No. 27535 was adopted. (10-0).

- 2.3 **Approval to reject all bids for the Capitol Park Neighborhood Center Project, and authorization for the Director of Public Works to re-advertise and re-bid the project with revision in the project scope. CEQA: Exempt, PP03-08-267. Council District 5. SNI: East Valley/680 Communities. (Public Works/Parks, Recreation and Neighborhood Services) (Deferred from 8/23/05 – Item 2.9 and 8/30/05 – Item 2.8)**

Documents Filed: Supplemental memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated September 13, 2005, providing additional information after bids were opened.

Action: The rejection of all bids was approved. (10-0).

**2.4 Approval of the additions to City Auditor's Gerald Silva's travel calendar from July 1 through December 31, 2005, at no cost to the City. (City Auditor)**

Documents Filed: Letter from City Auditor Gerald A. Silva, dated August 16, 2005, requesting approval of additional items to his travel calendar.

Action: The additions to the City Auditor's travel calendar was approved. (10-0).

**2.5 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period June 16 through July 15, 2005. (City Auditor)**

Documents Filed: Report of Activities and Findings for the period of June 16 through July 15, 2005 from the Office of the City Auditor.

Action: The report was accepted. (10-0).

**2.6 Authorization for the submittal of the 2004-2005 Urban Runoff Management Plan Annual Report and certification to the Regional Water Quality Control Board (Water Board) in conformance with the City's Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System (NPDES) permit requirements, and pursuant to the Federal Clean Water Act. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Service Carl W. Mosher, dated August 24, 2005, recommending the authorization of the submittal of the 2004-2005 Urban Runoff Management Plan Annual Report and certification.

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

**2.7 Approval of an amendment to the Butcher Park Master Plan to include an off-leash dog area. CEQA: Exempt, PP05-107. Council District 9. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum of Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated August 24, 2005, recommending approval of the amendment.

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

**2.8 Adoption of a resolution initiating proceedings and setting October 4, 2005 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Capitol No. 52 which involves the annexation to the City of San José of 0.32 acres of land more or less, located at the on the northwest corner of Wilbur Avenue and Nancy Lane and adjacent to the City of San José annexation Capitol No. 42-A and the detachment of the same from Central Fire Protection, Area No.01 (Library Services) County Services, County Lighting Services, and Sanitation District 2-3. Council District 5. CEQA: Resolution No. 65459, File No. C05-023. (Planning, Building and Code Enforcement).**

**2.8 (Cont'd.)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated August 24, 2005, recommending adoption of the resolution.

Action: Resolution No. 72878, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Capitol No. 52 Described Herein and Setting the Date, Time, and Place for Consideration of Such Reorganization", was adopted. (10-0).

**2.9 Adoption of a resolution initiating proceedings and setting October 4, 2005 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Penitencia No. 72 which involves the annexation to the City of San José of 0.84 acres of land more or less, located at the on the west side of Toyon Avenue, approximately 370 feet south of Selby Lane, and adjacent to the City of San José annexation Penitencia No. 1-B and the detachment of the same from County Lighting County Services, Central Fire Protection, Area No.01 (Library Services) County Services and Sanitation District 2-3. Council District 5. CEQA: Resolution No. 65459, File No. C05-024. (Planning, Building and Code Enforcement).**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated August 24, 2005, recommending adoption of the resolution.

Action: Resolution No. 72879, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Penitencia No. 72 Described Herein and Setting the Date, Time, and Place for Consideration of Such Reorganization", was adopted. (10-0).

**2.10 Adoption of a resolution of intention to vacate a portion of the Light and Air Easement that lies within Lot 23 of Tract No. 703, located at 2103 Emory Street, and setting a public hearing on October 4, 2005 at 1:30 p.m. CEQA: Exempt, File No. 3-16872. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated August 24, 2005, recommending adoption of the resolution.

Action: Resolution No. 72880, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of the Light and Air Easement Lying Within Lot 23 of Tract 703 (2103 Emory Street)", was adopted. (10-0).

**2.11 Approval of actions related to widening portions of Quito Road and Paseo Olivos.**

- (a) **Adoption of a resolution rescinding a prior rejection of an offer of dedication of an easement for right of way purposes, and accepting the dedication for a portion of Quito Road and Paseo Olivos in Tract No. 1298, pursuant to Government Code Section 66477.2, and authorizing the Director of Public Works to file a Certificate of Acceptance with the County Recorder's Office and execute all documents necessary to accept the offer of dedication. CEQA: Exempt, PP05-070. Council District 1. (Public Works)**
- (b) **Adoption of a resolution approving the acceptance of quitclaim deeds that release and quitclaim any legal rights the owners may have over portions of the east side of Quito Road abutting their respective properties, and authorizing the Director of Public Works to execute any additional documents necessary to complete these transactions, from the following property owners:**
- (1) **Ronald R. Roessle and Julia Tsih-Leung, quitclaim of approximately 3,295 sq. ft. of the portion of Quito Road abutting their property at 12560 Quito Road (APN: 403-31-024), in the area of the proposed Quito Road street improvement project;**
  - (2) **Sudarshan Sarpangal, quitclaim of approximately 2,942 sq. ft. of the portion of Quito Road abutting his property at 12620 Quito Road (APN: 403-31-011), in the area of the proposed Quito Road street improvement project; and**
  - (3) **Michael Grady and Maria M. Grady, quitclaim of approximately 2,338 sq. ft. of the portion of their property at 12636 Quito Road (APN: 403-31-010), in the area of the proposed Quito Road street improvement project.**
- CEQA: Exempt, PP05-070. Council District 1. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated August 24, 2005, recommending adoption of the resolution accepting the quitclaim deeds. (2) Memorandum from Director of Public Works Katy Allen, dated August 24, 2005, recommending adoption of the resolution accepting the dedication.

