

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, FEBRUARY 28, 2006

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room T1841, at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) In re Babineau; (2) City of San José, et al. v. County of Santa Clara, et al.; (3) County of Santa Clara, v. City of San José, et al.; (4) Pham v. City of San José, et al.; (5) Morales v. City of San José, et al. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, with respect to anticipated litigation (1) subsection (b) significant exposure in one (1) matter; (2) subsection (c) with respect to initiation of litigation in one (1) matter. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:20 a.m. and reconvened at 1:35 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

Alex Mordwinow and Tiffani Sturges, Santa Teresa High School students, performed "Dangerous Game" from the play "Jekyll and Hyde". (District 2)

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 carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

Council Member Reed spoke in memory of the victims of the landslide tragedy in the Philippines. Vice Mayor Chavez spoke in memory of Lorenzo Dillon II and presented a plaque to his father, Mr. Dillon.

Council Member Pyle mentioned that 3rd graders from Holy Spirit School were in the audience.

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Nha Magazine for their recent recognition by New California Media. (Cortese)
(Rules Committee referral 2/15/06)**

Action: Deferred.

- 1.3 Presentation of a commendation to Clinimetrics for its important contributions to the San José economy. (Mayor/Williams)
(Rules Committee referral 2/15/06)**

Action: Mayor Gonzales and Council Member Williams recognized and commended Clinimetrics for its invaluable contributions to the economy of the City of San José.

- 1.2 Presentation of a commendation to California Alliance of African American Educators for their commitment to expanding the opportunities for San José youth in the field of science. (Williams)
(Rules Committee referral 2/15/06)**

Action: Mayor Gonzales and Council Member Williams recognized and commended the California Alliance of African American Educators for their commitment to the youth in the community of San José.

**1.4 Presentation of a commendation to Orchard Supply Hardware on the occasion of their 75th anniversary and in recognition of their many contributions to the City of San José. (Chavez/LeZotte/Yeager)
(Rules Committee referral 2/22/06)**

Action: Mayor Gonzales, Vice Mayor Chavez and Council Members LeZotte and Yeager recognized Orchard Supply Hardware on their 75th anniversary and in recognition of their contribution to the community.

CONSENT CALENDAR

Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

2.2 (a) ORD. NO. 27658 – Rezoning certain real property situated north side of State Street, on both the east and west sides of Archer Street and south of Dearborne and Clark Streets of the historic “New Chicago” Subdivision, from CN Commercial Neighborhood Zoning District to LI Light Industrial Zoning District. CC05-040

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on February 14, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27658](#) was adopted. (11-0.)

(b) ORD. NO. 27659 – Rezoning certain real property situated on the north side of Alum Rock Avenue, approximately 260 feet westerly of King Road to CP Commercial Pedestrian Zoning District. C05-110

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on February 14, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27659](#) was adopted. (11-0.)

(c) ORD. NO. 27660 – Rezoning certain real property, bounded by the Southern Pacific Rail Corridor to the north, east and west and by Dearborne and Clark Streets of the Historic “New Chicago” Subdivision and Grand Boulevard to the south, from LI Light Industrial Zoning District and CN Commercial Neighborhood to OS Open Space Zoning District. CC05-041

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on February 14, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27660](#) was adopted. (11-0.)

- 2.2 (d) **ORD. NO. 27661** – Rezoning certain real property, bounded by the Steamboat Slough and Elizabeth Street to the north, the Guadalupe River Corridor to the south, Liberty and North First Street to the east, and El Dorado Street/Southern Pacific Railroad Right-of-Way to the west, to CP(PD) Planned Development Zoning District with regard to certain portions of said area and to OS Open Space Zoning District. PDC05-039

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on February 14, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27661](#) was adopted. (11-0.)

- (e) **ORD. NO. 27662** – Prezoning certain real property situated on the west side of South Willard Avenue approximately 180 feet southerly of Douglas Street from unincorporated County to A(PD) Planned Development Zoning District on 0.42 acres. PDC04-095

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on February 14, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27662](#) was adopted. (11-0.)

- 2.3 **Approval of a first amendment to the agreement between the City and R3 Consulting to provide solid waste consulting and rate modeling services to the Environmental Services Department, extending the term through June 30, 2007, and increasing the compensation by \$200,000, from \$100,000 for a total not to exceed amount of \$300,000. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated February 14, 2006, recommending approval of a first amendment to the agreement.

Action: The first amendment to the agreement was approved. (11-0.)

- 2.4 **Approval of the Annual Report on San Jose/Santa Clara Water Pollution Control Plant (Plant) watershed protection activities, including update of the South Bay Action Plan, Contingency Plan, and Annual Pollution Prevention Report, as required by the Plant's National Pollutant Discharge Elimination System (NPDES) Permit. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated February 8, 2006, recommending approval of the report and transmitting the report.

