

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 14, 2006

The Council of the City of San José convened in Regular Session at 9:31 a.m. in the Mayor's Conference Room T1841, City Hall.

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

Absent: Council Members: Campos (Excused).

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room T1841 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of (1) City of San José, et al. v. County of Santa Clara, et al. (2) County of Santa Clara, et al. v. City of San José, et al., (3) City of San José v. Vartec Telecom. Inc., (4) City of San José v. JMP Golf Design Group, et al., (5) The San José Charter of the Hells Angels Motorcycle Club, et al. v. City of San José, (6) Proposition 22 Legal Defense & Education Fund, et al. v. Gonzales, et al.; (B) to confer with Legal Counsel regarding anticipated litigation (a) of three matters where there is significant exposure to litigation pursuant to subsection (c) of Section 54956.9 of the Government Code; Confer with real property designated representatives pursuant to Government Code Section 54956.8: Properties: (1) 1060 E. Empire Gardens (Assessor Parcel #249-64-001), City Negotiator(s): Dave Sykes and Neil Stone; Negotiating Party(ies): San José Unified School District; Under negotiation: Price and terms of payment; Properties: (2) Blue Jay Drive (Assessor Parcel #455-13-039), City Negotiator(s): Dave Sykes and Neil Stone; Negotiating Party(ies): San José Unified School District; Under negotiation: Price and terms of payment; Properties: (3) Roosevelt Park (Assessor Parcel #467-12-013), City Negotiator(s): Dave Sykes and Neil Stone; Negotiating Party(ies): San José Unified School District; Under negotiation: Price and terms of payment; Properties: (4) 491 E. Empire Street (Assessor Parcel #249-34-001), City Negotiator(s): Dave Sykes and Neil Stone; Negotiating Party(ies): San José Unified School District; Under negotiation: Price and terms of payment; Properties: (5) 20th Street N. of Santa Clara Street (Assessor #[part of 20th Street]), City Negotiator(s): Dave Sykes and Neil Stone; Negotiating Party(ies): San José Unified School District; Under negotiation: Price and terms of payment; Properties: (6) 1500 Bulldog Boulevard (Assessor Parcel #467-11-041), City

CLOSED SESSION (Cont'd)

Negotiator(s): Dave Sykes and Neil Stone; Negotiating Party(ies): San José Unified School District; Under negotiation: Price and terms of payment; Properties: (7) S. of Hollow Lake Way at terminus of Quail Crest Way (Assessor Parcel #583-08-027), City Negotiator(s): Dave Sykes and Neil Stone; Negotiating Party(ies): San José Unified School District; Under negotiation: Price and terms of payment; Properties: (8) Norman Y. Mineta San José International Airport Terminal Buildings, Gates, and Ramp Areas (Assessor Parcel #455-13-039), City Negotiator(s): William F. Sherry, A.A.E., Director of Aviation; Negotiating Party(ies): Airborne Express (ABX), Alaska Airlines, American Airlines, Continental Airlines, Delta Airlines, Federal Express, Frontier Airlines, Hawaiian Airlines, Horizon Air, JetBlue Airways, Mexicana Airlines, Northwest Airlines, Southwest Airlines, United Airlines, United Parcel Service, US Airways; Under negotiation: Price and terms of payment.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:45 a.m. and reconvened at 1:34 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: Campos (Excused).

INVOCATION (DISTRICT 3)

Pastor Sonny Lara, Star of David Church delivered a prayer.

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, the Orders of the Day and the Amended Agenda were approved. (10-0-1). Absent: Gregory.

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Matt Morley and Randy Turner for their exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor)

Action: Mayor Gonzales and Interim City Manager Les White presented a commendation to General Services Facility Manager Matt Morley and General Services Deputy Director Randy Turner for their exemplary dedication and contributions to the City organization in making the move to the New City Hall swift and seamlessly.

1.2 Presentation of a commendation to Marianne Bourgeois for her exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor)

Action: Interim City Manager Les White joined Mayor Gonzales to present a commendation to Marianne Bourgeois for her exemplary dedication and contributions to the City organization.

1.3 Presentation of a commendation to Lynuxworks for its important contribution to the San José economy. (Mayor/Williams)

Action: Mayor Gonzales and Council Member Williams presented a commendation to Dr. Singh of Lynuxworks for its contributions to the City of San José and its economy.

1.4 Presentation of a commendation to the League of Women Voters of San José/Santa Clara recognizing the organization's commitment to open and transparent government, both locally and statewide, on the occasion of "Sunshine Week 2006". (Yeager)

Action: Council Member Yeager and Mayor Gonzales presented a commendation to Bobbi Fischler of the League of Women Voters of San José/Santa Clara in recognition of the organization's commitment to open and transparent government and on the occasion of "Sunshine Week 2006".

