



## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, APRIL 25, 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, 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 9:30 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) Apen Group, Inc. v. California Housing Finance Agency; (2) Asuncion v. City of San José; (3) Bushell-McIntyre, et al. v. City of San José; (4) Chesney v. City of San José; (5) Church Mutual Insurance v. City of San José; (6) City of Milpitas v. City of San José, et al.; (7) City of San José v. Alano Club West of SJ CA, Inc., et al. (Compliance Order); (8) City of San José v. Bhupindar Dhillon (revocation of PD Permit); (9) City of San José v. Bhupindar Dhillon (revocation of secondary employment approval); (10) City of San José v. Comcast II, LLC; (11) City of San José v. Housing & Development Software, LLC; (12) City of San José v. JMP Golf Design Group, et al.; (13) City of San José v. Nibbi Brothers, Inc.; (14) City of San José v. World Oil Company; (15) City of San José and People of the State of California v. Alvarez, et al.; (16) City of San José and People of the State of California v. Archstone-Smith Community Properties, LLC, et al.; (17) City of San José v. County of Santa Clara, et al.; (18) City of Santa Clara v. City of San José, et al.; (19) Comcast of California II, LLC v. City of San José, California. (20) County of Santa Clara v. City of San José, et al.; (21) Doe v. Michael George, et al. (22) Estate of Zaim Bojcic, et al. v. City of San José, et al.; (23) Equal Employment Opportunity Commission (on behalf of James Yu) v. City of San José; (24) Fisher v. City of San José; (25) Fong, De La Rosa, Mendoza v. City of San José, et al.; (26) Garden City v. City of San José; (27) Great Oaks Water Company, Inc., et al. v. City of San José, et al.; (28) Gresham v. City of San José; (29) Grycz v. City of San José, et al.; (30) Hells Angels v. City of San José; (31) Horta, LLC v. City of San José; (32) In re Garden City; (33) International Association of Firefighters, Local Union 230 v. City of San José, et al.;

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## **CLOSED SESSION (Cont'd.)**

(34) Keesling v. City of San José, et al.; (35) Miller v. City of San José; (36) Olsen, et al. v. City of San José; (37) Pacific Gas and Electric Company v. City of San José, et al.; (38) Preservation Action Council of San José v. City of San José; (39) Proposition 22 Legal Defense & Education Fund, et al. v. Ron Gonzales, et al.; (40) Provence v. City of San José, et al.; (41) Robinson v. City of San José; (42) Samaritan Neighborhood Group v. City of San José, et al.; (43) San José Mercury News, Inc. v. City of San José, et al.; (44) Sanchez v. City of San José, et al.; (45) Santa Teresa Citizen Action Group, et al.; v. City of San José, et al.; (46) Serafin v. Team San José and City of San José; (47) Smith v. Happy Hollow Park & Zoo, et al.; (48) South Almaden Rural Alliance and Committee for Green Foothills v. City of San José, et al.; (49) Stevenson v. City of San José; (50) Sutter's Place v. City of San José; (51) Travelers Casualty and Surety Company of America, as assignee and subrogee of Dennis J. Amoroso Construction Co., Inc. v. City of San José; (52) Tow Service v. City of San José; (53) U.S. Glass and Aluminum v. S.J. Amaroso, et al. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect (1) to initiation of litigation in three (3) matters; Counsel (2) pursuant to Government Code Section 54956.9, Subsection (b) with respect to significant exposure to litigation in three (3) matters. (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.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:02 a.m. and reconvened at 1:33 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**

Wink Ferrand of Lincoln Glen Mennonite Brethren Church. (District 4)

## **PLEDGE OF ALLEGIANCE**

Mayor Gonzales led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

## CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Billy DeFrank Lesbian, Gay, Bisexual, Transgender Community Center in recognition of 25 years of exemplary service to the lesbian, gay, bisexual and transgender community of San José and beyond. (Yeager)  
(Rules Committee referral 4/12/06)**

Action: Mayor Gonzales and Council Member Yeager presented a commendation to the Billy DeFrank Lesbian, Gay, Bisexual, Transgender Community Center in recognition of 25 years of exemplary service to the San José community.

