

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MAY 23, 2006

The Council of the City of San José convened in regular session at 9:00 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 9:01 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 Chavez; (2) County of Santa Clara, et al. v. City of San José, et al.; (3) Smith v. Happy Hollow Park & Zoo, et al.; (4) Stevenson v. City of San José; (5) International Association of Firefighters, Local Union 230 v. City of San José, et al.; (6) Keesling v. City of San José, et al.; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, anticipated litigation, Subsection (b) with respect to significant exposure in one (1) matter; Subsection (c) with respect to initiation of litigation in one (1) matter. (C) Public employee performance evaluation pursuant to Government Code Section 54957, Title: (1) City Attorney; (2) City Manager.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:30 a.m. and reconvened at 1:32 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

Pastor Johnnie Jones, Alum Rock Covenant Church. (District 5)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Vice Mayor Chavez and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.6 deferred to 6/20/06. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the week of May 21-27, 2006 as Public Works Week. (Public Works)

Action: Mayor Gonzales invited Director of Public Works Katy Allen, Director of Transportation James Helmer, Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso and Library Director Jane Light, to the podium, and recognized the week of May 21 through 27, 2006 as “Public Works Week”.

1.3 Presentation of a commendation to Super Micro for its important contributions to the San José economy. (Mayor/Reed) (Rules in Lieu referral 5/10/06)

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

1.2 Presentation of a commendation to the Willow Glen Elementary School honoring its achievement in becoming a California Distinguished School and recognizing the School’s years of enriching the lives of the children of San José. (Yeager) (Rules in Lieu referral 5/10/06)

Action: Mayor Gonzales and Council Member Yeager recognized and commended the Willow Glen Elementary School in becoming a California Distinguished School.

1.4 Presentation of a commendation to the “Helping Hands, Healing Hearts Collaborative” for their aid in the Katrina Disaster recovery efforts, their devotion to fostering community through volunteerism and for strengthening the spirit of giving in San José and the Silicon Valley community at large. (Chavez) (Deferred from 5/16/06 – Item 1.14)

Action: Mayor Gonzales and Vice Mayor Chavez recognized and commended Helping Hands and Healing Hearts Collaborative for their aid in the Katrina Disaster recovery efforts, their devotion to fostering community through volunteerism and for strengthening the spirit of giving in San José and the Silicon Valley community at large.

1.5 Presentation of a commendation in recognition of CommUniverCity. (Chavez) (Rules in Lieu referral 5/17/06)

Action: Dropped.

SPECIAL COMMENDATION

Mayor Gonzales recognized and commended Jennifer Carlino for her 8 years of outstanding service and dedication as Council Agenda Manager to the Mayor and Council Offices, City Manager's Office, Office of the City Clerk and her invaluable service to the citizens of San José.

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.)

- 2.2 (a) **ORD. NO. 27696 – Rezoning certain real property situated on the west side of Ciro Avenue approximately 400 feet south of Forest Avenue to CO Commercial Office Zoning District. C05-121 [Deferred from 5/2/06 – Item 2.2(a)]**

Documents Filed: Proof of Publication of the title of Ordinance No. 27696 executed on April 25, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27696](#) was adopted. (11-0.)

- (b) **ORD. NO. 27697 – Rezoning certain real property situated on the northeast corner of North Capitol Avenue and Grandview Drive to A(PD) Planned Development Zoning District. PDC05-064 [Deferred from 5/2/06 – Item 2.2(b)]**

Documents Filed: Proof of Publication of the title of Ordinance No. 27697 executed on April 25, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27697](#) was adopted. (11-0.)

- (c) **ORD. NO. 27721 – Amending Chapter 3.36 of Title 3 of the San José Municipal Code to provide increased retirement benefits for members of the Police and Fire Department Retirement Plan who are employed by the Police Department.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27721 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27721](#) was adopted. (11-0.)

- 2.2 (d) **ORD. NO. 27725** – Amending Chapter 9.10 of Title 9 of the San José Municipal Code by Amending Sections 9.10.455, 9.10.550, 9.10.1390, 9.10.1430, 9.10.1630, 9.10.1710 and 9.10.1720 and by adding Section 9.10.1445 to revise the provisions relating to Commercial Solid Water Management Regulations.

Documents Filed: Proof of Publication of the title of Ordinance No. 27725 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27725](#) was adopted. (11-0.)

- (e) **ORD. NO. 27726** – Granting a Commercial Solid Waste and Recyclables Collection Franchise to A&A Recycling.