Action: The report was approved. (11-0.)

- 2.5 (a) **Adoption of a resolution:**
- (1) **Authorizing the City Manager to execute a Second Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program (Countywide Program) which will extend the term of the Memorandum of Agreement for one fiscal year beyond the termination date of the next National Pollutant Discharge Elimination System (NPDES) stormwater permit, including any administrative extensions of the next NPDES Permit's term, with no charge in the cost allocation formula for participation in the Countywide Program; and,**
 - (2) **Continuing the authority of the Director of Environmental Services to designate a City representative to serve on the Program Management Committee. CEQA: Not a Project. (Environmental Services)**
- (b) **Authorize the City Manager to certify and submit the fiscal year 2006-2007 City of San Jose Work Plans for Urban Runoff Management to the San Francisco Bay Regional Water Quality Control Board (Water Board). CEQA: Exempt. (Environmental Services/General Services/Parks, Recreation and Neighborhood Services/Planning, Building and Code Enforcement/Public Works/Transportation)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, Director of General Services Peter Jensen, Director of Parks, Recreation and Neighborhood Services Sara Hensley, Acting Director of Planning, Building and Code Enforcement Joe Horwedel, Director of Public Works Katy Allen and Director of Transportation James Helmer, dated February 8, 2006, recommending the City Manager certify and submit work plans to the San Francisco Bay Regional Water Quality Control Board. (2) Memorandum from Director of Environmental Services John Stufflebean, dated February 16, 2006, recommending adoption of a resolution. (3) City of San José Urban Runoff Management Plan, dated March 1, 2006.

Action: [Resolution No. 73072](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Second Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program and Continuing the Authority of the Director of Environmental Services to Designate a City Representative to Serve on the Program Management Committee", was adopted. (11-0.)

- 2.6 (a) **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #9, and authorization for the Director of Finance to execute the purchase orders.**
- (b) **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #10, and authorization for the Director of Finance to execute the purchase orders.**
- CEQA: Not a Project. (Finance)**

Documents Filed: Memoranda from Director of Finance Scott Johnson, dated January 31, 2006 and February 8, 2006, recommending approval of award of the purchase order for FY2005-2006 #9 and #10.

2.6 (Cont'd.)

Action: The purchase orders for FY2005-2206 #9 and #10 were approved. (11-0.)

- 2.7 (a) Adoption of a resolution approving a funding commitment for a loan of up to \$425,000 to InnVision the Way Home, or its designated affiliate entity, for the permanent financing of 8 units of the Hester Apartments, an 18-unit apartment building, located at 1759 Hester Avenue, to be made affordable to extremely low-income households with special needs. CEQA: Not a Project. Council District: 6.**
- (b) Adoption of a resolution approving a funding commitment for a loan of up to \$1,520,000 to the Unity Care Group, or its designated affiliate entity, for the acquisition and rehabilitation of a property located at 917 & 923 Northrup Street, which consists of 8 transitional and 26 permanent beds to be made affordable to youth aging out of foster care with extremely low-incomes. CEQA: Exempt. Council District: 6.**

(Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated February 8, 2006, recommending adoption of resolutions.

Council Member Yeager stated he is very proud of this program and wanted to recognize the efforts of Staff.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73073](#), entitled: “A Resolution of the Council of the City of San José Approving a Funding Commitment for a Loan Up To \$425,000 to Innvision the Way Home, or its Designated Affiliate Entity, for the Permanent Financing of 8 Units of the Hester Apartments, an 18-Unit Apartment Building, Located at 1759 Hester Avenue, to be made Affordable to Extremely Low-Income Households with Special Needs”, and [Resolution No. 73074](#), entitled: “A Resolution of the Council of the City of San José a Funding Commitment for a Loan of Up To \$1,520,000 to the Unity Care Group, or its Designated Affiliate Entity, for the Acquisition and Rehabilitation of a Property Located at 917 and 923 Northrup Street, which Consists of 8 Transitional and 26 permanent Beds to be made Affordable to Youth Aging Out of Foster Care with Extremely Low-Incomes”, were adopted (11-0.)

2.8 Adoption of a resolution authorizing the City Manager to:

- (a) Accept grant award increases from the California Department of Education (CDE) for a total increase of \$596,732 and to execute related amendments to the grant agreements; and**
- (b) Negotiate and execute agreement amendments to sub grants to community based organizations to reflect the CDE grant award increases for Level 3 programs at specified school sites.**

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 8, 2006, recommending adoption of a resolution.

2.8 (Cont'd.)