Action: Resolution No. 72881, entitled: "A Resolution of the Council of the City of San José Rescinding a Previous Rejection of an Offer of Dedication of a Portion of Quito Road and Paseo Olivos, Accepting the Offer of Dedication and Authorizing the Director of Public Works to Execute Such Documents as are Necessary to Accept the Dedication and File Acceptance with the County Recorder", and Resolution No. 72882, entitled: "A Resolution of the Council of the City of San José Approving the Acceptance of Quitclaim Deeds to Release and Quitclaim Any Legal Rights Certain Adjacent Property Owners May Have Over Portions of the East Side of Quito Road Abutting Their Respective Properties and Authorizing the Director of Public Works to Execute any Additional Documents Necessary to Complete These Transactions", were adopted. (10-0).

**2.12 Acceptance of the Second Quarter 2005 San José Arena Authority Ticket Distribution Program Report. CEQA: Not a Project. (San José Arena Authority/Economic Development)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated August 22, 2005, recommending approval of the ticket distribution program report.

Action: The report was accepted. (10-0).

**2.13 Approval for City Manager Del D. Borgsdorf to travel to Minneapolis/Hennepin County, Minnesota, September 25-28, 2005, to attend the 2005 International City-County Management Association's Annual Conference. Funding: City Manager's Office. (City Manager's Office)  
(Rules Committee referral 9/7/05)**

Documents Filed: Memorandum from City Manager Del D. Borgsdorf, dated September 6, 2005, recommending approval of the travel request.

Action: Travel for the City Manager Del D. Borgsdorf was approved. (10-0).

**2.14 Approval of an agreement with the National Association of Local Government Auditors to perform an audit of the City Auditor's Office for Fiscal Years 2003-2004 and 2004-2005. (Mayor)  
(Rules Committee referral 9/7/05)**

Documents Filed: Memorandum from Mayor Gonzales, dated September 8, 2005, recommending approval of the agreement.

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

**2.15 Adoption of a resolution approving an increase in the number of restricted affordable units at or below 60% of Area Medium Income at Villa Solera Apartments, located at the Northwest corner of Lucretia Avenue and Vintage Way ("Development") 58 to 80, resulting in a total of 20 units restricted to tenants earning up to 50% of AMI and 80 units restricted to tenants earning up to 60% of AMI. CEQA: Negative Declaration, PDC-SH 00-10-103. Council District 7. SNI: Tully and Senter. (Housing)  
ITEM 2.15 RENUMBERED FROM 4.3**

Documents Filed: See Item 4.3.

Action: Resolution No. 72883, entitled: "A Resolution of the Council of the City of San José Approving a Modification of the Income Levels for the Affordable Housing Units in the Villa Solera Apartments Located at Lucretia Avenue and Vintage Way", was adopted. (10-0).

**2.16 Report on bids and award of contract for installation of potable and non-potable water services and mains 2005-2006 to the low bidder, San José Water Company, in the amount of \$548,737.84. CEQA: Exempt, PP05-130. (Environmental Services) ITEM 2.16 RENUMBERED FROM 7.1**

Documents Filed: See Item 7.1.

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

**JOINT COUNCIL/REDEVELOPMENT AGENCY**

The Redevelopment Agency Board convened at 2:20 p.m. to consider Item 9.4 in a Joint session.

**9.4 Approval of actions in response to the Hurricane Katrina Disaster, including a City Donation to the local Santa Clara Valley American Red Cross in the amount of \$500,000 and sending additional personnel as requested by FEMA to assist with rescue and recovery efforts in the Gulf Coast region, among other actions. (Mayor) (Rules Committee referral 9/7/05)  
HEARD IMMEDIATELY FOLLOWING THE CONSENT CALENDAR**

Documents Filed: Memorandum from Mayor Gonzales, Vice Mayor Chavez, and Council Member Campos, dated September 9, 2005, with staff direction contained therein.

Public Comments:

William Garbett objected to the City's donation to the Red Cross. Ross Signorino spoke in support of the donation. Kathy Branthorse spoke off-topic.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, Council approved a memorandum from Mayor Gonzales, Vice Mayor Chavez, and Council Member Campos, dated September 9, 2005, recommending the following actions: (1) Donate up to \$500,000 (approximately \$0.50 per San José resident) to the Santa Clara Valley Red Cross to support relief and recovery assistance locally. This funding commitment should be connected to the opening of a local evacuee assistance and recovery center, or in meeting the needs of registered FEMA evacuees arriving in San José. This contribution should be held in a designated fund for the local Red Cross to be used when their local funds for this purpose have been exhausted. We also recommend that the Santa Clara Valley Red Cross track how these funds are used to benefit evacuees of the Gulf Coast hurricane disaster and report regularly to the City. (2) Encourage our neighboring communities throughout Santa Clara Valley along with the County of Santa Clara to join us in contributing to the relief effort by donating a similar amount per resident to the Santa Clara Valley Red Cross local Hurricane Katrina relief effort.