Documents Filed: Proof of Publication of the title of Ordinance No. 27726 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27726](#) was adopted. (11-0.)

- (f) **ORD. NO. 27727** – Granting a Commercial Solid Waste and Recyclables Collection Franchise to All Points Roll Off Inc.

Documents Filed: Proof of Publication of the title of Ordinance No. 27727 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27727](#) was adopted. (11-0.)

- (g) **ORD. NO. 27728** – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Allied Waste Services of North America, LLC DBA Allied Waste of Santa Clara County.

Documents Filed: Proof of Publication of the title of Ordinance No. 27728 executed on May 16, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member LeZotte, seconded by Vice Mayor Chavez and carried unanimously, [Ordinance No. 27728](#) was adopted. (11-0.)

- (h) **ORD. NO. 27729** – Granting a Commercial Solid Waste and Recyclables Collection Franchise to EMS, LLC.

Documents Filed: Proof of Publication of the title of Ordinance No. 27729 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27729](#) was adopted. (11-0.)

- 2.2 (i) **ORD. NO. 27730 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Environmental Resource Recovery Inc. DBA Valley Recycling.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27730 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27730](#) was adopted. (11-0.)

- (j) **ORD. NO. 27731 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Greenwaste Recovery, Inc.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27731 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27731](#) was adopted. (11-0.)

- (k) **ORD. NO. 27732 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Greenwaste Recovery, Inc. DBA \$99 Debris Box Service.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27732 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27732](#) was adopted. (11-0.)

- (l) **ORD. NO. 27733 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Grifall Trucking Inc.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27733 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27733](#) was adopted. (11-0.)

- (m) **ORD. NO. 27734 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to JHM Services.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27734 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27734](#) was adopted. (11-0.)

2.2 (n) **ORD. NO. 27735 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Jonna Corp DBA Premier Recycle.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27735 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27735](#) was adopted. (11-0.)

(o) **ORD. NO. 27736 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to LMH Enterprises Inc. DBA Number “1” Disposal.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27736 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27736](#) was adopted. (11-0.)

(p) **ORD. NO. 27737 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Los Altos Garbage Co. DBA Stevens Creek Disposal & Recycling.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27737 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27737](#) was adopted. (11-0.)

(q) **ORD. NO. 27738 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Mission Trail Waste Systems, Inc. DBA Recycle West.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27738 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27738](#) was adopted. (11-0.)

(r) **ORD. NO. 27739 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Pacific Coast Recycling, Inc.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27739 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27739](#) was adopted. (11-0.)

2.2 (s) **ORD. NO. 27740 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Panther Industries.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27740 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27740](#) was adopted. (11-0.)

(t) **ORD. NO. 27741 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Phillip Alan Ingram DBA Coast Dumpster Service.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27741 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27741](#) was adopted. (11-0.)

(u) **ORD. NO. 27742 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Recycling & Waste Services, Inc.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27742 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27742](#) was adopted. (11-0.)

(v) **ORD. NO. 27743 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Redwood Services, Inc. DBA Redwood Debris Box Service.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27743 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27743](#) was adopted. (11-0.)

(w) **ORD. NO. 27744 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to San José Conservation Corps & Charter School.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27744 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27744](#) was adopted. (11-0.)

- 2.2 (x) **ORD. NO. 27745 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Smurfit-Stone Container Enterprises, Inc. DBA Smurfit Recycling Co.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27745 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27745](#) was adopted. (11-0.)

- (y) **ORD. NO. 27746 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Sonrise Consolidated, Inc.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27746 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27746](#) was adopted. (11-0.)

- (z) **ORD. NO. 27747 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to the Flea Market, Inc.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27747 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27747](#) was adopted. (11-0.)

- (aa) **ORD. NO. 27748 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Residential Bin Co., Inc.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27748 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27748](#) was adopted. (11-0.)

- (bb) **ORD. NO. 27749 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to USA Waste of California, Inc. DBA Green Valley Disposal Company, Inc.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27749 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27749](#) was adopted. (11-0.)

- 2.2 (cc) **ORD. NO. 27750** – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Waste Connections of California, Inc. DBA G.T. Waste.

Documents Filed: Proof of Publication of the title of Ordinance No. 27750 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27750](#) was adopted. (11-0.)

- (dd) **ORD. NO. 27751** – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Waste Management of California, Inc. DBA Waste Management of Santa Clara County.