1.5 Presentation of a proclamation declaring the week of March 12-19, 2006 as Irish Week in San José. (Mayor/LeZotte)

Action: Mayor Gonzales and Council Member LeZotte presented a proclamation to the Lord Mayor of Dublin, Ireland Catherine Byrne, and other dignitaries from the Dublin delegation, in declaring the week of March 12-19, 2006 as Irish Week in San José

1.6 Presentation of a proclamation to Don Lima for his inspiration and leadership to creating Christmas in the Park, which has become an annual holiday tradition in the City of San José. (Nguyen)

Action: This item was deferred to March 21, 2006

1.7 Presentation of a commendation to Clark Williams for his devotion and service to San José's non-profit community, most recently as Interim Director of the Billy DeFrank LGBT Community Center. (Cortese)

Action: Council Member Cortese and Mayor Gonzales presented a commendation to Clark Williams for his devotion and service to San José's non-profit community, most recently as Interim Director of the Billy DeFrank LGBT Community Center.

1.8 Special recognitions followed honoring Deputy City Manager Terry Roberts on his retirement, and Director of Parks, Recreation and Neighborhood Services who has accepted a position in Phoenix, Arizona.

CONSENT CALENDAR

Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and unanimously carried, the Consent Calendar was approved as indicated with the exception of Item 2.6 (pulled by Council Member LeZotte). (10-0-1). Absent: Campos.

FINAL ADOPTION OF ORDINANCES

- 2.2 (a) **ORD. NO. 27667 – Amends Chapter 12.12 of the San José Municipal Code by adding a new section 12.12.200 entitled lobbyist fundraising activity to provide a definition of the term and amending section 12.12.420 entitled additional required information and disclosures.**

Documents Filed: Proof of publication of title of Ordinance No. 27667, executed on March 14, 2006 by the City Clerk.

Action: [Ordinance No. 27667](#) was adopted. (10-0-1). Absent: Campos.

- 2.3 (a) **Approval of the proposed 2005-07 Spending Plan for the 2005 Edward Byrne Memorial Justice Assistance Grant Trust (JAG) Fund.**
- (b) **Adoption of the following 2005-2006 Appropriation Ordinance and Funding Sources Resolution amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund:**
- (1) **Establish the estimate for Earned Revenue in the amount of \$381,780;**
 - (2) **Establish the JAG 2005-07 appropriation to the Police Department in the amount of \$381,780.**

**CEQA: Not a Project. (City Manager's Office/Police)
(Deferred from 3/7/06 – Item 2.7)**

Documents Filed: Memorandum from Chief of Police Robert L. Davis, dated March 1, 2006, recommending adoption of the proposed 2006-2007 Spending Plan for the 2005 Edward Byrne Memorial JAG Fund, and adoption of the appropriation ordinance and related funding sources resolution amendments.

Action: [Ordinance No. 27672](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the General fund for the Edward Byrne Memorial Justice Assistance Grant Trust fund for 2005-2007; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and [Resolution No. 73091](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the General Fund”, were adopted. (10-0-1). Absent: Campos.

- 2.4 (a) **Approval of the proposed 2005-07 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund; and,**
- (b) **Adoption of the following amendments to the annual appropriation ordinance and the annual funding sources resolution in the Supplemental Law Enforcement Services Fund (Fund 414) for Fiscal Year 2005-06:**
- (1) **Establish a SLES Grant 2005-07 appropriation for the Police Department in the amount of \$ 1,363,317;**
- (2) **Increase the Earned Revenue by \$ 1,363,317.**
- CEQA: Not a Project. (City Manager's Office/Police)**

Documents Filed: Memorandum from Budget Director Lisenbee and Police Chief Davis, dated February 22, 2006, recommending approval of the 2005-07 Spending Plan for the Supplemental Law Enforcement Services Fund Grant and adoption of related appropriation and funding sources actions for Fiscal Year 2005-06.

Public Comments: Ross Signorino spoke in support and expressed concerns on public safety issues.

Action: The proposed spending plan was approved; [Ordinance No. 27673](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Supplemental Law Enforcement Services (SLES) Fund for the SLES Grant for 2005-2007; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and [Resolution No. 73093](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Supplemental Law Enforcement Services (SLES) Fund”, were adopted. (10-0-1). Absent: Campos.