- 1.2 Presentation of a commendation to Robert Sillen, retiring Director of the Santa Clara Valley Health and Hospital System, in recognition of his leadership in providing exemplary health care services to San José's most vulnerable residents. (Yeager)  
(Rules Committee referral 4/12/06)**

Action: Dropped.

- 1.3 Presentation of a proclamation declaring April 30, 2006 as “El Dia de Los Ninos/ El Dia de Los Libros – Children’s Day/Book Day” on the occasion of their 10<sup>th</sup> anniversary advocating the importance of literacy in the lives of children. (Campos)  
(Rules Committee referral 4/12/06)**

Action: Mayor Gonzales and Council Member Campos declared April 30, 2006 as “El Dia de Los Ninos/El Dia de Los Libros – Children’s Day/Book Day” on the occasion of their 10<sup>th</sup> anniversary advocating the importance of literacy for children.

- 1.4 Presentation of commendations to the City Team who made Cirque du Soleil’s “Corteo” a successful production in San José. (Mayor/Chavez)  
(Rules Committee referral 4/12/06)**

Action: Mayor Gonzales and Vice Mayor Chavez presented commendations to the City Team who made Cirque du Soleil’s “Corteo” a successful production in San José.

- 1.5 Presentation of a proclamation declaring April 30 through May 6, 2006 as “Municipal Clerks Week” in San José. (Mayor)  
(Rules Committee referral 4/12/06)**

Action: Mayor Gonzales presented a proclamation to City Clerk Lee Price and her Staff declaring April 30 through May 6, 2006 as “Municipal Clerks Week” in San José.

**1.6 Presentation of a special commendation recognizing the sustainable design elements incorporated into City Hall. (Environmental Services)  
(Rules Committee referral 4/12/06)**

Action: Mayor Gonzales and Council Member LeZotte presented a special commendation to Director of General Services Peter Jensen in recognition of the sustainable design elements that were incorporated into the New City Hall.

**1.7 Presentation of a commendation to Bridge Bank for its important contributions to the San José economy. (Mayor/Chavez)  
(Rules Committee referral 4/19/06)**

Action: Mayor Gonzales and Vice Mayor Chavez presented a commendation to Bridge Bank for its invaluable contributions to the City of San José's economy.

**1.11 Presentation of a commendation celebrating the 20<sup>th</sup> anniversary of San José Beautiful. (Chavez)  
(Orders of the Day)**

Action: Mayor Gonzales and Vice Mayor Chavez presented a commendation celebrating the 20<sup>th</sup> anniversary of "San José Beautiful".

**1.8 Presentation of a commendation to Lockheed Martin for its innovation and important contributions to the City of San José and the Nation. (Mayor)  
(Rules Committee referral 4/19/06)**

Action: Mayor Gonzales and Council Member Reed presented a commendation to Lockheed Martin for its innovation and significant contributions to the City of San José and the Nation.

**1.9 Presentation of a commendation to Mary Andrade for her outstanding journalistic and literary career, which has recently been supplemented by the receipt of the "Silver Leaf Award". (Cortese)  
(Rules Committee referral 4/19/06)**

Action: Mayor Gonzales and Council Member Cortese presented a commendation to Ms. Mary Andrade for her outstanding journalistic and literary career.

**1.10 Presentation of a proclamation to Community Arts and History Support, Northeast Region APPN, and the Milpitas Vietnamese Lions Club for their "Principle of Life Essay Celebration". (Cortese)  
(Orders of the Day)**

Action: Deferred to May 2, 2006.

**1.12 Presentation of a commendation in celebration of “Volunteer Month” and the good work of the Volunteer Center. (Chavez)  
(Orders of the Day)**

Action: Deferred to May 2, 2006.

**SPECIAL COMMENDATION**

Action: Mayor Gonzales and City Manager Les White presented a special commendation to Acting Director of Emergency Services Mike Miceli for his leadership in the Department of Emergency Services.