Action: [Resolution No. 73075](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Accept Grant Award Increases from the California Department of Education for a Total Increase of \$596,732, To Execute Related Amendments to the Grant Agreements and to Negotiate and Execute Agreement Amendments to Subgrants to Community Based Organizations to Reflect the Grant Award Increases for Level 3 Programs at Specified School Sites”, was adopted. (11-0.)

2.9 Adoption of a resolution ordering the reorganization of territory designated as McKee No. 128, comprised of 1.19 gross acres of land more or less, located on the east side of Kirk Avenue, approximately 110 feet southerly of Summit Avenue and adjacent to the City of San Jose annexations McKee Nos. 117 and 40 and the detachment of the same from Central Fire Protection, Area No. 01 (Library Service) County Service Districts, and Sanitation District 2-3, to include the detachment of the same from County Lighting County Service District. Council District: 5. CEQA: Resolution No. 65459, File No. C04-090. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 28, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73076](#) was adopted. (11-0.)

2.10 Adoption of a resolution ordering the reorganization of territory designated as Sunol No. 71 which involves the annexation to the City of San José of 0.15 acres of land more or less, located at the east side of Grand Avenue approximately 350 feet southerly of Park Avenue and adjacent to the City of San José annexation Sunol No. 60 and the detachment of the same from Sunol Sanitary, County Lighting County Service, Central Fire Protection and Area No.01 (Library Service) County Service Districts. Council District: 6. CEQA: Resolution No. 65459, File No. C05-092. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 28, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73077](#), entitled: “A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Sunol No. 71 Subject to Liability for General Indebtedness to the City”, was adopted. (11-0.)

- 2.11 Adoption of a resolution ordering the reorganization of territory designated as Sunol No. 65 which involves the annexation to the City of San José of 0.15 acres of land more or less, located at the east side of Grand Avenue approximately 350 feet southerly of Park Avenue and adjacent to the City of San José annexation Sunol No. 60 and the detachment of the same from Sunol Sanitary, County Lighting County Service, Central Fire Protection and Area No.01 (Library Service) County Service Districts. Council District: 6. CEQA: Resolution No. 65459, File No. C02-012. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 28, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73078](#), entitled: “A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Sunol No. 65 Subject to Liability for General Indebtedness to the City”, was adopted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.2 Report of the Rules Committee – February 8, 2006
Vice Mayor Chavez, Chair**

Documents Filed: Rules/Partial Rules Committee Reports dated February 8, 2006, February 15, 2006 and February 22, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review February 21, 2006 Draft Council Agenda

Meeting was canceled.

- (2) Add New Items to February 14, 2006 Agenda

The Committee recommended approval of the February 14, 2006 City Council Agenda with three additions.

- (3) List of Reports Outstanding. Attachment: Report from the City Manager dated February 7, 2006, transmitting reports outstanding for February 14, 2006.

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

3.2 Report of the Rules Committee – February 8, 2006
Vice Mayor Chavez, Chair

- (c) Legislative Update
 - (1) State - There was no report.
 - (2) Federal

Director Intergovernmental Relations Betsy Shotwell presented an update on the President's release of the Federal Budget. She indicated that she and the City's Federal lobbying firm, Patton Boggs, LLP, will provide a report which highlights the impact of the Federal budget on the City.

- (d) Meeting Schedules
 - (1) Ball Park Update – Redevelopment Agency Study Session. Attachment: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated February 1, 2006, recommending a study session update.

The Committee recommended scheduling a Ballpark Update Study Session for the Redevelopment Board on Thursday, March 2, from 9:00 a.m. to 12:00 noon. Chair Chavez advised that there is a scheduling conflict for a couple of the City Council/Redevelopment Agency Board that also serve on the Police and Fire Retirement Board and that this needs to be resolved prior to this study session.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated February 2, 2006, transmitting items for public record for the period of January 25-31, 2006.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals - There were none.
- (h) Open Forum

Bill Chew pointed out that he was left out of the Mercury News article on the City Council Candidates for District 3.

- (i) Adjournment - The meeting was adjourned at 2:23 p.m.

3.2 Report of the Rules Committee – February 15, 2006 Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review February 28, 2006 Draft Council Agenda

The Committee recommended approval of the February 28, 2006 Draft City Council Agenda with six additions.

- (2) Add New Items to February 21, 2006 Council Agenda

There were none. The meeting was canceled.

- (3) List of Reports Outstanding - There were none.

- (c) Legislative Update

- (1) State - There was no report.

- (2) Federal - There was no report.

- (d) Meeting Schedules

- (1) Study Session to Discuss and Prioritize the City Council's Key Objectives for the City of San José. Attachment: Memorandum from Council Member Campos and Williams, dated February 8, 2006, requesting conducting a study session to discuss the priorities of the City Council.

The Committee recommended approval to discuss and prioritize the City Council's key objectives for the City of San José during the Mayor's Budget Message Study Session scheduled on March 16, 2006.