Documents Filed: Proof of Publication of the title of Ordinance No. 27751 executed on May 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27751](#) was adopted. (11-0.)

- (ee) **ORD. NO. 27715** – Rezones certain real property situated on the south side of Rock Avenue, approximately 800 feet westerly of Oakland Avenue to A(PD) Planned Development Zoning District.
[Deferred from 5/16/06 – Item 2.2(g)]

Documents Filed: Proof of Publication of the title of Ordinance No. 27715 executed on May 9, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27715](#) was adopted. (11-0.)

- (ff) **ORD. NO. 27753** – Amending Section 4.46.039.4 of Chapter 4.46, Section 4.47.093 of Chapter 4.47 and Section 4.54.039.6 of Chapter 4.54 of Title 4 of the San José Municipal Code to Extend the Period for Suspension of the Collection of Fifty Percent of the Building and Structure Construction Tax, the Commercial-Residential-Mobilehome Park Building Tax, and the Construction Tax for Construction of Small Business Improvements, either as new construction or tenant improvements, of 3,000 square feet or less by new or existing small businesses through November 30, 2007.

Documents Filed: Proof of Publication of the title of Ordinance No. 27753 executed on May 19, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27753](#) was adopted. (11-0.)

- (gg) **ORD. NO. 27755** – Rezoning certain real property situated at the northeast corner of East Taylor Street and North Sixth Street to A(PD) Planned Development Zoning District. PDC05-094

Action: Not adopted.

- 2.2 (hh) **ORD. NO. 27756** – Rezoning certain real property situated on the north side of East Gish Road approximately 300 feet westerly of Oakland Road to A(PD) Planned Development Zoning District. PDC03-099

Action: Not adopted.

- (ii) **ORD. NO. 27757** – Amending Section 20.40.100 of Chapter 20.40, Section 20.50.100 of Chapter 20.50, Section 20.70.100 of Chapter 20.70, Sections 20.80.2020 and 20.80.2030 of Chapter 20.80 and Section 20.100.500 of Chapter 20.100, all of Title 20 of the San José Municipal Code, to enact further permit streamlining measures pertaining to minor additions to nonresidential buildings and to temporary and standby generators in nonresidential districts and to create a permitting process for wineries and breweries in commercial zoning districts.

Action: Not adopted.

- 2.3 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):

- (a) Increase the estimate for Earned Revenue by \$379,520.
- (b) Increase the appropriation to the Department of Public Works for the King and Story Road Improvements Project (PSM 221, Amendment #8) in the amount of \$81,847.
- (c) Increase the appropriation to the Department of Public Works for the West San Carlos Street Improvement Project (PSM 373, Amendment #2) in the amount of \$80,000.
- (d) Establish an appropriation to the Department of Housing for the Greater Gardner Housing Rehabilitation Project (PSM #441) in the amount of \$130,000.
- (e) Establish an appropriation to the Office of Economic Development for the South First Streetscape Public Art Project (PSM #442) in the amount of \$14,240.
- (f) Establish an appropriation to the Department of Transportation for the Balbach Street Sidewalk Improvement Project (PSM #448) in the amount of \$46,000.
- (g) Increase the appropriation to the Office of Cultural Affairs for the Public Art for the Starbird Teen Center Project (PSM #408, Amendment #1) in the amount of \$27,433.

CEQA: King & Story Road Improvements: Exempt, PP01-03-050. West San Carlos Street Improvements: Exempt, PP05-063. Greater Gardner Housing Rehabilitation: Not a Project. South First Streetscape Public Art – William to Reed: Exempt, PP05-184. Balbach Street Sidewalk Improvement: CP04-028. Public Art for the Starbird Teen Center: File No. PP05-184. Council Districts 1, 3, 5, 6, and 7. SNI: K.O.N.A., Delmas Park, Greater Gardner, Blackford. (City Manager's Office)

2.3 (Cont'd.)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated May 3, 2006, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 27760](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for Various Redevelopment Agency Capital Projects; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73178](#), 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", were adopted. (11-0.)

2.4 **Approval of a ninth amendment to the agreement with the City of Milpitas for Implementation of portions of the South Bay Water Recycling Program to extend the termination date of the agreement by one year from June 30, 2006 to June 30, 2007, at no additional cost to the City. CEQA: Resolution No. 64667. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 3, 2006, recommending approval of the agreement. (2) Letter from the Treatment Plant Advisory Committee, dated May 9, 2006, stating concurrence with the Staff recommendation.