**CONSENT CALENDAR**

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

**2.1 Approval of minutes:  
(a) Regular minutes of September 20, 2005  
(b) Regular minutes of September 27, 2005  
[Deferred from 4/18/06 – Items 2.1(f)(g)]**

Documents Filed: The regular minutes of September 20, 2006 and September 27, 2006.

Action: The minutes were approved. (11-0.)

**2.3 Approval to reject all bids for the construction project entitled, “San Jose/Santa Clara Water Pollution Control Plant, FY 1997/1998 Compressed Air Upgrade Project.” CEQA: Exempt, PP05-124. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated April 5, 2006, recommending approval to reject all bids. (2) Letter from the Treatment Plant Advisory Committee, dated April 11, 2006, stating concurrence with the Staff recommendation.

Action: Rejection of all bids was approved. (11-0.)

**2.4 Adoption of a resolution authorizing the Director of General Services to execute a Quitclaim Deed surrendering title of the Western terminus of Catherine Street in Alviso to the Santa Clara Valley Water District, and to record the deed at the Office of the County Recorder. CEQA: Mitigated Negative Declaration, File PP01-150, and addenda thereto, File PP02-116. (General Services)**

Documents Filed: Memorandum from Director of General Services Peter Jensen, dated April 5, 2006, recommending adoption of a resolution.

**2.4 (Cont'd.)**

Action: Upon motion by Council Member Reed, seconded by Council Member Cortese and carried unanimously, [Resolution No. 73134](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute, on Behalf of the City, A Quitclaim Deed Surrendering Title of the Western Terminus of Catherine Street in Alviso to the Santa Clara Valley Water District and to Record the Deed at the Office of the County Recorder", was adopted. (11-0.)

**2.5 Approval to designate the Library Commission as the public oversight committee for the Library Parcel Tax (Measure S). CEQA: Not a Project. (Library)**

Documents Filed: Memorandum from Library Director Jane Light, dated April 5, 2006, recommending approval as stated above.

Public Comment: Ross Signorino spoke in favor of the staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the Library Commission was approved to be designated as the public oversight committee for Measure S. (11-0.)

**2.6 Approval of Mayor Gonzales' travel to Chicago, Illinois, May 11-13, 2006, for CEOs for Cities Meeting. Funding: Mayor's Office. (Mayor) (Rules Committee referral 4/12/06)**

Documents Filed: Memorandum from Mayor Gonzales, dated April 19, 2006, requesting approval of travel.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, the Mayor's travel was approved. (11-0.)

**2.7 Adoption of a resolution authorizing the City Manager to negotiate and execute a cooperative agreement with the Santa Clara Valley Transportation Authority for the project development, environmental clearance and design of a Blossom Hill/Monterey Pedestrian Access Improvement Project in the amount of \$250,000. CEQA: Not a Project. Council District 2. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated April 6, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73135](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Cooperative Agreement with the Santa Clara Valley Transportation Authority for the Project Development, Environmental Clearance and Design of a Blossom Hill/Monterey Pedestrian Access Improvement Project, in an Amount Not to Exceed \$250,000" was adopted. (11-0.)

- 2.8 Adoption of a resolution authorizing the filing of an application for Federal Surface Transportation Program (STP) funding for the FY 2007-08 and FY 2008-09 cycle of the STP Street Maintenance Project in the amount of \$6,545.689 and committing the necessary City funding match of \$848,063 for a total project cost in the amount of \$7,393,752.**  
**CEQA: Exempt, File No. PP04-233. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated April 6, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73136](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to File an Application for Federal Surface Transportation Program (STP) Funding for the Fiscal Year 2007-08 and Fiscal Year 2008-09 Cycles of the STP Street Maintenance Project in the Amount of \$6,545,689, Committing the Necessary Funding Match of \$848,063 for the Project, Subject to Appropriation of Funds, for a Total Project Amount of \$7,393,752", was adopted. (11-0.)

## **END OF CONSENT CALENDAR**

### **STRATEGIC SUPPORT SERVICES**

- 3.2 Report of the Rules Committee – April 5, 2006**  
**Vice Mayor Chavez, Chair**

Documents Filed: The Rules Committee Reports dated April 5, 2006 and April 12, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review April 18, 2006 Council Draft Agenda
    - (a) Voter-Owned Campaigns. (Mayor)  
(Continued from March 29, 2006)
    - (b) Add Council consideration of nominating a portion of the University Strong Neighborhoods Initiative Area for designation as a City Landmark Historic District. (Chavez)

The Committee recommended approval of the additions to the April 18, 2006 Draft City Council Agenda.