2.5 **Adoption of a resolution:**

- (a) **Authorizing the City Manager to negotiate and execute a fourth amendment to the Airport Food and Beverage Concession Agreement with Host International (“Host”), Inc. to:**
- (1) **Reimburse Host for the utility stub outs and cost of constructing certain improvements and to bring proposed concession spaces into compliance with the fire requirements of the Uniform Building Code for a total amount, to be paid by the City, not to exceed \$60,000; and**
- (2) **Add a new concession location and remove one concession location from the Concession Areas operated by Host.**
- (b) **Authorizing the Director of Aviation to negotiate and execute amendments to the Concession Agreement to:**
- (1) **Add or remove concession locations, so long as any additional concession locations are subject to the Concession Fees as set in the Concession Agreement; and,**
- (2) **Reimburse Host for any utility infrastructure upgrades for future new Concession Areas at the Airport for a cost not to exceed \$100,000 per new Concession Area.**

CEQA: Resolution Nos. 67380 and 71451, PP 05-288. (Airport)

2.5 (Cont'd)

Documents Filed: Memorandum from Director of Aviation Sherry, dated March 1, 2006, recommending approval of a fourth amendment to the Airport food and Beverage Concession Agreement with Host International, Inc., and adoption of a resolution authorizing the Director of Aviation to negotiate and execute amendments to the Concession Agreement.

Action: [Resolution No. 73092](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and execute a Fourth Amendment to the Airport Food and Beverage Concession Agreement with Host International, Inc. and Authorizing the Director of Aviation to Negotiate and Execute Amendments to the Concession Agreement to Add or Remove Concession Locations and Reimburse Host for any Utility Infrastructure Upgrades for Future New Concession Areas for a Cost Not to Exceed \$100,000 Per New Concession Area", was adopted. (10-0-1). Absent: Campos.

- 2.6 (a) **Adoption of the following 2005-2006 Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) **Increase the appropriation to the Department of Public Works for the Greater Gardner Street Reconstruction project (PSM 346, Amendment #5) in the amount of \$349,000.**
 - (2) **Increase the appropriation to the Department of Planning, Building and Code Enforcement for the California Environmental Quality Act (CEQA) Clearance project (PSM 365, Amendment #1) in the amount of \$15,000.**
 - (3) **Establish an appropriation to the Office of Cultural Affairs for the Public Art for the Starbird Teen Center Project (PSM 408) in the amount of \$27,433.**
 - (4) **Establish an appropriation to the Department of Transportation for the Slurry Seal Project (PSM 419) in the amount of \$40,000.**
 - (5) **Establish an appropriation to the Department of Public Works for the South First Streetscape project (PSM 433) in the amount of \$124,000.**
 - (6) **Establish an appropriation to the Department of Housing for the Jeanne-Forestdale SNI Housing Rehabilitation Demonstration project – Phase 1 (PSM 434) in the amount of \$250,000.**
 - (7) **Establish an appropriation to the Department of Public Works for the Mayfair Community Center project (PSM 436) in the amount of \$852,000.**
 - (8) **Increase the estimate for Earned Revenue by \$1,617,433.**
- (b) **Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Mayfair Community Center project as more specifically described in the memorandum from the Redevelopment Agency, dated February 1, 2006.**

2.6 (Cont'd)

Council Districts 1,3,5 and 10. SNI: Mayfair/Five Wounds/Brookwood Terrace/Blackford/Greater Gardner/Hoffman/Via-Monte. CEQA: See memo. (City Manager's Office)

Documents Filed: (1) Memorandum from Budget Director Lisenbee, dated February 15, 2006, recommending adoption of the 2005-2006 Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund, and adoption of a resolution pertaining to related expenditure of Redevelopment Agency funds in connection with the Mayfair Community Center.

Public Comment: Ross Signorino spoke in support of keeping the center open to allow the youth of San José to have community involvement.

This item was pulled by Council Member LeZotte, with the request to defer consideration of Item #3, the Public Art for the Starbird Teen Center Project to a later date to allow time for public input. Public Art Director Barbara Goldstein responded to Council questions.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Williams, and unanimously carried, Item 2.6(a)(1)(3) was deferred to a date following the Art Commission's April meeting; Item 2.6(a)(1)(4) was dropped from the agenda; [Ordinance No. 27674](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for Various Public Improvements; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and [Resolution No. 73095](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", and [Resolution No. 73096](#), entitled: "Resolution of the council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Mayfair Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (10-0-1). Absent: Campos.

2.7 **Report on bids and award of contract for the South Bay Water Recycling Program (SBWR), SJ-13 SJ/SC Coleman Avenue Connector to the low bidder, Shaw Pipeline, Inc., in the amount of \$756,025 and approval of a contingency in the amount of \$76,000. CEQA: Exempt, File No. PP05-196. Council District 3. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated March 1, 2006, award of said contract to the low bidder, Shaw Pipeline, Inc., and approval of the specified contingency. (2) Letter from Patricia Mahan, Chairperson of the Treatment Plant Advisory Committee, dated March 9, 2006, recommending award of contract and approval of the specified contingency.

2.7 (Cont'd)

Public Comment: William Garbett spoke in opposition to the proposed action.

Action: The report was approved and the award of contract for the SBWR program to the low bidder, Shaw Pipeline, Inc., with specified contingency, was approved. (10-0-1).
Absent: Campos.