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

2.5 **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #17, and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administrations' Memorandum to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 4, 2006, recommending approval of the purchase orders.

Action: Award of the open purchase orders were approved. (11-0.)

2.6 **Report on bids and award the purchase of six (6) Brush Patrol Bodies to the low bidder, Westates Fire Apparatus for a total amount not to exceed \$624,853.14, including tax, and authorize the Director of Finance to execute the purchase order and to purchase additional quantities on an as-required basis at the same unit price for a period of three months after the initial award is placed without further Council action other than the appropriation of funding. CEQA: Not a Project. (Finance)**

2.6 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 3, 2006, recommending approval of the purchase.

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

2.7 Authorize the Director of Finance to execute purchase orders for the sole source purchase of ninety-two Motorola XTS 2500 portable radios, and one hundred thirty-six Motorola XTS 5000 portable radios, and accessories to Motorola C & E, Inc. for a total cost not to exceed \$718,657.27 including tax and delivery. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 3, 2006, recommending approval of the purchase.

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

2.8 Adoption of a resolution approving the Revised City Council Policy on the Preservation of Historic Landmarks. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated May 3, 2006, recommending adoption of a resolution.

Acting Director of Planning, Building and Code Enforcement Joe Horwedel responded to questions from Council Member Reed regarding outreach.

Public Comment: George Fokos spoke in support of the Staff recommendation.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73179](#), entitled: "A Resolution of the Council of the City of San José Approving an Updated City Council Policy for the Preservation of Historic Landmarks", was adopted. (10-1. Noes: Reed.)

2.9 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #15, and authorization for the Director of Finance to execute the purchase orders. CEQA: See memo for determinations. (Finance) (Deferred from 5/16/05 – Item 2.5)

Documents Filed: Replacement memorandum from Director of Finance Scott Johnson, date May 18, 2006, recommending award of open purchase orders.

Action: The open purchase orders were approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – May 3, 2006 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated May 3, 2006.

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review May 16, 2006 Draft Agenda

(a) Adds to the May 16, 2006 Draft Agenda

The Committee approved the May 16, 2006 Draft City Council Agenda with three additions.

(2) Add New Items to May 9, 2006 Agenda

(a) Mayor and Councilmember Requests

(b) Council Appointee Requests

The Committee approved the May 9, 2006 City Council Agenda with six additions.

(3) List of Reports Outstanding

The Committee approved the Report from the City Manager's Office.

(c) Legislative Update

(1) State

(a) State Legislative Update – Redevelopment Bills. Attachment: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, transmitting recommendations for the State Bills.

AB2922 (Jones) – Amended: Low and Moderate Income Housing Fund: 35% set aside

The Committee approved the Agency Director's recommendation to take a position of Oppose.

SB1206 (Kehoe) – Redevelopment Reform

The Committee approved the Agency Director's recommendation to take a position of Oppose.

AB2197 (Devore) – Bill withdrawn

The Committee approved the Agency Director's recommendation to take a position of Oppose/Continue to watch.

**3.2 Report of the Rules Committee – May 3, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

(c) Legislative Update (Cont'd.)

(1) State

- (b) State Housing Legislation. Attachment: Memorandum from Director of Housing Leslye Krutko, recommending Council Support positions for State legislation.

AB2638 (Laird) – Housing Trust Fund
AB2800 (Laird) – Housing Anti-Discrimination
SB1289 (Cedilo) – Emancipating Foster Youth
AB2961 (Nunez) – Homeless Assistance Payments

The Committee approved the Staff's recommendation to take a position of Support on all four of the bills.

- (c) Proposition 81: California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2006, Proposition 82: Preschool Education, Tax on Incomes Over \$400,000 for Individuals; \$800,000 for Couples. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, and Library Director Jane Light, dated April 27, 2006, recommending Council support positions.

The Committee approved the Staff's recommendation to take a position of Support on both propositions.

- (d) AB2435 (Coto) – Santa Clara Valley Water District. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated April 27, 2006, recommending Council Support Position.

The Committee approved the Staff's recommendation to take a position of Support.

- (e) SB1611 (Simitian) – Congestion Management Fees. Attachment: Memorandum Director of Transportation James Helmer and Director Intergovernmental Relations Betsy Shotwell, dated May 2, 2006, recommending Council Support Position.

The Committee approved the Staff's recommendation to take a position of Support.

(2) Federal

There were none. Items 3.2(c)(1) and (c)(2) were heard on 5/9/06.