- (2) Coyote Valley Specific Plan Study Sessions. Attachment: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 14, 2006, recommending study session on the Coyote Valley Specific Plan.

The Committee recommended approval to schedule the following Coyote Specific Plan Study Sessions from 9:00 a.m. to Noon in the Committee Rooms W118-120.

- (a) March 3, 2006 - South Coyote Valley Greenbelt Strategy
- (b) April 7, 2006 - Transportation Policy Approach(es)
- (c) April 28, 2006 - Fiscal and Financial Considerations
- (d) May 26, 2006 - Draft Coyote Valley Specific Plan Overview
- (e) June 23, 2006 - Draft Coyote Valley Zoning Code Overview

3.2 Report of the Rules Committee – February 15, 2006
Vice Mayor Chavez, Chair

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated February 9, 2006, transmitting items for public record and administration for the period of February 1-7, 2006.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals

- (1) Approval of travel by Council Member Campos to Washington D.C., March 11-14, 2006, to attend the National League of Cities Congressional City Conference. Attachment: Memorandum from Council Member Campos, dated February 7, 2006, recommending approval of travel.

The Committee recommended approval to travel and use of the Mayor & Council Travel Fund.

- (2) Discussion on an Amendment to the City of San José's Municipal Lobbying Ordinance. Attachment: (1) Memorandum from City Clerk Lee Price, dated February 9, 2006, transmitting Mayor Gonzales' memorandum dated December 9, 2005. (2) Memorandum from Council Member Yeager, dated February 7, 2006, regarding the Lobbying Ordinance. (3) Memoranda from City Attorney Richard Doyle, both dated February 13, 2006, regarding the Lobbying Ordinance.

The Committee accepted the reports presented and recommended that Council Member Yeager's original request be added to the March 7, 2006 City Council Agenda.

- (3) Report on Cellular Communication Coverage at City Hall

The Committee recommended deferral of this item to the February 22, 2006 Rule Committee Meeting.

- (h) Open Forum

Bill Chew thanked the City of San José for providing the open forum for the members of the public to speak.

- (i) Adjournment - The meeting was adjourned at 2:48 p.m.

3.2 Rules/Partial Rules Committee – February 22, 2006
Vice Mayor Chavez, Chair

(c) Legislative Update

(1) State

- (a) Statewide Infrastructure Bonds: Transportation and Proposition 42
The Committee recommended adoption of the following principles to be used as a guideline by the City Staff in the development of a State Infrastructure Bond Program and the policy to ensure the protection of Proposition 42. Attachment: Memorandum from Director of Transportation James Helmer and Director Intergovernmental Relations Betsy Shotwell, dated February 17, 2006, recommending adoption of the following principles.

Support ongoing full funding of Proposition 42 while maintaining existing allocation formula and provide for the constitutional protection of Proposition 42 funding for transportation purposes.

- Substantially reduce the State's transportation funding shortfalls.
- Support a project selection process that includes a substantial role for local and regional agencies in the development of criteria for selection of projects on both State and local systems.

Statewide Infrastructure Bonds: Transportation and Proposition 42

- Be a categorical program not a program of earmarked projects.
- Provide for investment in a multi-modal transportation system.
- Promote policies that include such facets as supporting livable communities encouraging mixed use and infill development, bicycle and pedestrian improvements, and the development of more affordable housing.
- Provide incentives to reward cities and counties that have made significant investments in transportation systems and ensure that State and local investments compliment efforts to reduce congestion and improve mobility.
- Provide funding for High Speed Rail.
- Recognized alternative measures to expand local authority to increase or generate new revenue sources including the addition of new user fees to augment the funding amounts authorized in the bond measure.

- (b) Statewide Infrastructure Bonds: Affordable Housing

The Committee recommended support for the inclusion of affordable housing funds in any Statewide Infrastructure Bond Measure.

3.2 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, the Rules/Partial Rules Committee Reports and the actions of February 8, February 15, and February 22, 2006, were accepted. (11-0.)

3.3 Report of the Making Government Work Better Committee – February 16, 2006 Council Member Reed, Chair

Documents Filed: The Making Government Work Better Committee Report dated February 16, 2006.

- (a) Environmental Preferable Procurement Policy Annual Report. Attachment: Memorandum from Director of Finance Scott Johnson and Director of Environmental Services John Stufflebean, dated February 3, 2006, recommending approval of the report.

The Committee accepted the report and forwarded the report to the City Council.

- (b) FY 2005-06 Second Quarter Debt Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated January 31, 2006, transmitting the report.

The Committee accepted the report and forwarded the report to the City Council.

- (c) FY 2005-06 Second Quarter Investment Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated January 30, 2006, transmitting the report.

The Committee accepted the report and forwarded the report to the City Council.