2.8 **Approval of the first amendment to the utility users tax audit services agreement with Tax Compliance Services (TCS) to extend the term for one year, from April 23, 2006 through April 22, 2007, increasing compensation by \$146,000 from \$584,000 to a total contract amount not to exceed \$730,000. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Johnson, dated March 2, 2006, recommending approval of the first amendment to the agreement between the City of San José and Tax Compliance Services Company.

Public Comment: William Garbett spoke in opposition to the proposed action.

Action: The first amendment to the utility users tax audit services agreement with Tax Compliance Services was approved. (10-0-1). Absent: Campos.

2.9 **Adoption of a resolution authorizing the Director of Housing to:**

- (a) **Apply for and accept Workforce Housing grants in the estimated amount of \$1,380,450 from the California Department of Housing and Community Development (HCD); and**
- (b) **Negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the Workforce Housing Reward Program grants.**

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Krutko, dated February 28, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73097](#), entitled: "A Resolution of the Council of the City of San José (I) Authorizing the Director of Housing to Apply For and Accept Workforce Housing Reward Program (WFH) Grants in the Estimated Amount of \$1,380,450 From the California Department of Housing and Community Development; and (II) Authorizing the Director of Housing to Negotiate and Execute the Grant Agreements and Any Amendments or Other Documents Necessary to Implement the Program Funded by WFH Program Grants", was adopted. (10-0-1). Absent: Campos.

- 2.10 Approval of an ordinance suspending the collection of Park Impact fees required by Chapter 14.25 of the San Jose Municipal Code for secondary units permitted under the current one-year Second Unit Pilot Program, to be effective retroactive to January 1, 2006, the date the pilot program commenced, and to expire on December 31, 2006 or upon the issuance of 100 second unit permits, whichever occurs first, consistent with the terms of the Second Unit Pilot Program Ordinance, unless Council by further action amends or extends the proposed ordinance. CEQA: Exempt, PP05-196. (Parks, Recreation and Neighborhood Services/Housing/Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Hensley, Director of Housing Krutko, and Acting Director of Planning, Building and Code Enforcement Horwedel, dated February 24, 2006, recommending approval of the ordinance.

This item was pulled by Council Member Cortese.

Public Comment: Mirza Gehman spoke in opposition to the proposed fee.

Action: Upon motion by Council Member Cortese, seconded by Council Member Chirco, Staff was directed to provide an informational memorandum to Council outlining the criteria for fee charges, and Ordinance No. 27675, entitled: "An Ordinance of the City of San José Suspending the Requirements of Chapter 14.25 of Title 14 of the San José Municipal Code for Secondary Units Permitted Under the City's Secondary Units Pilot Program Retroactive to January 1, 2006 and to Authorize Refunds of the Park Impact Fees Paid to the City of San José Pursuant to Chapter 14.25 Under That Pilot Program", was passed for publication. (9-1-1). Noes: Chavez. Absent: Campos.

- 2.11 Approval of the first amendment to the master agreement with Callander Associates Landscape Architecture, Inc. for a variety of planning, development and construction support services for various trail projects increasing the total compensation by \$200,000, from \$850,000 for a total agreement amount not to exceed \$1,050,000. CEQA: Not a Project. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Allen and Director of Parks, Recreation and Neighborhood Services Hensley, dated February 22, 2006, recommending approval of the first amendment to the master agreement with Callander Associates Landscape Architecture, Inc. for specified projects.

Action: The first amendment to the master agreement with Callander Associates Landscape Architecture, Inc., for the proposed projects was approved. (10-0-1). Absent: Campos.

- 2.12 Approval of an ordinance amending Section 11.36.220 of Chapter 11.36 of Title 11 of the San José Municipal Code by adding that the attempted removal of tire markings placed by an authorized City employee and/or if the vehicle has not moved more than one tenth (1/10) of a mile from its original parking space within a period of seventy-two consecutive hours is a violation of the on-street vehicle storage regulation. CEQA: Not a Project. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Helmer, dated February 22, 2006, recommending approval of the ordinance.

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

Action: [Ordinance No. 27676](#), entitled: “An Ordinance of the City of San José Amending Section 11.36.220 of Chapter 11.36 of Title 11 of the San José Municipal Code By Adding No Person Shall Avoid the Time Limit on Vehicles Parked on City Streets or Alleys for More Than a Consecutive Period of Seventy-Two Hours by Attempting to Remove Tire Markings Placed By an Authorized City Employee And/Or By Moving the Vehicle Less Than One-Tenth of a Mile From the Original Parking Space”, was passed for publication. (10-0-1). Absent: Campos.

- 2.13 Approval of two appointments to the Project Diversity Screening Committee. (Mayor)**

Documents Filed: Memorandum from Mayor Gonzales, dated March 2, 2006, recommending appointment of Trudy Ellerbeck and Dan Migliore to the Project Diversity Screening Committee.