- (2) Add New Items to April 11, 2006 Agenda

The Committee recommended approval of the additions to the April 11, 2006 City Council Agenda.

- (3) List of Reports Outstanding

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

**3.2 Report of the Rules Committee – April 5, 2006 (Cont'd.)  
Vice Mayor Chavez, Chair**

- (c) Legislative Update
- (1) State - There were none.
- (2) Federal
- (a) Update on San José Federal Relations Activities. Attachment: Memorandum from Betsy Shotwell, dated April 3, 2006, recommending acceptance of report.
- Director Intergovernmental Relations Shotwell provided oral highlights of the Report. The Committee noted and filed the Report.
- (d) Meeting Schedules
- (1) Approval of Revisions to the Budget Study Session Calendar. Attachment: Memorandum from Mayor Gonzales, dated April 4, 2006, recommending approval of the revisions.
- The Committee approved the revised schedule.
- (2) Set date for an Informational Briefing on the Preliminary Gap Analysis. Attachment: Memorandum from Chief of Staff Deanna J. Santana, dated March 30, 2006, recommending setting a date for the briefing.
- The Committee approved the briefing.
- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated March 30, 2006, transmitting items for Public Record and Administration for the period of March 22-28 2006.
- The Committee noted and filed the Public Record.
- (f) Appointments to Boards, Commissions and Committees
- (1) Airport Commission. Attachment: Memorandum from Council Member Reed, dated March 21, 2006, recommending two reappointments.
- (a) Re-Appoint 2 Commissioners
- (2) Arts Commission. Attachment: Memorandum from Council Member Williams, dated March 22, 2006, recommending two reappointments.
- (a) Re-Appoint 2 Commissioners
- (3) Library Commission. Attachment: Memorandum from Council Member Yeager, dated March 28, 2006, recommending two reappointments.
- (a) Re-Appoint 2 Commissioners

**3.2 Report of the Rules Committee – April 5, 2006 (Cont'd.)  
Vice Mayor Chavez, Chair**

- (f) Appointments to Boards, Commissions and Committees (Cont'd.)
- (4) Early Care and Education Commission. Attachment: Memoranda from Council Member Chirco, both dated March 23, 2006, recommending two reappointments and one appointment.
    - (a) Re-Appoint 2 Commissioners
    - (b) Appoint 1 Commissioner to fill unexpired term.
  - (5) Historic Landmarks Commission. Attachment: Memorandum from Council Member LeZotte, dated March 28, 2006, recommending two reappointments.
    - (a) Re-Appoint 2 Commissioners
  - (6) Parks and Recreation Commission. Attachment: Memorandum from Council Member Yeager, dated March 28, 2006, recommending two reappointments.
    - (a) Re-Appoint 2 Commissioners
  - (7) Traffic Appeals Commission. Attachment: Memorandum from Council Member Yeager, dated March 28, 2006, recommending one reappointment.
    - (a) Re-Appoint 1 Commissioner

The Committee approved the reappointments of all the Commissions.

- (g) Rules Committee Reviews, Recommendations and Approvals
- (1) Sunshine Reforms Motion Clarification. Attachment: Memorandum from City Manager Les White, dated March 28, 2006, requesting clarification.

The Committee discussed this item during the review of the April 18, 2006 Council Agenda and approved the City Manager's recommendation.

- (h) Open Forum

Bill Chew encouraged others to watch the Rules Committee meetings to learn more about what is on the Council Agenda. He also suggested that the Council eliminate the need for political campaign contributions and allow candidates to use City-related forums, email and television.

- (i) Adjournment - The meeting was adjourned at 2:50 p.m.  
(Deferred from 4/18/06 – Item 3.2)

**3.2 Report of the Rules Committee - April 12, 2006**  
**Vice Mayor Chavez, Chair**

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

- (1) Review April 25, 2006 Draft City Council Agenda

The Committee recommended approval of the Draft April 25, 2006 City Council Agenda with seven additions.