- (d) External Auditor's Report on Single Audit and Management Letter on Internal Controls for Fiscal Year Ended June 30, 2005. Attachment: Memorandum from Director of Finance Scott Johnson, dated February 2, 2006, transmitting the report.

The Committee accepted the report and forwarded the report to the City Council.

- (e) Citywide Grant Administration Audit.

The Committee accepted the report and forwarded the report to the City Council.

- (f) Oral Petitions

Bill Chew commented on the FY2005-06 Second Quarter Investment Report. Vic Nakamoto commented on the Citywide Grant Administration Audit.

**3.3 Report of the Making Government Work Better Committee – February 16, 2006
Council Member Reed, Chair (Cont'd)**

(g) Adjournment - The meeting was adjourned at 2:50 p.m.

Public Comment: Daniel McCall spoke about the Hurricane Katrina victims.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez and carried unanimously, the Making Government Work Better Report and the actions of February 16, 2006, were accepted. (11-0.)

3.4 Acceptance of status report on discussions with AT&T (SBC) regarding Project Lightspeed. CEQA: Not a Project. (City Manager's Office/Public Works)

Action: Deferred to March 7, 2006.

COMMUNITY & ECONOMIC DEVELOPMENT

**4.3 Appointment of members to the Stakeholder Advisory Committee for the San José Medical Center Land Use-Healthcare Study using recommended guidelines in order to maintain manageability and ensure diverse representation. (Planning, Building and Code Enforcement)
(Deferred from 2/7/06 – Item 4.3 and 2/14/06 – Item 4.3)**

Action: Deferred to March 7, 2006. To be heard in the Evening.

4.4 Recommendation: Adoption of a resolution to:

- (a) **Initiate proceedings to consider the Calpak District Manager's Office as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.**
- (b) **Set a public hearing on March 28, 2006 at 1:30 p.m.**
- (c) **Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.**

CEQA: Exempt. Council District: 6. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 8, 2006, recommending adoption of a resolution. (2) Affidavit of Routing executed on March 6, 2006, and distributed by the City Clerk.

4.4 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73079](#), entitled: “A Resolution of the Council of the City of San José Initiating Proceeding on Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, To Designate the California Packing Corporation (CALPAK) District Manager’s Office, Presently Located at 734 The Alameda, As a City Landmark of Special Historical, Architectural, Cultural, Aesthetic Or Engineering Interest or Value of a Historic Nature”, was adopted. (10-0-1. Absent: Yeager.)

4.5 **Adoption of a resolution of support to open a Children’s Hospital in San José. (Chirco/Chavez)** **(Rules Committee referral 2/22/06)**

Documents Filed: Memorandum from Vice Mayor Chavez and Council Member Chirco, dated February 27, 2006, recommending adoption of a resolution of support.

Public Comment: Speaking in support of a Children’s Hospital were: Laura Beth DeHority, Kathleen King, Silicon Valley Children’s Hospital Foundation, Donald J. Prolo, Santa Clara County Medical Association and Good Small Medical Staff, and William Parrish, CEO/Director of Santa Clara County Medical Association.

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Chavez, and carried unanimously, [Resolution No. 73080](#), entitled: “A Resolution of the Council of the City of San José in Support of a Children’s Hospital in San José”, was adopted. (11-0.)

NEIGHBORHOOD SERVICES

5.1 **Report of the All Children Achieve Committee – February 9, 2006** **Council Member Yeager, Chair**

Documents Filed: The All Children Achieve Committee Report dated February 9, 2006.

- (a) Early Care and Education Update. Attachment: Memorandum from Library Director Jane Light, dated January 30, 2006, recommending acceptance of the report.

The Committee accepted the report with Staff directed to return to the Committee in March 2006 to continue the report, and to focus the discussion solely on the staffing situation in the Early Care and Education Unit.

- (b) Report on Child Care Needs Research. Attachment: Memorandum from Library Director Jane Light, dated January 30, 2006, recommending acceptance of the report.

The Committee accepted the report.

**5.1 Report of the All Children Achieve Committee – February 9, 2006 (Cont'd.)
Council Member Yeager, Chair**

- (c) Children's Health Initiatives Report. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated January 30, 2006, recommending acceptance of the report. (Deferred from December 2005)

The Committee accepted the report.

- (d) Oral Petitions

Bill Chew expressed personal views.

- (e) Adjournment - The meeting was adjourned at 3:00 p.m.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, the All Children Achieve Committee Report and the actions of February 9, 2006, were accepted. (11-0.)