## 9.4 (Cont'd.)

(3) Direct the City Manager to expand the City's Military Leave Program to include City employees who are called up and deployed through the National Guard or Reserve to assist with Hurricane Katrina recovery and relief efforts. (4) Direct the City Manager to send additional public safety personnel as requested by FEMA to assist with rescue and recovery efforts in the Gulf Coast region. Resources deployed should be based on specific requests from FEMA, through the State of California or the activation of mutual aid plans. (5) Delegate authority to the City Manager to approve leave time for City employees skilled to respond and assist with recovery and rebuilding efforts in the Gulf Coast, based on FEMA emergency response needs and requests through appropriate professional associations and the City Manager should work with the Agency Director and the City Attorney to identify employees with skills who might be available for such services. (6) Direct the City Manager to report back to the City Council in one week with an initial cost assessment for carrying out items 4 and 5, with a recommendation for funding for the City Council to consider. (10-0).

## STRATEGIC SUPPORT SERVICES

### 3.2 Report of the Rules Committee – August 24, 2005 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee report of August 24, 2005.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review September 6, 2005 Council Agenda  
MEETING CANCELLED
  - (2) Add New Items to August 30, 2005 Agenda  
The Committee recommended five additions to the August 30, 2005 City Council Agenda.
  - (3) List of Reports Outstanding. Attachment: Report from City Manager's Office, dated August 24, 2005, listing one (1) staff report outstanding for the August 30, 2005 City Council Meeting.

The Committee noted and filed the City Manager's Report.

- (c) Legislative Update
  - (1) State – There were none.
  - (2) Federal – There were none.
- (d) Meeting Schedules  
There were none.

### 3.2 (Cont'd.)

- (e) The Public Record  
There were none.
- (f) Appointments to Boards, Commissions and Committees  
There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Proposed Work Plan for Ordinance on Improved Fire Safety in Older Buildings. Attachment: Memorandum from Fire Chief Jeffrey L. Clet, dated August 17, 2005, regarding the Proposed Work Plan for Ordinance on Improved Fire Safety in Older Buildings.

The Committee recommended approval of the Improved Fire Safety in Older Buildings Work Plan for the Fire Department to research and develop an ordinance for Improved Fire Safety, as amended. Staff was directed to move the public outreach component of the timeline further up in the work plan, work closely with Council Member Yeager and hold at least one of the public outreach meetings in District 6/Willow Glen. Staff was further directed to report back to the Rules Committee for further input before the drafting of the ordinance.

- (h) Oral Communications  
There were none.
- (i) Adjournment  
The meeting adjourned at 2:12 p.m.

Public Comments: Eric Weigers, Director of the Landlords' Association spoke in support of the report.

#### **Report of the Rules Committee – August 31, 2005 Vice Mayor Chavez, Chair**

Documents Filed: None.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review September 13, 2005 Council Agenda  
The Committee recommended approval of the September 13, 2005 City Council Agenda with five additions.
  - (2) Add New Items to September 6, 2005 Agenda  
MEETING CANCELLED

### 3.2 (Cont'd.)

(c) Legislative Update

(1) State

- (a) AB 438 (Parra) and AB 1323 (Vargas) Relating to Registered Sex Offenders. Attachment: (1) Memorandum from Director of Housing Leslye Corsiglia, Police Chief Robert L. Davis, and Director of Intergovernmental Relations Betsy Shotwell, dated August 30, 2005, regarding State Assembly Bill 438 (Parra) and State Assembly Bill 1323 (Vargas) relating to registered sex offenders. (2) Memorandum from Council Member Reed, dated September 12, 2005, recommending support for AB438 by the City Council.

The Committee recommended a watch position on AB 438 (Parra), which would amend State law to allow a lessor of residential real property to refuse to provide housing to, or to evict, registered sex offenders whose residence must be made public on the Megan's Law website; and support for AB 1323 (Vargas), which addresses several outstanding issues since the Department of Justice placed California's Megan Law on the Internet.

(2) Federal

- (a) Update on San José Federal Relations Activities. Attachment: Memorandum from Director of Intergovernmental Relations Betsy Shotwell, dated August 26, 2005, regarding the Update on San José Federal Relations Activities.

The Committee recommended acceptance of the San José Federal Relations Activities Report.

(d) Meeting Schedules

There were none.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated August 25, 2005, transmitting items filed for the Public Records for the period August 17-23, 2005.

The Committee directed the Administration to review the letter from the Pacific Autism Center for Education and determine if there is some way the City can participate with them. The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

There were none.

### 3.2 (Cont'd.)

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Allocation Request from the Community Gift Trust Fund. Attachment: Memorandum from Interim Chief of Staff for District 7 Jim Webb, dated August 26, 2005, regarding an Allocation Request from the Community Gift Trust Fund.

The Committee recommended authorization of the allocation of \$507 from District 7's portion of the Community Gift Trust Fund for the following two District 7 community events:

- (a) \$177 for City fees to close Nisich Court Tully-Senter Sound wall Grand Opening Celebration; and  
(b) \$330 for fees and permit costs related to the Tully Community Branch Library and the Vietnamese-American Women's Association Mid-Autumn Festival.

- (2) City Auditor's 2005-2006 Work Plan. Attachment: City Auditor's 2005-2006 Work Plan, dated August 26, 2005.

The Committee recommended approval of the work plan with the addition of the current assignment of the Grand Jury Response to the Recycle Plus issue.

(h) Oral Communications

Bill Chew expressed his sympathy and concern for the citizens of the Southern United States devastated by Hurricane Katrina.