**3.2 Report of the Rules Committee – May 3, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

(d) Meeting Schedules

- (1) Rules-in-Lieu Schedule for May 10th and May 17, 2006. Attachment: Memorandum from City Clerk Lee Price, dated April 28, 2006, recommending meeting schedule.

The Committee approved the recommendation.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated April 27, 2006, transmitting items for Public Record for the period of April 19-26, 2006.

The Committee received and filed the Public Record for the week of April 19-26, 2006.

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

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Process for Denial of Proposed General Plan Amendments. Attachment: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated April 27, 2006, transmitting an information memorandum.

The Committee accepted the report and requested that the information memorandum be cross referenced on the May 16, 2006 Agenda. See Item 3.7 for Council action taken.

- (2) Approval of travel by Councilmember Nora Campos to attend the National Association of Latino Elected Officials (NALEO) Annual Conference in Dallas, Texas, June 21-25, 2006. Attachment: Memorandum from Council Member Campos, dated April 25, 2006, requesting approval of travel.

The Committee approved the travel request.

(h) Open Forum

Bill Chew spoke about his candidacy for City Council, District 3 and reiterated his request that the City consider the construction of a fiber optic cable network and connect all households in San José.

**3.2 Report of the Rules Committee – May 3, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

- (i) Adjournment
(Deferred from May 16, 2006 – Item 3.2)

The meeting was adjourned at 2:46 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, the Report of the Rules Committee and the actions of May 3, 2006, were accepted. (11-0.)

3.4 Approval of a work-plan for implementing the Sunshine Reforms as follows:

- (a) **Refer nine proposals to the Sunshine Reform Task Force for further analysis and report back to Council in Fall 2006 as the Task Force completes its work.**
- (b) **Direct staff to proceed with a pilot program to implement 13 proposals and report back to Council in January 2007.**
- CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Les White, dated May 12, 2006, recommending approval of the work plan.

Deputy City Manager Dan McFadden presented an overview of the work plan of the Sunshine Reform Task Force and responded to Council questions about costs and the timeline. Council discussion ensued regarding a number of the sunshine reforms.

Public Comment: Ed Rast urged the Council to move forward with the master calendar and web posting of the list of Council Policies. He also encouraged the Council to begin televising Planning Commission meetings and apply additional resources needed to implement the various reforms.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried, the work plan was approved with direction as follows: (1) City Clerk to proceed with posting the Council Policy Manual online. (2) Staff to reconsider the recommendation for the Master Online Calendar and return with recommendations for a pilot project, including costs to implement and maintain. (3) City Attorney to return to Council with a draft form for declaring a conflict of interest, that it be educational and expanded to all Boards and Commissions. (4) Add to the Taskforce Work Plan a discussion of what is filmed and archived on the City's television station (i.e. Planning, Commission, other committees). (5) Defer any Council Agenda Reports that have not been released or distributed by the time "Rules In Lieu" meets, with the exception of Meeting Minutes. (10-1. Noes: Gonzales.)

- 3.5 (a) **Acceptance of staff's report regarding questions related to the Military Leave Program.**
- (b) **Adoption of a resolution:**
- (1) **Extending the enhanced military leave program to City employees who are called to active military duty during the period from January 1, 2003 to December 31, 2007, for reasons related to terrorist attacks or impending or actual armed conflict, receiving supplemental pay and benefits for the entire time of active duty pursuant to Council action on December 16, 2003.**
 - (2) **Continuing the delegation of authority to the City Manager or designee to sign agreements with the eligible employees detailing the requirements for those employees who apply to receive the supplementary benefits as outlined in the resolution.**

CEQA: Not a Project. (City Manager's Office/Finance)

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza and Director of Finance Scott Johnson, dated May 8, 2006, recommending adoption of a resolution and acceptance of the staff report.

Public Comment: George Fokos spoke in opposition to the Staff recommendation. Mark Trout spoke off topic.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the report was accepted and [Resolution No. 73180](#), entitled: "A Resolution of the Council of the City of San José Approving the Extension of the Enhanced Military Leave Program to City Employees Who are Called to Active Duty During the Period from January 1, 2003 to December 31, 2007 for Reasons Related to Terrorist Attacks or Impending or Actual Armed Conflict", was adopted, including direction to the City Manager's Office to respond to issues that were raised in a letter sent to the Vice Mayor. (11-0.)