- 5.2**
- (a) **Direct City Staff to review current practices regarding indemnification requirements for Neighborhood groups meeting in City owned facilities and report to Council.**
 - (b) **Direct City Staff to review and contrast indemnification requirements for special events on City property and report back to Council.**
 - (c) **Report out on other Cities' best practices.**
(Chavez)
(Rules Committee referral 2/15/06)

Documents Filed: (1) Memorandum from Vice Mayor Chavez, dated February 28, 2006, recommending agendaize this issue on the February 28, 2006 Agenda with direction. (2) Replacement memorandum from City Attorney Richard Doyle, dated February 24, 2006, clarifying City Indemnification requirements.

City Attorney Richard Doyle responded to Council questions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, Staff was directed to: (1) Review current practices regarding indemnification requirements for Neighborhood groups meeting in City owned facilities and report to Council. (2) Review and clarify the Parks, Recreation and Neighborhood Services facility use guidelines including facilities run by other City departments. (3) As part of that review, direct administration and the City Attorney's Office to provide Council with proposed definitions, requirements, fees and charges related to City use and non-City use. (4) Report back to Council on best practices from other Agencies. (5) Return to Council with proposed alternatives that will allow neighborhood organizations conducting City related business to be released from City indemnification clauses. (6) Ensure there is a way to handle the neighborhood groups in the interim before the final staff report is released. (11-0.)

- 5.3 Approval to not proceed with a real estate exchange between the City of San Jose and the Boys & Girls Clubs of Silicon Valley (B&GC), and adoption of a resolution authorizing the City Manager to negotiate and execute a revised lease for the City's Japantown property, with a term through February 1, 2007, and direction to staff regarding further actions. CEQA: Not a Project. (City Manager's Office/Parks Recreation and Neighborhood Services)
(Deferred from 2/14/06 – Item 5.2)**

Action: Deferred to March 7, 2006.

- 5.4 Adoption of a resolution in support of the City Platform of the National League of Cities' Council on Youth, Education and Families for strengthening families and improving outcomes for children and youth. Mayor)
(Rules Committee referral 2/15/06)**

Documents Filed: Memorandum from Mayor Gonzales, dated February 23, 2006, recommending adoption of a resolution of support.

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously, [Resolution No. 73081](#), entitled: "A Resolution of the Council of the City of San José in Support of the City Platform of the National League of Cities' Council on Youth, Education and Families for Strengthening Families and Improving Outcomes for Children and Youth", was adopted, with the City to continue to work closely with Project Cornerstone and the Santa Clara County Children's Agenda. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Building Better Transportation Committee – February 6, 2006
Council Member Campos, Chair**

Documents Filed: The Building Better Transportation Committee Report dated February 6, 2006.

- (a) Expansion and Improvement of Transit and Transportation Systems - No items.
- (b) Traffic Relief/Safe Streets - No items.
- (c) Supporting Smart Growth - No items.
- (d) Regional Relationships/Funding/Policy
 - (1) Report on Regional and Local Litter Reduction Programs. Attachment: Memorandum from Director of Transportation James Helmer and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated January 30, 2006, transmitting the status report.

**6.1 Report of the Building Better Transportation Committee – February 6, 2006
Council Member Campos, Chair (Cont'd.)**

- (d) Regional Relationships/Funding/Policy (Cont'd.)
(1) Report on Regional and Local Litter Reduction Programs

The Committee accepted the report with Staff directed to return to the April 2006 Committee meeting for an update on the progress of concerns mentioned today.

- (2) Status Report on Proposed Relinquishment of Capitol Expressway from Santa Clara County to the City of San José. Attachment: Memorandum from Director of Transportation James Helmer, dated January 25, 2006, transmitting the status report.

The Committee accepted the report with Staff directed to continue to try to minimize the City expense on segment three of the report, Quimby to 87, and to bring back a final agreement to Council.

- (e) Oral Petitions - There were none.
(f) Adjournment - The meeting was adjourned at 2:53 p.m.

Public Comment: Edna Elkins complained that there is no downtown bus transportation to the hospital on weekends. Mayor Gonzales requested Director of Transportation James Helmer to work with the Valley Transportation Authority on that issue.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, the Building Better Transportation Committee Report and the actions of February 6, 2006, were accepted. (11-0.)

6.2 Adoption of a resolution authorizing the Director of Finance to:

- (a) **Execute an agreement with Air-Transport IT Services, Inc. for the purchase of technology and Integrated Systems for the Norman Y. Mineta San José International Airport, in an amount not to exceed \$6,492,877 including all hardware, software, the first year of support and professional services required to implement the system, and all applicable sales taxes.**
(b) **Execute four, one-year options for ongoing maintenance and support without further Council action other than the appropriation of funding, as follows: Year 2: \$576,371.00; Year 3: \$604,903.00; Year 4: \$634,920.00; Year 5: \$666,507.00, and;**
(c) **Execute change orders in an amount not to exceed \$850,000.00 as contingency to cover unanticipated changes in the system design and/or installation. (Airport/Finance)**