(i) Adjournment

The meeting adjourned at 2:53 p.m.

Council Member Reed pulled item 3.2(c) and summarized his Memorandum dated September 12, 2005 recommending that the City support AB438, still in the House. Brief discussion ensued.

Public Comments: Eric Weigers, Executive Director of the California Apartments Association, Kathleen Williams and Ross Signorino spoke in favor of AB438. Mark Trout and Kathy Branthorse spoke off-topic.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, the Rules Committee reports of August 24 and 31, 2005 were accepted and Council referred AB 438 to the Rules Committee with direction that the proposed Meghan's Law Task Force consider language that may improve the Bill and expedite its passage; along with review and consideration of other pending legislation that will improve the ability to monitor sex offenders by strengthening communications between various governmental agencies.

- 3.6 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)  
(Deferred from 8/16/05 – Item 2.14)  
(Rules Committee referral 8/31/05)**

Documents Filed: None.

Action: This item was deferred to September 20, 2005.

**3.7 Approval to issue Clean Water Financing Authority Sewer Revenue Refunding Bonds.**

- (1) **Adoption of a resolution of the City Council:**
- (a) **Authorizing the issuance of San José - Santa Clara Clean Water Financing Authority Sewer Refunding Revenue Bonds, Series 2005A (tax-exempt fixed rate) in a not to exceed amount of \$65,000,000; and Series 2005B (tax-exempt variable rate) in a not to exceed amount of \$30,000,000, (collectively the "Bonds").**
  - (b) **Approving in substantially final form and authorizing the execution, as applicable, of the Second Amendment to the Improvement Agreement, two Preliminary Official Statements, two final Official Statements, Master Indenture, First Supplemental Indenture, Second Supplemental Indenture, Continuing Disclosure Agreement, Standby Bond Purchase Agreement, one or more Escrow Agreements, Financial Guaranty Agreement, Bond Purchase Agreement, Remarketing Agent Agreement, one or more Payoff Agreements with Tributary Agencies and authorizing the City Manager, Director of Finance or their designees to execute and, as appropriate, to negotiate and deliver these documents and other related financing documents and to take other actions as necessary in connection with the issuance of the Bonds.**
  - (c) **Authorizing the City Attorney to negotiate and execute an Agreement with Nixon Peabody LLP for bond and disclosure counsel services in an amount not to exceed \$200,000.**
- (2) **Adoption of the following appropriation ordinance amendments in the San José-Santa Clara Treatment Plant Capital Fund:**
- (a) **Decrease the appropriation titled "Transfer for 1995 Series A, B & C Bonds to be made on or about May 15" by \$455,653.**
  - (b) **Establish an appropriation titled "Transfer to the Clean Water Financing Authority for Series 2005A and Series 2005B Bond Expenses" in the amount of \$455,653.**
  - (c) **Change the title of the appropriation titled "Transfer for 1995 Series A, B & C Bonds to be made on or about November 15" to "Transfer for 1995 Series A, B & C Bonds to be made on or before November 15."**

- 3.7 (3) **Adoption of the following appropriation ordinance amendments in the Sewer Service and Use Charge Fund: (Cont'd.)**
- (a) **Decrease the appropriation titled "Transfer to the Clean Water Financing Authority (for 1995 Series A, B, & C Bonds) on or before November 15" by \$53,267.**
  - (b) **Decrease the appropriation titled "Transfer to the Clean Water Financing Authority (for 1995 Series A, B, & C Bonds) on or before May 15" by \$1,856,401.**
  - (c) **Establish an appropriation titled "Transfer to the Clean Water Financing Authority for Series 2005A and Series 2005B Bond Expenses" in the amount of \$1,909,668**
- CEQA: Not a Project. (Finance/City Manager's Office/Environmental Services)**
- (Deferred from 8/30/05 – Item 3.6)**

Documents Filed: (1) Memorandum from Finance Director Scott P. Johnson, Budget Director Larry D. Lisenbee, and Director of Environmental Service Carl W. Mosher, dated September 8, 2005, transmitting the documents for the proposed financing. (2) Letter from Treatment Plant Advisory Committee (TPAC), dated August 25, 2005, recommending Council approval. (3) Memorandum from Finance Director Scott P. Johnson and Director of Environmental Service Carl W. Mosher, dated August 10, 2005, recommending adoption of the resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, Ordinance No. 27536, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the San José-Santa Clara Treatment Plant Capital Fund for the Series 2005A and Series 2005B Bond Expenses; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Ordinance No. 27537, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Sewer Service and Use Charge Fund for the Transfer to the Clean Water Financing Authority for Series 2005A and Series 2005B Bond Expenses; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 72884, entitled: "A Resolution of the Council of the City of San José Authorizing the Governing Board of the San José – Santa Clara Clean Water Financing Authorizing to Issue Sewer Revenue Refunding Bonds Series 2005A in the Not to Exceed Principal Amount of \$65,000,000 and Series 2005B in the Not to Exceed Principal Amount of \$30,000,000 and Authorizing the Execution and Delivery of a Second Amendment to Improvement Agreement Providing for the Repayment Thereof and Approving One or More Preliminary Official Statements and One or More Official Statements and Authorizing the Execution and Delivery of a Continuing Disclosure Agreement and Other Documents and Actions Relating Thereto", were adopted.