- 3.6 **Adoption of a resolution approving the revised Council Policy 7-1 – Below Market Rental Policy for Use of City-owned Land and Buildings by Non-Profit or Charitable Organizations or for Governmental or Other Public Purposes, and direction to the Public Works Department to provide oversight for the review and negotiation of all City-owned leases and or property use agreements. CEQA: Not a Project. (General Services/Public Works)**

Action: Deferred to June 20, 2006, per Orders of the Day.

- 3.7 **Acceptance of information report on denial of proposed General Plan amendments. (Planning, Building and Code Enforcement)**
[Rules Committee referral 5/3/06 - Item 3.2(g)(1)]
(Deferred from 5/16/06 – Item 3.7)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated April 27, 2006, transmitting the report.

3.7 (Cont'd.)

Deputy Director of Planning, Building, and Code Enforcement Laurel Prevetti responded to brief questions regarding “early consideration”, as opposed to “denial” and outreach.

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

3.8 Adoption of a resolution in support of AB583, the California Clean Money and Fair Elections Act of 2006. (Mayor/Chavez/Yeager/Chirco) (Rules in Lieu referral 5/17/06)

Documents Filed: Memorandum from Mayor Gonzales, Vice Mayor Chavez and Council Members Chirco and Yeager, dated May 17, 2006, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, [Resolution No. 73181](#), entitled: “A Resolution of the Council of the City of San José in Support of Assembly Bill 583 (Hancock) The California Clean Money and Fair Elections Act”, was adopted. (11-0.)

NEIGHBORHOOD SERVICES

5.2 Adoption of a resolution authorizing the City Manager to negotiate and return to the City Council for approval of an agreement with the Boys and Girls Club (BGC) of Silicon Valley that consists of the following elements:

- (a) Acquire BGC’s sports field property adjacent to the Smythe Clubhouse for an amount not to exceed \$1 million, and enter into a joint use agreement with BGC for the use of the sports field;
- (b) Work with BGC and third party non-profit organizations to develop an operations and fund development workplan to assist BGC in establishing a stable financial condition; and
- (c) BGC to assume operation of the afterschool and summer programming at Empire Gardens Elementary School while the City evaluates options for future community serving uses of the City’s property at 110 E. Jackson Street.

**CEQA: Exempt, File No. PP06-071. (City Manager’s Office/Parks, Recreation and Neighborhood Services)
(Deferred from 5/9/06 – Item 5.8)**

Action: Deferred to June 6, 2006.

- 5.3 (a) **Approval of an ordinance amending Sections 13.28.140 and 13.28.340 of Chapters 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 if no timely objection has been received by the Director of the Department of Transportation, to revise the time in which the proposed street tree removal may be carried out from ten to seventeen days from the initial date of posting, and to increase the potential maximum penalty for removal or destruction of heritage trees from five thousand dollars to thirty thousand dollars.**
- (b) **Adoption of a resolution amending the Administrative Citation Schedule of Fines to increase the administrative fines for illegal removal of trees in San José as outlined in this 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 et al. and 5/16/06 – Item 5.2]**

Documents Filed: (1) Memorandum from Council Member Yeager, dated May 22, 2006, transmitting recommendations for illegal tree removal. (2) Memoranda from Director of Transportation James Helmer and Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 22, 2006, recommending acceptance of the status report, and dated May 15, 2006, recommending approval of an ordinance and adoption of a resolution. (3) Email from member of the public, dated May 23, 2006.

Motion: Council Member Yeager moved approval of his memorandum dated May 22, 2006. Vice Mayor Chavez seconded the motion.

Public Comment: Speaking in favor were John Engell, Ed Rast, Ross Signorino, and George Fokos. Speaking in opposition were Richard Calhoun and Mart Trout.

Council Member Yeager read a prepared statement in support of the motion. Council Member LeZotte encouraged greater citizen outreach.

Action: On a call for the question, the motion carried unanimously, [Ordinance No. 27761](#), entitled: “An Ordinance of the City of San José Amending 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 if No Timely Objection has been Received by the Director of Transportation, the Proposed Street Tree Removal May be Carried Out Seventeen Days from the Initial Date of Posting and Amending Section 13.28.340 of Chapter 13.28 of Title 13 to Increase the Potential Maximum Civil Penalty for Removal or Destruction of Heritage Trees Within a Three Year Period from Five Thousand Dollars to Thirty Thousand Dollars”, was passed for publication and [Resolution No. 73182](#), entitled: “A Resolution of the Council of the City of San José Amending the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code in Order to Increase the Administrative Fines for Violation of San José Municipal Code Sections 13.28.030 and 13.28.130 Relating to Illegal Removal of Trees in San José and Repealing Resolution No. 73004”. was adopted, and the memorandum from Council Member Yeager, dated May 22, 2006, with further recommendations related to future work, was approved. (11-0.)