(Deferred from 2/14/06 – Item 6.2)

6.2 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Aviation William Sherry, Director of Public Works Katy Allen and Deputy City Manager Terry Roberts, dated February 13, 2006, recommending approval of request for proposals and adoption of a resolution. (2) Memorandum from City Auditor Gerald Silva, dated February 7, 2006, transmitting review of the Integrated Systems. (3) Memorandum from Director of Finance Scott Johnson, dated February 6, 2006, recommending adoption of a resolution. (4) Supplemental memorandum from Director of Finance Scott Johnson, dated February 17, 2006, transmitting additional information. (5) Staff presentation of Integrated Information Technology Systems for the San José International Airport, dated February 28, 2006.

Deputy Director of Finance Walter Rossmann presented the Integrated Information Technology Systems for the San José International Airport.

Deputy Director Rossmann responded to questions and comments from the Council Members.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73082](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Air-Transport IT Services Inc. for the Purchase of Technology and Integrated Systems for the Norman Y. Mineta San José International Airport", was adopted. (11-0.)

6.3 **Report on bids and award of contract for the Lucretia Avenue Widening (Story Road to Phelan Avenue) Project to the lowest responsive bidder, Wattis Construction Company, Inc., in the amount of \$1,101,051, and approval of five percent contingency in the amount of \$55,000. CEQA: Mitigated Negative Declaration, PP05-003. Council District: 7. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated February 8, 2006, recommending taking action based on evaluation of bids. (2) Supplemental memorandum from Director of Public Works Katy Allen and Director of Transportation James Helmer, dated February 21, 2006, providing additional information.

Action: Upon motion by Council Member Nguyen, seconded by Vice Mayor Chavez and carried unanimously, the contract was approved. (10-0-1. Absent: Cortese.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Conclude the Public Hearing on proposed Recycle Plus rate increases to be effective April 1, 2006, and on potential increases for Fiscal Years 2006-07 and 2007-08.**
- (b) **Adoption of a resolution revising Recycle Plus rates for integrated waste management services beginning April 1, 2006, increasing single-family rates by 5% and multi-family rates by 2%.**
- (Environmental Services/City Manager's Office)**
(Deferred from 2/14/06 – Item 7.1)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean and Budget Director Larry Lisenbee, dated February 14, 2006, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Environmental Services John Stufflebean, dated February 22, 2006, transmitting additional information.

Director of Environmental Services John Stufflebean presented the Recycle Plus FY 2005-06 Rates.

Director Stuffbean responded to numerous questions from the Council Members.

Public Comment: Daniel McCall spoke off topic.

Discussion: Council Member LeZotte asserted that the process has been tainted because of issues surrounding Norcal. She stated she was uncomfortable with any action that would give Norcal any more money and added that other haulers are more deserving.

Council Member Campos expressed concern about adequate outreach.

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams and carried, [Resolution No. 73083](#), entitled: "A Resolution of the Council of the City of San José Adopting Service Rates for the Recycle Plus Program Effective April 1, 2006 and Superseding Resolution No. 72162", adopted as amended by adding direction to Staff to return with: (1) A menu of options (fines, fees, incentives), including best practices from other Cities. (2) Full analysis of the pricing scheme the City of San José currently uses. (3) A mechanism to charge a fee or fine for contaminated recycling bins. (7-4. Noes: Campos, Cortese, LeZotte, Yeager.)

- 7.2 **Adoption of a resolution authorizing the City Manager to negotiate and execute amendments to agreements among cities of San Jose, Santa Clara, Milpitas and West Valley Sanitation District to reflect the transfer of one million gallons of wastewater capacity in the San Jose/Santa Clara Water Pollution Plant from West Valley Sanitation District to the City Of Milpitas. CEQA: Not a Project. (Environmental Services)**

Action: Deferred to March 7, 2006.

PUBLIC SAFETY SERVICES

- 8.1 Acceptance of the 2005 Annex A update on the roles of elected officials during declared disasters as part of the City's Emergency Operations Plan. CEQA: Not a Project. (Emergency Services)
(Deferred from 1/10/06 – Item 8.1 and 2/14/06 – Item 8.1)**

Action: Deferred to March 21, 2006.

- 8.2 Adoption of a resolution ordering, on the Council's own motion, the submission to the electors of the City, at the Municipal Election to be held on June 6, 2006, a measure entitled "Fire Station Construction – Silver Creek Linear Park". CEQA: Exempt PP06-009. Council District: 8. (Fire/Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Fire Chief Jeffrey Clet, Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 8, 2006, recommending adoption of a resolution.

Public Comment: Debra Murphy, Silver Creek Valley Community Association, spoke in favor of the Staff recommendation.