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.3 Adoption of a resolution approving an increase in the number of restricted affordable units at or below 60% of Area Medium Income at Villa Solera Apartments, located at the Northwest corner of Lucretia Avenue and Vintage Way (“Development”) 58 to 80, resulting in a total of 20 units restricted to tenants earning up to 50% of AMI and 80 units restricted to tenants earning up to 60% of AMI. CEQA: Negative Declaration, PDC-SH 00-10-103. Council District 7. SNI: Tully and Senter. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated August 24, 2005, recommending adoption of the resolution.

Action: See Item 2.15 for Council action taken.

- 4.4 Adoption of a resolution modifying the Teacher Homebuyer Program adopted by the City Council on April 4, 2000, and amended on December 16, 2003, as follows:**
- (a) Increase the maximum loan amount from \$25,000 to \$40,000 for teacher households earning between 90% and 120% of Area Median Income.**
  - (b) Increase the maximum loan amount from \$40,000 to \$65,000 for teacher households earning less than 90% of Area Median Income.**

**CEQA: Not a Project. (Housing)  
(Rules Committee referral 8/31/05)**

Documents Filed: None.

Action: This item was deferred to September 20, 2005.

## NEIGHBORHOOD SERVICES

- 5.2 Approval to award a contract for the Emma Prusch Park Project.**
- (a) Report on bids and award of contract for the Emma Prusch Park Project to the low bidder, Robert A. Bothman, Inc., in the amount of \$1,179,282, and approval of a contingency in the amount of \$117,928.**
  - (b) Adoption of the following appropriation ordinance amendments in the Parks and Recreation Bond Projects Fund:**
    - (1) Increase the Emma Prusch Memorial Park Project by \$150,000;**
    - (2) Decrease the Contingency Reserve by \$150,000.**

**CEQA: Exempt, PP02-04-072. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)  
(Rules Committee referral 9/7/05)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, and Budget Director Larry D. Lisenbee, dated September 6, 2005, requesting Council approval at it's September 13, 2005 meeting.

## 5.2 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member LeZotte, and unanimously carried, the award of contract was approved and Ordinance No. 27538, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Parks and Recreation Bond Projects Fund for the Emma Prusch Memorial Park Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (9-0-1). Absent: Yeager.

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 3:03 p.m. to consider Items 9.1 and 9.3 in a Joint session.

### 9.1 **Adoption of a resolution authorizing the Director of Finance to purchase insurance policies for the period October 1, 2005 to October 1, 2006, at a cost not to exceed \$2,700,000. CEQA: Not a Project. (Finance/Redevelopment Agency)**

Documents Filed: (1) Supplemental memorandum from Finance Director Scott P. Johnson, dated September 13, 2005, providing additional information on the excess earthquake insurance coverage for selected parking garages and to correct an error in the Appendix A to the staff report. (2) Memorandum from Finance Director Scott P. Johnson, dated August 26, 2005, recommending adoption of the resolution.

Action: Upon motion by Council Member Chavez, seconded Council Member Campos, and unanimously carried, Resolution No. 72885, entitled: ‘A Resolution of the Council of the City of San José Authorizing the Director of Finance to Purchase Insurance Policies for the Period October 1, 2005 to September 30, 2006 at a Cost Not to Exceed \$2,700,000”, was adopted. (10-0).

### 9.3 **Adoption of a resolution to amend the Master Parking Rate Schedule establishing evening parking rates at the 4th Street Parking Garage. (Transportation/Redevelopment Agency) (Rules Committee referral 8/31/05)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, Director of Planning, Building and Code Enforcement Stephen M. Haase, Executive Director of Redevelopment Agency Harry S. Mavrogenes, and Director of Transportation James R. Helmer, dated September 8, 2005, recommending acceptance of the report.

Action: This item was deferred to September 20, 2005.

The Redevelopment Agency Board portion of the meeting adjourned at 3:10 p.m.

## STRATEGIC SUPPORT SERVICES

### **3.4 Approval of City Council response to Grand Jury Report regarding the Norcal Recycle Plus Agreement. (Mayor/City Manager/City Attorney) (Rules Committee referral 8/10/05 and 8/17/05) (Deferred from 8/16/05 – Item 3.4 and 8/30/05 – Item 3.4)**

Documents Filed: (1) Memorandum from Vice Mayor Chavez, dated September 12, 2005, with staff direction contained therein. (2) Memorandum from Council Member Cortese, dated September 12, 2005, recommending; (a) Rejection of the September 1<sup>st</sup> memorandum co-authored by Mayor Gonzales, City Manager Del D. Borgsdorf, and City Attorney Rick Doyle and submit a perfunctory response (as mandated by state laws) – See Attachment A – the gist of which is that compliance with at least one of the Grand Jury’s recommendations (retention of an independent investigator) is the reasoning for the abridged response; and (b) Refer the nine questions in Council Member Reed’s September 6<sup>th</sup> memorandum (to the extent they submit their questions by September 16, 2005 to the City Clerk so she can forward them onto Dechert, LLP. (3) Memorandum from Council Member Reed, dated September 6, 2005, with staff direction contained therein. (4) Memorandum from Mayor Gonzales, dated September 1, 2005, recommending Council review and transmit the response, comprehensive chronology, and document log prepared by the Mayor, City Manager, and City Attorney to the 2004-2005 Santa Clara County Civil Grand Jury Report regarding the Norcal contract amendment approved by the City Council in December 2004, because the City’s independent investigation of the issues raised by the Grand Jury has not started, I further recommend that the City Council expressly include a statement that once the investigation is completed and the results considered by the Council, the City will forward the investigation report to the Grand Jury and submit a supplemental response if the results of the independent investigation warrant. (5) Memorandum from Mayor Gonzales, City Manager Del D. Borgsdorf, and City Attorney Rick Doyle, dated September 1, 2005, with staff direction contained therein.