5.4 Adoption of a resolution authorizing the City Manager to negotiate and execute with San Jose Unified School District (SJUSD):

- (a) An Exchange Agreement providing for the exchanges of various property interests, with payment to SJUSD as just compensation in an amount not to exceed \$559,000 for transfers to the City; and**
- (b) As part of the Exchange Agreement, a Joint Use Agreement providing for the joint and public use of a portion of City's Roosevelt Park for a softball field constructed by SJUSD, and of a portion of SJUSD property adjacent to the reconstructed Roosevelt Community Center for joint and public use of a parking lot, and containing 3 year renewable options; and**
- (c) An Option Agreement providing the conditions under which SJUSD could exercise an option for restricted fee title for the Empire Gardens School Site, and the conditions under which City could exercise the option for restricted fee title to an expanded site for the Ellington Branch Library site; and**
- (d) An Amendment to Lease for the Ellington Branch Library with the San José Unified School District to expand the site to approximately 0.90 acres, pending the exercise of the option for restricted fee title to the site; and**
- (e) Authorizing the Director of Public Works to execute all other documents necessary to complete the exchanges.**

CEQA: Ellington Branch Library, Exempt, File No. PP05-167, Roosevelt Park, Mitigated Negative Declaration, File No. PP03-397, Rajkovich Property, Exempt, File No. PP05-160, Empire Gardens School, Exempt, File No. PP04-029, Canoas Elementary School, Resolution No. 67894. Council Districts 2, 3, 6, and 10. (Public Works)

(Deferred from 5/16/06 – Item 5.4)

Documents Filed: Replacement memorandum from Director of Public Works Katy Allen, dated May 11, 2006, recommending adoption of resolution.

Public Comment: William Garbett and George Fokos spoke in reference to the Staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73183](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Exchange Agreement with the San José Unified School District for the Exchange of Several Property Interests Between the City and the District, together with an Option Agreement, a Joint Use Exchange Agreement, and a Lease Amendment to the Lease with the District for Joyce Ellington Branch Library, and Including Compensation to the District in the Amount of \$559,00", was adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 Approval of a Master Agreement with Carter & Burgess, Inc., for Consultant Services for Signage and Wayfinding Projects at Norman Y. Mineta San José International Airport, for the period from June 1, 2006 to June 30, 2010, in an amount not to exceed \$2,000,000. CEQA: Resolution Nos. 67380 and 71451, PP04-303. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated May 10, 2006, recommending approval of the master agreement.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Yeager and carried unanimously, the master agreement was approved, with Staff directed to consult with the Disability Advisory Commission, as the process moves forward. (10-0-1. Absent: Reed.)

- 6.3 (a) Adoption of a resolution authorizing the Director of Aviation to negotiate and execute the first amendment to the agreement with Carter & Burgess, Inc. for consultant design services related to the Airline Maintenance Facility project, adding design services for the Terminal A In-Line Baggage Screening Facility, and increasing the compensation by \$629,500 from \$750,000, for a total agreement amount not to exceed \$1,379,500, and extending the term of the agreement from December 31, 2007 to June 30, 2009.**
- (b) Adoption of the following appropriation ordinance amendments in the Airport Capital Improvement Fund:**
- (1) Establish the In-Line Baggage Screening Facility appropriation in the amount of \$1,198,000.**
 - (2) Decrease the Ending Fund Balance by \$1,198,000.**
- (c) Adoption of the following appropriation ordinance amendments in the Airport Renewal and Replacement Fund:**
- (1) Establish the In-Line Baggage Screening Facility appropriation in the amount of \$262,000.**
 - (2) Decrease the Ending Fund Balance by \$262,000.**
- CEQA: Resolution Nos. 67380 and 71451, PP06-062. (Airport/City Manager's Office)**

Documents Filed: Memorandum from Director of Aviation William Sherry and Budget Director Larry Lisenbee, dated May 3, 2006, recommending adoption of a resolution and appropriation ordinance amendments.