- (2) Add New Items to April 18, 2006 City Council Agenda

The Committee recommended approval of the April 18, 2006 City Council Agenda with two additions.

- (3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report and accepted the recommendations for deferral.

- (c) Legislative Update

- (1) State - There were none.

- (2) Federal

- (a) CDBG Formula Changes. Attachment: Memorandum from Director of Housing Leslye Krutko and Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated April 6, 2006, recommending CDBG formula changes.

The Committee accepted the Report and requested that the Report be forwarded to the full Council via a cross reference on the April 25, 2006 City Council Agenda.

See Item 3.5 for Council action taken.

- (d) Meeting Schedules - There were none.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated April 6, 2006, transmitting items for Public Record and Administration for the period of March 29-April 4, 2006.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees

- (1) Disability Advisory Commission
  - (2) Senior Citizens Commission

The Committee approved the reappointments.

**3.2 Report of the Rules Committee - April 12, 2006  
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals  
(1) Cellular Reinforcement at City Hall

The Committee accepted the Report and approved the recommendation.

- (2) Process for early Council review and consideration of General Plan Amendments

Deferred to 5/3/06 Rules Committee Meeting

- (h) Open Forum

Bill Chew stated as a candidate for District 3 he was going to fight for less homelessness.

- (i) Adjournment - The meeting was adjourned at 2:30 p.m.

Public Comment: Ross Signorino commented on the Sunshine Reforms.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, the Rules Committee Reports and the actions of April 5, 2006 and April 12, 2006, were accepted. (11-0.)

**3.4 Adoption of a resolution approving the terms of a Memorandum of Agreement with the International Union of Operating Engineers, Local #3, subject to ratification, and authorizing the City Manager to execute the agreement. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated April 19, 2006, recommending adoption of a resolution.

Council Member Reed expressed dissatisfaction about information regarding additional costs for benefit increases previously negotiated for but not reflected in the numbers presented.

Action: Upon motion by Council Member LeZotte, seconded by Vice Mayor Chavez and carried, [Resolution No. 73137](#), entitled: "A Resolution of the Council of the City of San José Approving a Memorandum of Agreement between the City of San José and the International Union of Operating Engineers, Local #3 (OE#3) Subject to Ratification by the OE#3 Membership", was adopted. (10-1. Noes: Reed.)

- 3.5 Direction to Staff to work with the U.S. Department of Housing and Urban Development and the U.S. Congress to oppose proposed changes to the Community Development Block Grant (CDBG) formula that would adversely impact the City of San José. CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services)**  
**[Rules Committee referral 4/12/06 – Item 3.2(c)(2)(a)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated April 13, 2006, recommending CBDG formula changes.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the CBDG formula changes were approved. (11-0.)

- 3.6 (a) Approval of the Council-Staff Interaction Policy (Council Policy 0-31), which would replace the Independent Judgment Policy (Council Policy 0-26) and the Interaction Policy (Council Policy 0-27).**  
**(b) Approval of a City Council Policy on the City Council obligation to disclose material facts.**  
**CEQA: Not a Project. (City Manager’s Office/City Attorney’s Office)**  
**(Continued from 4/4/06 – Item 3.5(b) and deferred from 4/18/06 – Item 3.5)**

Documents Filed: Memoranda from City Attorney Richard Doyle, both dated April 18, 2006, recommending approval of the Council Policies.

City Attorney Richard Doyle responded to Council questions and comments.

Action: Upon motion by Council Member Cortese, seconded by Council Member Reed and carried unanimously, the Council Policies were approved. (11-0.)

- 3.7 (a) That the City Council adopt a resolution to joint the effort of the National League of Cities to create a *Partnership for Working Toward Inclusive Communities*.**  
**(b) That the City Manager explore the opportunity to work with the National League of Cities to create a youth oriented City Exchange Program with San José.**  
**(Mayor/Campos)**

Documents Filed: Memorandum from Mayor Gonzales and Council Member Campos, dated April 18, 2006, recommendation adoption of a resolution.