Motion: Vice Mayor Chavez moved approval of her memorandum, dated September 12, 2005 with direction to staff contained therein. The motion was seconded by Council Member Campos. Lengthy Council discussion and debate ensued.

Mayor Gonzales asked Vice Mayor Chavez if she would amend her motion by encouraging City staff, members of the Council and the Mayor’s Office to forward to the City Clerk any additional questions and/or facts by the close of the business day September 20, 2005. Vice Mayor Chavez and Council Member Campos agreed to the amendment.

### 3.4 (Cont'd.)

Vice Mayor Chavez amended her motion to add direction to staff to incorporate Attachment A of Council Member Cortese' memorandum, dated September 12, 2005, as revised by deleting "Although the Grand Jury' findings leading up to its first recommendation are disputed,..." , in the Response to Recommendation 1 on page 3; and to forward to the independent investigator the nine questions outlined in Council Member Reed's memorandum, dated September 6, 2005. She also included in the motion direction to the City Clerk to bring to the Rules Committee, as part of the public record, any additional questions/facts to forward to the independent investigator; and to waive the attorney/client privilege for the independent investigator for all related documents. Council Member Campos concurred with the amendments.

Council Member Reed requested a friendly amendment to the motion to add a request the City Attorney's Office to prepare a non-privileged log listing the titles of privileged documents for the public record. Vice Mayor Chavez and Council Member Campos accepted the amendment.

Public Comments: Tim Callahan, President of MEF, asked the Council to consider extending benefits to part-time City employees before spending money for Teamsters' benefits and wages. Ross Signorino stated that he was confused why this matter was back on the agenda.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos , and unanimously carried, Council approved a memorandum from Vice Mayor Chavez, dated September 12, 2005, recommending direction to the City Attorney's Office to work with the presiding judge to allow a formal response to the Grand Jury report following the conclusion of the independent investigation in order to allow incorporation of its findings and recommendations with the following additional directives: (1) Incorporate Attachment A of Council Member Cortese' memorandum, dated September 12, 2005, as revised by deleting "Although the Grand Jury' findings leading up to its first recommendation are disputed,..." , in the Response to Recommendation 1 on page 3; (2) Forward to the independent investigator the nine questions outlined in Council Member Reed's memorandum, dated September 6, 2005; (3) Encourage City staff, members of the Council and the Mayor's Office to forward to the City Clerk any additional questions and/or facts by the close of the business day September 20, 2005. The City Clerk was directed to bring to the Rules Committee, as part of the public record, any additional questions/facts to forward to the independent investigator; (4) Waive the attorney/client privilege for the independent investigator for all related documents; (5) Direct the City Attorney's Office to prepare a non-privileged log listing the titles of privileged documents for the public record. (9-1). Noes: Reed

**3.5 Acceptance of the Independent Investigator’s Status Report on the review of issues associated with the Norcal garbage contract and contract amendment. (City Auditor)  
(Rules Committee referral 8/10/05 and 8/17/05)  
(Deferred from 8/30/05 – Item 3.5)**

Documents Filed: None.

Discussion: City Auditor Gerald Silva briefly described the selection process used for retaining a qualified independent investigator to review issues associated with the Norcal garbage contract and contract amendment. Retired Judge Peter Stone introduced Chris Scott Graham, Independent Investigator, and provided a status report on the investigation. Judge Stone and Mr. Graham responded to brief questions by members of the City Council.

Public Comments: Ross Signorino expressed comments in support of the investigations. Kathy Brandthorse spoke off-topic.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Cortese, and unanimously carried, the report was accepted. (9-0-1). Absent: LeZotte.

**ENVIRONMENTAL & UTILITY SERVICES**

**7.1 Report on bids and award of contract for installation of potable and non-potable water services and mains 2005-2006 to the low bidder, San José Water Company, in the amount of \$548,737.84. CEQA: Exempt, PP05-130. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Service Carl W. Mosher, dated August 24, 2005, recommending approval of the report on bids and award of contract. (2) Letter from Treatment Plant Advisory Committee (TPAC), dated August 23, 2005, recommending Council approval

Action: SEE ITEM 2.16 FOR COUNCIL ACTION TAKEN

**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>
9705	S/s of East San Antonio Street, at South 34 <sup>th</sup> Street	5	DKB Homes	19 Units	SFDR	Approve
9710	570 Hillsdale Ave.	10	Lago Di Como Development	26 Units	SFA	Approve

## NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS (CONT'D.)

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9712	S/s of San Antonio Rd., 270' e/o King Road	5	Core Companies	24 Units	Single-Family

### OPEN FORUM

- (1) Ross Signorino expressed safety concerns regarding the New Council Chambers and suggested additional handrails.

### RECESS/RECONVENE

The City Council recessed at 6:15 p.m. and reconvened at 7.01 p.m. Council Chambers, City Hall.

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

Absent: Council Members: Cortese (Excused).

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 Yeager, and unanimously carried, the below noted continuances were granted. (10-0)

### CEREMONIAL ITEMS

- 1.5 Presentation of a commendation to Congregation Sinai on the occasion of the dedication of their new home. (Yeager)**  
**(Rules Committee referral 9/7/05)**  
**HEARD IN THE EVENING**

Action: Mayor Gonzales and Council Member Yeager presented a commendation to members of Congregation Sinai on the occasion of the dedication of their new home.