Action: The appointments to the Project Diversity Screening Committee were approved. (10-0-1). Absent: Campos.

- 2.14 Approval of Silicon Valley Regional Interoperability Project Agreements:**
- (a) Ratification of the Santa Clara County Data Communications Network Joint Funding Agreement as amended through September 1, 2004.**
 - (b) Approval of Agreement with the City of Mountain View for payment of \$499,900 in UASI Grant Funding for service performed on behalf of the Silicon Valley Regional Interoperability Project.**
- CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: Memorandum from Director of Emergency Services Miceli, dated March 14, 2006, recommending authorization of the agreements.

Action: The ratification of the joint funding agreement with Santa Clara County and the agreement with the City of Mountain View were approved, and Staff was directed to return in late April with a full presentation. (10-0-1). Absent: Campos.

2.15 Acceptance of the Report of Activities and Findings for the Period January 16 through February 15, 2006. (City Auditor)

Documents Filed: The Report of Activities and Findings for the Period January 16 through February 15, 2006, from the Office of the City Auditor.

Action: The report of Activities and Findings from the Office of the City Auditor was accepted. (10-0-1). Absent: Campos.

STRATEGIC SUPPORT SERVICES

3.1 (a) 2005-2006 Proposed Operating Budget Study Sessions dated May 9-18, 2005. [Deferred from 3/7/06 – Item 3.1(a)]

Documents Filed: None.

Action: This item was deferred to March 21, 2006

**3.2 Report of the Rules Committee - March 1, 2006
Vice Mayor Chavez, Chair**

Documents Filed: The Rules Committee Report, dated March 1, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council

- (1) Review March 14, 2006 Draft Agenda. Attachment: Memorandum from Council Member Yeager, dated March 1, 2006, recommending approval of an amendment to the guidelines for the vending machine contract for the City's Library Department to include provisions for healthy food and drink options.

The Committee recommended approval of the March 14, 2006 City Council Agenda with four additions.

- (2) Add New Items to March 7, 2006 Agenda

The Committee recommended eight additions to the March 7, 2006 City Council Agenda.

- (3) List of Reports Outstanding

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

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

**3.2 Report of the Rules Committee - March 1, 2006 (Cont'd)
Vice Mayor Chavez, Chair**

- (d) Meeting Schedules - There were none.
- (e) The Public Record. Attachment: Memorandum for City Clerk Price, dated February 23, 2006, transmitting items for the public record and administration for the period February 8-28, 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) Status Report on the Workload Assessment Related to the Increased Fines and Mitigation Efforts for Illegal Tree Removal. Attachments: (1) Memorandum from Director of Transportation Helmer and Acting Director of Planning, Building and Code Enforcement Horwedel, dated February 22, 2006, recommending acceptance of the status report. (2) Letter from John Engell and Karen English, dated March 1, 2006, stating concerns regarding the proposed changes to the Municipal Code regarding removal of street trees.

The Committee accepted the status report on the workload assessment and directed staff to proceed with taking a formal recommendation to Council to increase fines for illegal tree removals and increase the posting period for potential street tree removals from 7 to 14 days.

SEE ITEM 5.3 FOR COUNCIL ACTION TAKEN

- (h) Open Forum - Bill Chew spoke about his candidacy in District 3.
- (i) Adjournment - The meeting adjourned at 2:36 p.m.

Action: The Rules Committee report and actions of March 1, 2006 were accepted. (10-0-1). Absent: Campos.

3.4 Approval of an amendment to the guidelines for the vending machine contract for the City's Library Department to include provisions for healthy food and drink options. (Yeager)

Documents Filed: (1) Memorandum from Council Member Yeager, dated March 10, 2006, recommending adoption of nutrition specifications for the Library's vending machine Request for Qualifications (RFQ). (2) Memorandum from City Clerk Price, dated March 10, 2006, recommending consideration of approval of Council Member Yeager's amendment to the guidelines.

3.4 (Cont'd)

Public Comment:

Ross Signorino spoke in support and expressed the importance of providing an education program as well.

Dr. Marjorie Freedman (San José State University) spoke in support of the proposal.

Dr. Amor Santiago (Director of Health Trust of Silicon Valley) spoke in support of the proposal.

David Williams (After School All Stars) spoke in support of the action.

Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and unanimously carried, the amendment pertaining to the vending machine contract for the City's Library Department was approved and Staff directed to report back to Council with recommendations for similar amendments to the vending machine contracts Citywide. (10-0-1). Absent: Campos.

3.5 **Acceptance of the follow-up report related to Council Appointee salary adjustments and direction to staff as appropriate. (City Manager's Office)**

Documents Filed: Memorandum from City Manager White, dated January 20, 2006, requesting a one-week deferral.

Action: This item was deferred to March 21, 2006.