6.3 (Cont'd)

Action: Upon motion by Council Member LeZotte, seconded by Council Member Yeager and carried unanimously, [Resolution No. 73184](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Negotiate and Execute the First Amendment to the Agreement with Carter & Burgess, Inc. for Consultant Design Services Related to the Airline Maintenance Facility Project, Adding Design Services for the Terminal A In-Line Baggage and Screening Facility, Increasing the Compensation by \$629,500 for a Total Agreement Amount Not to Exceed \$1,379,500 and Extending the Term from December 31, 2007 and June 30, 2009”, [Ordinance No. 27762](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Airport Capital Improvement Fund for the In-Line Baggage Screening Facility; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”, and [Ordinance No. 27763](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Airport Renewal and Replacement Fund for the In-Line Baggage Screening Facility; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” were adopted. (10-0-1. Absent: Reed.)

- 6.4 (a) **Authorizing the City Manager to negotiate the design-build contract for the Airport Terminal Area Improvement Program with Bechtel Infrastructure Group.**
- (b) **Authorizing the City Manager to terminate negotiations with Bechtel Infrastructure Group and to negotiate the design-build contract for the Airport Terminal Area Improvement Program with the proposers in the order of their ranking, in the event that the City Manager determines that the City and Bechtel Infrastructure Group cannot agree upon the terms of the design-build contract.**

CEQA: Resolution Nos. 67380 and 71451, PP 06-022. (Public Works/Airport)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated May 23, 2006, recusing himself from participation on this item. (2) Supplemental memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated May 18, 2006, providing additional information. (3) Memorandum from Director of Aviation William Sherry and Director of Public Works Katy Allen, dated May 8, 2006, recommending adoption of a resolution. (4) Memorandum from City Auditor Gerald Silva, dated May 17, 2006, transmitting the City Auditor’s review.

Mayor Gonzales recused himself from participating as his wife was employed by Transmetrics, one of the 44 sub-consultant firms. Council Member Campos recused herself from participating in this item due to a potential conflict of interest (husband’s employment).

Director of Aviation William Sherry presented the background related to the Design-Build Contract for the Airport Terminal Area Improvement Program. Director of Public Works Katy Allen outlined the Proposal Evaluation Process.

6.4 (Cont'd.)

Director of Aviation Sherry and Director of Public Works Allen responded to Council questions and comments.

Public Comment: George Fokos stated the City should spend less money on the Airport. Ross Signorino asked about the timeline of the beginning and ending of construction. Director Sherry responded that the completion of Phase I will be in Mid 2010.

Action: Upon motion by Council Member Pyle, seconded by Council Member Yeager and carried unanimously, [Resolution No. 73185](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate the Design-Build Contract for the Airport Terminal Area Improvement Program", was adopted and the City Manager was authorized to terminate negotiations with Bechtel Infrastructure Group and to negotiate the design-build contract for the Airport Terminal Area Improvement Program with the proposers in the order of their ranking, in the event that the City Manager determines that the City and Bechtel Infrastructure Group cannot agree upon the terms of the design-build contract. (9-0-2. Disqualified: Campos; Gonzales.)

- 6.5 (a) Alternatives to San José Municipal Code Section 11.36.100(1) for the regulation of parked vehicles displayed for sale on public rights of way; and,**
(b) Information from the Department of Transportation on vehicle counts and streets affected by cars displayed for sale on public rights-of-way.

CEQA: Not a Project. (City Attorney's Office)

To be heard in the evening.

Action: Deferred to June 13, 2006.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of May 23, 2006:

A. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The name of the action and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is formally commenced.

Council Vote: Ayes: Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Noes: None.
Disqualified: None.
Absent: None.

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>		<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9751	790-800 Road	Malone	6	Core Development Inc.	9 Units	SFD/SFA	Approve

OPEN FORUM

- (1) Bill Chew spoke about his candidacy for District 3.
- (2) Stephen Hazel voiced personal observations.
- (3) Gary Briscoe expressed discontent about the City’s response to his concerns relating to vehicle storage on the street, overgrown trees and other illegal activities in his neighborhood.
- (4) Robert Apgar voiced personal observations.
- (5) George Fokos said he was running for Mayor.
- (6) Mark Trout presented religious points of view.
- (7) Adrian Flores noted he would like to partner with the City to bring ballroom dancing to the community.
- (8) Ross Signorino spoke about the lawsuit between the County and the City of San José.

ADJOURNMENT

The Council of the City of San José adjourned at 4:46 p.m. in memory of Cornelia Murphy who taught people that their voice mattered and inspired them to use it.

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/5-23-06MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at www.sanjoseca.gov/clerk/MeetingArchive.asp