Council Member Campos moved approval of the memorandum she cosigned with Mayor Gonzales. Council Member Williams seconded the motion.

Council Member LeZotte and Vice Mayor Chavez requested additions to the motion which were accepted by Council Member Campos and Williams, and are included in “Action.”

**3.7 (Cont'd)**

Action: On a call for the question, the motion carried unanimously, [Resolution No. 73138](#), entitled: "A Resolution of the Council of the City of San José in Support of the National League of Cities' Effort to Create a Partnership for Working Toward Inclusive Communities", was adopted, with Staff directed to: (1) Expand the definition of diversity as it relates to inclusion. (2) Involve the City's Youth Commission. (3) Work with the National League of Cities to identify any grant funding opportunities. (11-0.)

- 3.8 (a) Waive privilege of the redacted information contained within the 35 documents provided by the City Attorney's Office to San José Mercury New (SJMN) in response to the SJMN Public Records Request of documents associated with the 2006 Grand Prix.**
- (b) Refer the issue of what information should be protected under "deliberative process" to the Sunshine Task Force.**
- (Chavez)**

Documents Filed: (1) Memorandum from Vice Mayor Chavez, dated April 14, 2006, recommending as indicated above. (2) Memorandum from City Manager Les White, dated April 24, 2006, recommending waiving the privilege for the specific documents in questions. (3) Memorandum from City Attorney Richard Doyle, dated April 20, 2006, outlining the Deliberative Process Exemption to the Public Records Act.

Vice Mayor Chavez moved approval of her memorandum dated April 14, 2006. Council Member Campos seconded the motion.

City Attorney Richard Doyle and City Manager Les White responded to Council questions and Council discussion ensued.

Public Comment: Ross Signorino commented that more information to the public should be disclosed.

Action: On a call for the question, the motion carried unanimously, with no action necessary on Item (a): City Manager White waived the privilege and released the documents earlier in the week; This issue was approved and to be referred to the Sunshine Task Force with Staff directed, in the interim, to put a standing item on the Rules Committee Agenda that will provide Staff with a means of reporting out and getting feedback on any request for records in which information is being withheld pursuant to the "deliberative process" exemption. (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.3 Public Hearing and adoption of a resolution designating the California Packing Corporation (Calpak) District Manager's Office located at 734 The Alameda as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature. CEQA: Exempt. Council District: 6. (Planning, Building and Code Enforcement)  
(Deferred from 3/28/06 – Item 4.3)**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated April 6, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on March 24, 2006, submitted by the City Clerk. (3) Affidavit of Routing executed on May 1, 2006, and distributed by the City Clerk. (4) Affidavit of Mailing executed on May 1, 2006, and distributed by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73139](#), entitled: "A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The California Packing Corporation (CALPAK), District Manager's Office, Located at 734 The Alameda, as a Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature", was adopted. (11-0.)

- 4.4 Provide direction to City staff to proceed with the County Island Annexation Process, and specifically to:**
- (a) Direct City staff to prepare initiation of the annexation of unincorporated islands under the provisions of California Government Code Section 56375.3 and refer related costs to the budget process for yearly appropriations.**
  - (b) Request that the County provide the necessary mapping, legal descriptions, Surveyor's and Assessor's Reports as a part of the annexation process.**
  - (c) Direct staff to initiate the necessary rezonings for the parcels within the areas proposed for annexation and complete the related environmental review.**
  - (d) Request that the County provide street improvements of the pockets pursuant to the County offer of July 6, 2005.**

**CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement)  
(Deferred from 3/21/06 – Item 4.4, et al and 4/18/06 – Item 4.5)**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated April 12, 2006, recommending Council provide direction to staff. (2) Letter from Supervisor Blanca Alvarado, dated April 24, 2006, regarding expedited annexation program for County Islands. (3) Letter from Local Agency Formation Commission of Santa Clara County, dated April 24, 2006, regarding annexation of Islands.

#### 4.4 (Cont'd.)

Acting Director of Planning, Building and Code Enforcement Joe Horwedel responded to Council questions and comments.