3.6 **Acceptance of Status Report on discussions with AT&T (SBC) regarding Project Lightspeed. CEQA: Not a Project. (City Manager's Office/Public Works) (Deferred from 2/28/06 – Item 3.4 and 3/7/06 – Item 3.4)**

Documents Filed: (1) Memorandum from Deputy City Manager Shikada and Director of Public Works Allen, dated March 3, 2006, recommending acceptance of the status report. (2) Memorandum from Deputy City Manager Shikada, dated March 13, 2006, providing supplemental information related to AT&T (SBC) Project Lightspeed memorandum of March 3, 2006. (3) Letter from Phaedra Ellis-Lamkins, Executive Officer of the South Bay Labor Council, dated March 7, 2006 urging support for the continuation of discussions between AT&T and city staff on the project.

Deputy City Manager Ed Shikada reported on the progress of City discussions with AT&T pertaining to Project Lightspeed.

Extensive Council discussion ensued.

3.6 (Cont'd)

Public Comment:

Leon Beaucham, Representative of AT&T, commented on that San José is best served by competition. He noted that there is pressure to reduce costs and increase services, and argued that it is too early to insist on Citywide services. He added that AT&T has questions relating to service areas and emphasized that the technology is new. Mr. Beaucham concluded that AT&T is working with the cities, the Stat and the Federal Government to develop a framework for a policy and encouraged the Council to continue negotiations.

William Garbett objected to granting a monopoly and inviting land grabs.

Mark Trout spoke off topic.

George Fokos expressed concerns regarding cell phone overcharges.

Action: By unanimous consent, the Status Report on discussions with AT&T (SBC) regarding Project Lightspeed was accepted, and Staff directed to: (1) Work with the City Attorney and return with a framework (including critical deal points) for a policy discussion by the Council, and (2) When the matter returns to Council, bring in an actual cabinet/box for Council to inspect. (10-0-1). Absent: Campos.

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – February 27, 2006 Council Member Williams, Chair

Documents Filed: The Driving a Strong Economy Committee Report, dated February 27, 2006.

(a) Small Business Commission Workplan Review

Staff will forward a memorandum to Council on the decision of the 9th Circuit Court regarding Disadvantaged Business Enterprise (DBE) participation goals for federally funded projects.

(b) Report on Renter's Insurance - The Committee accepted the status report.

(c) Catalyst Fund RFP Update - The Committee accepted the Staff report.

(d) Customer Service Center Progress Report - The Committee accepted the Staff report.

(e) Oral Petitions - None.

**4.2 Report of the Driving a Strong Economy Committee – February 27, 2006 (Cont'd)
Council Member Williams, Chair**

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

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, the Driving a Strong Economy Committee report and actions of February 27, 2006 were accepted. (9-02). Absent: Campos, LeZotte.

4.3 Approval of an agreement to update GIS maps to include contour and related elevation data:

- (a) **Approval of an agreement for Phase No. 3 for the creation of contour and related elevation data for the County of Santa Clara with the County of Santa Clara and the Santa Clara Valley Water District.**
- (b) **Adoption of a resolution authorizing the City Manager to negotiate and execute the following Phase No. 3 agreements after the agreement with the County of Santa Clara and the Santa Clara Valley Water District is fully executed and adequate funds are deposited with the City:**
 - (1) **An agreement with Triathlon, Inc. to provide professional services relating to the creation of a digital terrain model, the generation of contours and the extraction of buildings and top of the creek banks for the County of Santa Clara for a maximum amount of \$1,051,462 from the date of execution to December 31, 2009; and,**
 - (2) **An agreement with HJW Geospatial, Inc. to provide quality control services in an amount not to exceed \$83,000 from the date of execution to December 31, 2009.**
- (c) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax (Fund 465):**
 - (1) **Increase the Estimate for Earned Revenue by \$461,274 to recognize funding from the Santa Clara Valley Water District and the County of Santa Clara.**
 - (2) **Increase the Ortho Photo Project Appropriation by \$461,274.**

CEQA: Not a Project. (Public Works)

Documents Filed: Memorandum from Director of Public Works Allen and Budget Director Lisenbee, dated March 2, 2006, recommending approval of an agreement between the City of San José, the County of Santa Clara and the Santa Clara Valley Water District for the creation of contour and related elevation data for the County of Santa Clara (Phase No. 3), adoption of a resolution authorizing the City Manager to negotiate and execute the Phase No. 3 agreements, and adoption of appropriation ordinance and related funding sources resolution amendments.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle, and unanimously carried, the agreement with the County of Santa Clara and the Santa Clara Valley Water District for Phase No. 3 for the creation of contour and related elevation data for the County of Santa Clara was approved; [Resolution No. 73098](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City

4.3 (Cont'd)

Manager to Negotiate and Execute Phase No. 3 Agreements with Triathlon, Inc. and HJW Geospatial, Inc.”; [Ordinance No. 27677](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Construction Excise Tax Fund for the Ortho Photo Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and [Resolution No. 73099](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Construction Excise Tax Fund”, were adopted. (9-0-2). Absent: Campos, LeZotte.