Action: Upon motion by Council Member Cortese, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73084](#), entitled: "A Resolution of the Council of the City of San José Ordering On Its Own Motion, the Submission to the Electors of the City of San José, at the General Municipal Election to be Held on June 6, 2006, A Measure Entitled Fire Station Construction – Silver Creek Park", was adopted. (10-0-1. Absent: Reed)

- 8.3 Acceptance of the Independent Police Auditor's (IPA) 2005 Mid-Year Report Policy recommendations and the San José Police Department's (SJPD) Response.**
(a) Acceptance of the San José Police Department Taser Usage Guidelines presented to City Council on November 29, 2005, and;

Documents Filed: (1) Memorandum from Independent Police Auditor Barbara Attard and City Manager Les White, dated February 15, 2006, recommending acceptance of the reports. (2) Three items from the public dated February 28, 2006.

Public Comment: Speaking against the use of tasers were: Darlene Wallach, Aram James, Daniel McCall, Kenneth Stettem and Mark Trout.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Chirco and carried unanimously, the report was accepted, with Staff directed to: (1) Route an information memorandum of the glossary of terms used in the Duty Manual Guidelines; (2) Return in one year with an update. (11-0.)

- 8.3 (b) Acceptance of the IPA's recommendation that the IPA receive copies of the homicide reports for the SJPD's officer-involved shootings and in-custody deaths.**

(IPA/City Manager's Office)

Motion: Vice Mayor Chavez recommended approval of the Independent Police Auditor's recommendation. Council Member Williams seconded the motion.

Council Member LeZotte stated that personal information in a homicide report should be protected and expressed concern about the effect on privacy rights of individuals and their families.

Action: On a call for the question, the motion carried, and the report was accepted. (10-1. Noes: LeZotte.)

- 8.4 Acceptance of the Independent Police Auditor (IPA) Outreach Plan. (IPA)**

Documents Filed: Memorandum from Independent Police Auditor Barbara Attard, dated February 14, 2006, recommending acceptance of the report.

Independent Police Auditor Barbara Attard responded to Council questions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the report was accepted. (10-0-1. Absent: Cortese.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 Acceptance of the Quarterly Report on the Citywide Capital Improvement Program (CIP) including Parks, Library, and Public Safety Bond Projects, Strong Neighborhoods Initiative (SNI) Projects, and Redevelopment Agency funded projects. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)**

Action: Deferred to March 7, 2006.

- 9.2 (a) Adoption of a resolution by the City Council determining that the public interest and necessity require the acquisition of the 25% undivided real property interest owned by Sal Petronio in the real property located at 114 Alma Avenue, in San Jose, California (APN 434-23-143) in the Strong Neighborhoods Initiative-Washington Area and authorizing the City Attorney to file suit in eminent domain to acquire his undivided real property interest, to apply for an order of possession before judgment and to prosecute the action to final judgment, and authorizing the deposit of \$53,475 in court for possession of his real property from the funds lawfully available.**

- 9.2 (b) **Approval by the City Council of a Purchase and Sales Agreement with the Pusateri family, in the amount of \$168,150 plus related closing costs, for the acquisition of 102-104 W. Alma Avenue (APN 434-23-139) for the future expansion of the Alma Community Center.**
- (c) **Approval by the City Council of a Purchase and Sales Agreement with the Petronio sisters, in the amount of \$160,425 plus related closing costs, for the acquisition of their 75% undivided real property interest in 114 W. Alma Avenue (APN 434-23-143) for the future expansion of the Alma Community Center.**
- (d) **Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to deposit \$328,575, plus related closing costs not to exceed \$20,000 into escrow for the acquisition of 114 and 102-104 W. Alma Avenue, to execute any additional documents necessary to close escrow, and to deposit \$53,475 with the Superior Court in connection with the eminent domain action.**
- (e) **Adoption by the City Council of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Services for Redevelopment Capital Fund (Fund 450):**
- (1) **Establish an appropriation to Public Works for the Department of Public Works Real Estate Services - Alma Avenue Acquisition project in the amount of \$15,000.**
- (2) **Increase the estimate for Earned Revenue for the amount by \$15,000.**
- Council District: 7. CEQA: Exempt; File No. PP06-006. (City Manager's Office/ Redevelopment Agency)**

Action: Deferred to March 14, 2006.

OPEN FORUM

- (1) Bill Chew, candidate for District 3, pointed out that he was the first candidate to qualify for the ballot.
- (2) Robert Apgar voiced his own personal observations.
- (3) Mark Trout voiced his own personal religious views.

ADJOURNMENT

The Council of the City of San José was adjourned in memory of the victims of the landslide tragedy in the Philippines and in honor of Irwin Lorenzo Dillon II at 5:20 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, MMC, CITY CLERK

smd/2-28-06MIN

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