Public Comment: Joe Carpenter, Bob Dolci and Andrea Shelton spoke in favor of the staff recommendation. Ross Signorino asked what benefit the City will receive in return.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, direction to City Staff to proceed with the County Island annexation process as outlined above, was approved. (10-0-1. Absent: Pyle.)

### NEIGHBORHOOD SERVICES

#### 5.1 Report of the All Children Achieve Committee – April 13, 2006 Council Member Yeager, Chair

Documents Filed: The All Children Achieve Committee Report dated April 13, 2006.

- (a) Update on San José After School Program and Proposition 49. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 30, 2006, recommending acceptance of report.

The Committee accepted the Report with Staff directed to:

- (1) Work with Director Intergovernmental Relations Betsy Shotwell to obtain more information on SB638 and SB1302 Legislations affecting Proposition 49.
- (2) Contact organizations in Sacramento that monitor legislations for the California Teachers Association and the California School Boards Association and other agencies to acquire a better understanding of Proposition 49 and ongoing issues.
- (3) Return to the Committee in May 2006 with updated information on Proposition 49.

- (b) Update on Implementation of San José's High School Initiative

Request deferral to May 2006.

- (c) Safe School Campus Initiative Program Overview and Update. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso and Police Chief Robert Davis, dated April 4, 2006, recommending acceptance of report.

The Committee accepted the Report.

**5.1 Report of the All Children Achieve Committee – April 13, 2006 (Cont'd)  
Council Member Yeager, Chair**

(d) Oral Petitions

- (1) Bill Chew expressed personal views.
- (2) Debbie Irwin, Youth Service Coordinator, Martin Luther King Jr. Library, asked that the Committee consider the Library in their decision to implement Proposition 49 funds, should they become available.

(e) Adjournment - The meeting was adjourned at 2:43 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 April 13, 2006, were accepted. (11-0.)

- 5.2 (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 July 7, 2006.**

**CEQA: Not a Project. (Transportation/Planning, Building and Code Enforcement)  
(Deferred from 3/14/06 – Item 5.3)**

Action: Deferred to May 16, 2006.

- 5.3 Acceptance of staff's response to the Santa Clara County Civil Grand Jury Report entitled, "City of San José Community Action and Pride Grants – Even a Good Program Can be Improved". CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated April 5, 2006, recommending acceptance of the report.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the report was accepted. (11-0.)

## TRANSPORTATION & AVIATION SERVICES

### 6.2 Conduct a public hearing and adopt a resolution vacating Narvaez Road between Narvaez Avenue and State Route 87. CEQA: Exempt. Council District: 10. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated April 5, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on April 5, 2005 and April 12, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member LeZotte and carried unanimously, [Resolution No. 73140](#), entitled: "A Resolution of the Council of the City of San José Vacating a Portion of Narvaez Road between Narvaez Avenue and State Route 87 and Reserving a Public Service Easement", was adopted. (11-0.)

## PUBLIC SAFETY SERVICES

### 8.1 Presentation and acceptance of the status report for the Silicon Valley Regional Interoperability Project (SVRIP) on voice and data interoperability amongst and between first responders. (City Manager's Office)

Documents Filed: Memorandum from Acting Director of Office of Emergency Services Michael Miceli, dated April 10, 2006, recommending acceptance of report.

Acting Director of Office of Emergency Services Michael Miceli presented an outline of the Silicon Valley Regional Interoperability Project. Acting Director Miceli responded to Council Member questions and comments.

Public Comment: George Fokos spoke in opposition to the staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the staff report was accepted. (11-0.)

## OPEN FORUM

- (1) Bill Chew spoke about his candidacy for District 3.
- (2) Robert Apgar, Jr. expressed personal observations.
- (3) George Fokos spoke about President Bush's recent visit to San José.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 5:10 p.m. in memory of Dr. John De Vincenzi, a lifelong resident of San José and very active in the Italian, Arts, and Education communities. He was co-founder of the Italian American Heritage Foundation and will be missed by many.

**ATTEST:**

**LEE PRICE, CMC, CITY CLERK**

smd/4-25-06MIN

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