- 1.6 Presentation of a commendation to the Alma Neighborhood Association for its 47 years of dedication and service to the residents of the Alma Neighborhood.**  
**(Mayor/District 7)**  
**(Orders of the Day)**

Action: Mayor Gonzales presented a commendation to Deborah Morillo and members of the Alma Neighborhood Association for its 47 years of dedication and service to the residents of the Alma Neighborhood.

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 7:10 p.m. to consider Items 9.2 and 9.3 in a Joint session.

- 9.2 Acceptance of a report and approval of direction to proceed with a workplan for implementation of actions related to adoption of the North San José Area Development Policy. CEQA: EIR, Resolution No. 72768. Districts 3 and 4. (Planning, Building and Code Enforcement/Economic Development/Transportation/Redevelopment Agency) (Referred from 6/21/05 – Item 12.2)**  
**HEARD IN THE EVENING**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, Director of Planning, Building and Code Enforcement Stephen M. Haase, Executive Director of Redevelopment Agency Harry S. Mavrogenes, and Director of Transportation James R. Helmer, dated September 8, 2005, recommending acceptance of the report.

Discussion: Vice Mayor Chavez requested staff to integrate historic resources within the project workplan.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, the report was approved with direction for staff to integrate historic resources within the project workplan. (10-0).

## PUBLIC HEARINGS

### 11.1 Public Hearings on Consent Calendar items.

- (a) **Consideration of approval of an ordinance on Planning Director Initiated Conforming Rezoning from CG Commercial General Zoning District to CP Commercial Pedestrian Zoning District on a 0.607 gross acre site, located at the northwest corner of The Alameda and North Morrison Avenue (955 The Alameda) (Richard S. Campisi Trust, Victor Lo Bue Trustee, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required.**  
**C05-084 - District 6**

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number C05-084, dated August 24, 2005, recommending approval of the planned development rezoning. (2) Proof of publication of Notice of Public Hearing, executed on September 2, 2005, submitted by the City Clerk.

**11.1(a)(Cont'd.)**

Action: Ordinance No. 27539, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of the Alameda and North Morrison Avenue (955 The Alameda) to CP Commercial Pedestrian Zoning District”, was passed for publication. (9-0-1). Absent: Cortese.

- (b) **Consideration of approval of an ordinance on Planned Development Rezoning from R-1-8 Residential District to the A(PD) Residential District to allow 3 single family detached residences on a 0.65 gross acre site, located on the south side of Moorpark Avenue approximately 100 feet east of Clover Avenue (2830 Moorpark Ave.) (Stephen D. and Maude M. Mason, Trustee, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). PDC05-062 - District 6**

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC05-062, dated August 10, 2005, recommending approval of the planned development rezoning.

Action: Ordinance No. 27540, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Moorpark Avenue Approximately 100 Feet East of Clover Avenue (2830 Moorpark Avenue) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0-1). Absent: Cortese.

- (c) **Consideration of approval of an ordinance on Conforming Conventional Rezoning from CO Commercial Office to CN Commercial Neighborhood to allow development standards and uses consistent with neighborhood commercial development on a 0.28 gross acre site, located at/on the north side of Tully Road, approximately 0- feet easterly of Lanai Avenue (1605 Tully Road) (Viray Christopher, et al, Owner). SNI: K.O.N.A., West Evergreen. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required. CEQA: Resolution No. 65459. C05-054 - District 7**

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number C05-054, dated August 24, 2005, recommending approval of the planned development rezoning. (2) Proof of publication of Notice of Public Hearing, executed on September 2, 2005, submitted by the City Clerk.

**11.1(c) (Cont'd.)**

Action: Ordinance No. 27541, entitled: ‘An Ordinance of the City of San José Rezoning Certain Real Property Situated the North Side of Tully Road, Approximately 90 Feet Easterly of Lanai Avenue (1605 Tully Road) to CN Commercial Neighborhood Zoning District’, was passed for publication. (9-0-1).  
Absent: Cortese.

- 11.2 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 commercial uses on a 0.09 gross acre site, located at/on the northwest corner of N. 2<sup>nd</sup> Street and Devine Street (257 N 2<sup>nd</sup> St.) (Fazekas Daryl, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). CEQA: Resolution No. 65459. C04-067 - District 3  
(Continued from 8/16/05 – Item 11.3)**

Documents Filed: None.

Action: This item was deferred to October 4, 2005.

- 11.3 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 Zoning District 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. Director of Planning, Building and Code Enforcement recommends approval with Planning Commission modifications. Planning Commission recommends approval of the proposed rezoning with the conditions recommend in the staff report with the following revisions (4-2-1-0):**
- (a) **Modify the proposed Development Standards to eliminate the 10% reduction in the parking requirement to require that parking be provided at a rate of 2.7 spaces per unit (versus 2.4 spaces per unit).**
  - (b) **Require that private yards be provided according to the Residential Design Guideline standards for Garden Townhomes of 300-square foot per unit.**
- PDC04-109 - District 4**  
(Continued from 8/16/05 – Item 11.8 and 8/30/05 – Item 11.2)

### 11.3 (Cont'd.)

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated September 13, 2005, responding to revised plans that were received from the applicant on September 9, 2005, in response to concerns expressed at the Planning Commission Hearing on August 24, 2005 by planning staff and the Planning Commission regarding the amount of parking. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated August 25, 2005, recommending approval of the proposed rezoning. (3) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated August 11, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-109, dated August 10, 2005, recommending approval of the planned development rezoning.