NEIGHBORHOOD SERVICES

5.2 **Approval of an agreement with Field Paoli, Inc. for consultant services for the Mayfair Community Center Project, from the date of execution to June 30, 2009, in a total amount not to exceed \$1,415,155. Council District 5. SNI: Mayfair. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Allen, dated February 27, 2006, recommending approval of the agreement.

Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and unanimously carried, the agreement with Field Paoli, Inc., for consultant services for the Mayfair Community Center Project was approved. (10-0-1). Absent: Campos.

5.3 **Approval of actions related to illegal tree removal:**

- (a) **Approval of an ordinance to amend Section 13.28.140 of chapter 13.28 of Title 13 of the San José Municipal Code to increase the posting period for potential street tree removals from seven to fourteen days; and**
- (b) **Adoption of a resolution amending the Administrative Schedule of fines to increase the administrative fines for illegal removal of trees in San José as outlined in the report, and repealing Resolution No. 73004, to be effective March 14, 2006.**

CEQA: Not a project. (Transportation/Planning, Building and Code Enforcement)

Documents Filed: None.

Action: This item was deferred to April 25, 2006.

TRANSPORTATION & AVIATION SERVICES

6.2 Approval of an agreement for security guard services at the Airport:

Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute a one-year agreement with two one-year options with National Security Industries, Inc. for security guard services at the Norman Y. Mineta San Jose International Airport. Contract period will be April 1, 2006 through March 31, 2007, with the first year compensation not to exceed \$600,000.
- (b) Execute each of the options to renew with compensation adjustments based on the Consumer Price Index without further City Council action other than the appropriation of necessary funding.

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Johnson and Director of Aviation Sherry, dated March 6, 2006, recommending adoption of the resolution.

Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, [Resolution No. 73100](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with National Security Industries, Inc. for Security Guard Services at Norman Y. Mineta San José International Airport", was adopted. (10-0-1). Absent: Campos.

6.3 Approval to amend an agreement related to the I-880/Coleman Avenue Interchange Landscape Redesign:

- (a) Approval of the third amendment to the cooperative agreement between the City of San José and the Santa Clara Valley Transportation Authority for utility relocation as part of the I-880/Coleman Avenue Interchange Project, decreasing the agreement amount by \$300,000 from \$4,000,000 to \$3,700,000.
- (b) Adopt the following Appropriation Ordinance amendments to the Building and Structure Construction Tax Fund:
 - (1) Decrease Ending Fund Balance by \$300,000.
 - (2) Establish an appropriation in the Department of Public Works for the in-house design of the I-880/Coleman Avenue Interchange Landscape Design Project in the amount of \$300,000.

Council District 3. CEQA: Resolution No. 71488, PP03-02-071. (Transportation)

Documents Filed: (1) Memorandum from Director of Aviation Sherry, Director of Public Works Allen, Budget Director Lisenbee, and Director of Transportation Helmer, dated February 24, 2006 recommending approval of the third amendment to the cooperative agreement and adoption of appropriation ordinance amendments. (2) Copies of overhead presentation on the I-880/Coleman Avenue Interchange Landscape Redesign.

Director Helmer presented an overview of the re-design. Brief Council discussion followed.

6.3 (Cont'd)

Public Comment:

George Fokos offered a suggestion to cut costs at the Airport.

Action: Upon motion by Council Member Pyle, seconded by Council Member Yeager, and unanimously carried, the third amendment to the cooperative agreement between the City of San José and the Santa Clara Valley Transportation Authority pertaining to the I-880/Coleman Avenue Interchange Project was approved; [Ordinance No. 27678](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Building and Structure Construction Tax Fund for the I-880/Coleman Avenue Interchange Landscape Design Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted, and Staff directed to discuss with CalTrans options for assuring on-going maintenance, including paying the City a fee to maintain highway interchanges. (10-0-1). Absent: Campos.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 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)
(Deferred from 2/28/06 – Item 7.2 and 3/7/06 – Item 7.2)**

Documents Filed: None.

Action: This item was deferred to March 21, 2006.

Mayor Gonzales left the Dais at 4:25 p.m. Vice Mayor Chavez presided over the balance of the meeting..

PUBLIC SAFETY SERVICES

- 8.1 Acceptance of the report related to the impact of card room gambling on crime in the City of San José for the period July 1, 2004 to June 30, 2005. CEQA: Not a Project. (Police)
(Deferred from 3/7/06 – Item 8.1)**

Documents Filed: (1) Memorandum from Chief of Police Davis, dated March 7, 2006, recommending acceptance of the report. (2) Copies of overhead presentation on the Annual Review of the Impact of Cardroom Gambling on Crime in the City of San José.