Public Comments: Carrie Hamilton expressed concerns regarding parking limitations in the neighborhood. Josh LeBeaux spoke in support of the rezoning.

Action: Upon motion by Council Member Reed, seconded by Council Member Pyle, and unanimously carried, Ordinance No. 27542, entitled: 'An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwesterly Corner of Capitol Avenue and Autumnvale Avenue, and the Northeasterly Corner of Autumnvale Drive and Trade Zone Boulevard (2450 Autumnvale Drive) to A(PD) Planned Development Zoning District passed for publication. (9-0-1). Absent: Cortese.

### 11.4 **Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-1-5 and R-1-8 Residential Districts to A(PD) Planned Development District to allow 7 single family detached residences on a 0.98 gross acre site, located on the south side of Neal Avenue, approximately 245 feet east of South Winchester Boulevard (3030-3040 Neal Ave.) (Neal 3030 LLC, Owner/Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2-0). PDC05-058 - District 6**

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase., dated August 25, 2005, recommending adoption of the ordinance. (2) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC05-058, dated August 11, 2005, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on August 12, 2005, submitted by the City Clerk.

Discussion: Council Member Yeager requested staff to work with the neighborhood to address any concerns.

#### 11.4 (Cont'd.)

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and unanimously carried, Ordinance No. 27543, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the South Side of Neal Avenue, Approximately 245 Feet East of South Winchester Boulevard (3030-3040 Neal Avenue) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0-1).  
Absent: Cortese.

#### 11.5 **Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-M Zoning District to A(PD) Planned Development Zoning District to construct 5 single family attached residences on a 0.34 gross acre site, located on the south side of Curtner Avenue, approximately 250 feet westerly of Joseph Avenue (482 Curtner Ave.) (Carolyn L. Bartlett, Trustee, Golkar Pejman, Owner/Developer). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-2-1-0). PDC05-038 - District 9**

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated August 25, 2005, recommending approval of the proposed rezoning. (2) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC05-038, dated August 11, 2005, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on August 12, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos, and unanimously carried, Ordinance No. 27544, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Curtner Avenue, Approximately 250 Feet Westerly of Joseph Avenue (482 Curtner Avenue) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0-1).  
Absent: Cortese.

#### **OPEN FORUM**

- (1) Mark Trout expressed religious viewpoints.

#### **ADJOURNMENT**

The Council of the City of San José adjourned at 7:36 p.m. in memory of Lew Platt, former CEO of Hewlett-Packard.

# MINUTES OF THE CITY OF SAN JOSÉ/REDEVELOPMENT AGENCY BOARD

SAN JOSE, CALIFORNIA

TUESDAY, SEPTEMBER 13, 2005

The Council of the City of San José convened in Joint Session with the Redevelopment Agency Board at 4:17 p.m. in City Council Chambers at City Hall.

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

Absent: Council Members: None.

## **8.1 Public Hearing and City Council and Redevelopment Agency Board consideration and approval of the Mayor's Budget Message. (Mayor)**

Documents Filed: Memorandum from Mayor Gonzales, dated September 7, 2005, recommending approval of the proposed Redevelopment Agency Capital Improvement Program and the 2005-2006 Capital/Program Budget incorporating the specific recommendations in his memorandum, dated September 7, 2005.

Mayor Gonzales opened the Public Hearing.

Public Comments: Maria Mustaven and Paula Veslsi spoke in support of the Roosevelt Skate Park. Kathy Brandthorse talked about City street improvements.

Mayor Gonzales closed the public hearing.

Action: Upon motion by Board Member Chavez, seconded Council Member Campos, and unanimously carried, the Public Hearing was held and Council and Board approved a memorandum from Mayor Gonzales, dated September 7, 2005, recommending the Redevelopment Agency Board approve the proposed Redevelopment Agency Capital Improvement Program and the 2005-2006 Capital/Program Budget, incorporating the specific recommendations within the memorandum.

- 8.2 (a) Adoption of resolutions by the Redevelopment Agency Board:**
- (1) Approving the FY 2006-2007 Capital Improvement Program; and,**
  - (2) Amending the FY 2005-2006 Operating and Capital Budget; and,**
  - (3) Amending the FY 2005-2006 Appropriations Resolution and Revenue Resolution to reflect various modifications to the FY 2005-2006 Revenue, Operating and Capital Budgets.**
- (b) Adoption of a resolution by the City Council making certain determinations regarding the expenditure of Agency funds on public improvements specified in the FY 2005-06 Capital Budget.**

**8.2 (Cont'd.)**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated September 13, 2005, recommending adoption of the resolutions.

Action: Upon motion by Board Member Chavez, seconded by Board Member Campos, and unanimously carried, Redevelopment Agency Board Resolutions No. 5642, 5643, 5644 and Resolution No. 72886, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds on Public Improvements in the Agency's FY 2005-2006 Capital Budget", were adopted. (10-0).

**ADJOURNMENT**

The City Council adjourned the Joint Redevelopment Agency Board/City Council meeting at 4:30 p.m.

**RON GONZALES, MAYOR**

**ATTEST:**

**LEE PRICE, C.M.C, CITY CLERK**  
EW/9-13-05 Min.