8.1 (Cont'd)

Police Chief Robert Davis introduced Richard Fong and Richard Tang to present a summary of the Annual Review of the Impact of Cardroom Gambling on Crime in the City of San José. Council discussion ensued and Staff responded to Council questions.

Public Comment:

Ross Signorino expressed concerns about crime at cardrooms.

Robert Apgar shared personal comments about Garden City.

Mark Trout expressed personal viewpoints on gambling.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco, and unanimously carried, the report was accepted and Staff was directed to include in the next annual report, a chart of incidents involving arrests. (8-0-3). Absent: Campos, LeZotte; Gonzales.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:43 p.m. to consider Item 9.1 in a Joint session.

9.1 Approval of actions related to the acquisition of real properties for the expansion of the Alma Community Center.

- (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.**
- (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.**

(Item continued on next page)

9.1 (Cont'd)

- (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)
(Deferred from 2/28/06 – Item 9.2)**

Documents Filed: (1) Memorandum from City Manager White and Redevelopment Agency Executive Director Mavrogenes, dated February 21, 2006, recommending all actions for the acquisition of 102-104 and 114 West Alma Avenue. (2) Letter from Autumn Gutierrez, President of the Washington Area community Coalition, dated March 13, 2006, supporting acquisition of 102-104 and 114 West Alma Avenue. (3) Fifty-seven letters from users of the Alma Senior Center supporting the acquisition.

Public Comment:

Mary Guzman expressed support for the acquisition.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Yeager, the actions related to the acquisition of real properties for the expansion of the Alma Community Center were approved, including the Purchase and Sales Agreements with the Pusateri family and Petronio sisters; [Resolution No. 73101](#), entitled: “Resolution of Necessity of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: the Acquisition of a 25% Undivided Real Property Interest for the Future Expansion of the Alma Community Center, on Vacant Land Owned by Sal Petronio Located at 114 West Alma Avenue, San José, California 95110 (APN No. 434-23-143); and Authorizing and Empowering the City Attorney to File Suit in Eminent Domain to Acquire Such Property Interest, to Apply for an Order of Possession Before Judgment, and to Prosecute Said Action to Final Judgment; and Authorizing the Deposit of Money in the State Treasury Condemnation Fund for Possession of Said Property From the funds Lawfully Available Therefore”; [Resolution No. 73102](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72762

9.1 (Cont'd)

Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”, and [Ordinance No. 27679](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Department of Public Works Real Estate Services – Alma Avenue Acquisition Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Agency Resolution No. 5672; were adopted. (9-0-2). Absent: Campos, LeZotte.

The Redevelopment Agency Board portion of the meeting was adjourned at 4:55 p.m.

OPEN FORUM

- (1) Bill Chew shared information about his candidacy for District 3 and expressed approval of on-line, on-demand videostreaming of Council and Council Committee meetings.
- (2) Ross Signorino expressed support for bringing professional baseball to the City of San José, but expressed concerns regarding costs to the city.
- (3) Robert Apgar shared personal observations.
- (4) George Fokos said he was running for mayor.
- (5) Mark Trout shared religious views.

RECESS/RECONVENE

The City Council recessed at 5:05 p.m. and reconvened at 5:07 p.m. to consider Items 8.1 and 8.2 in a Joint Session with the Redevelopment Agency Board.

REDEVELOPMENT AGENCY/CITY COUNCIL JOINT MEETING

- 8.1 Adoption of a resolution by the City Council approving an exception to the City street light policy to allow the use of high pressure sodium lighting for the Burbank/Del Monte Streetscape Project, which includes pedestrian scale lighting. CEQA: Negative Declaration, File No. PP05-296 [SNI: BURBANK/DEL MONTE] (Deferred from 2/28/06, Item 8.1)**

Documents Filed: None.

Action: This item was dropped from the agenda.

- 8.2 Adoption of a resolution by the Redevelopment Agency Board authorizing submission of a grant application to the Economic Development Administration (EDA) of the U.S. Department of Commerce for a grant, in the amount of \$200,000, for the planning and development phase of the proposed Electronic Transportation Development Center and approving a local match in an amount of \$200,000, of which the Agency contribution is a total of \$90,000.**

Documents Filed: Memorandum from Redevelopment Agency Executive Director, Harry Mavrogenes, dated March 14, 2006, recommending adoption of the resolution authorizing submission of the grant application.

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and unanimously carried, Agency Resolution No. 5674 was adopted. (8-0-3). Absent: Campos, LeZotte, Gonzales.

ADJOURNMENT

The Council of the City of San José adjourned at 5:08 p.m.

ATTEST:

LEE PRICE, M.M.C, CITY CLERK
EW/3-14-06 Min.

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