

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 15, 2006

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

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

Absent: Council Members - Pyle; Gonzales. (Excused)

Upon motion unanimously adopted, Council recessed at 9:34 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) South Almaden Valley Rural Alliance et al. v. City of San José. (B) (1) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to initiation of litigation in one (1) matter; (2) pursuant to Government Code Section 54956.9, subsection (b) with respect to significant exposure in one (1) matter. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:25 a.m. and reconvened at 1:32 p.m. in the Council Chambers.

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

Absent: Council Members - Pyle; Gonzales. (Excused)

INVOCATION

Cambodian Dance Group. (District 7)

PLEDGE OF ALLEGIANCE

Vice Mayor Chavez led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Council Member Reed and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 11.3 and 11.5 continued to August 29, 2006. (9-0-2. Absent: Pyle; Gonzales.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation of the multi-departmental Grand Prix Team for their contributions to the success of the 2006 San José Grand Prix Team. (City Manager's Office)

Action: Vice Mayor Chavez recognized and commended the Grand Prix Team for their extraordinary contributions to the 2006 San José Grand Prix.

1.5 Presentation of a commendation to Adobe and Cushman & Wakefield for their commitment to reducing their environmental footprint and being an environmental leader in the City of San Jose. (Mayor/LeZotte/Chirco)

Action: Vice Mayor Chavez, Council Members LeZotte and Chirco recognized and commended Adobe and Cushman & Wakefield for their commitment to the environment in the City of San José.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Campos, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2. Absent: Pyle; Gonzales.)

2.1 Approval of Minutes:

- (a) **Regular Minutes of November 1, 2005.**
 - (b) **Regular Minutes of November 8, 2005.**
 - (c) **Regular Minutes of November 15, 2005.**
 - (d) **San José Financing Authority Minutes of November 15, 2005.**
 - (e) **Regular Minutes of November 29, 2005.**
- (Deferred from 6/27/06 – and 8/8/06 - Item 2.1)**

Documents Filed: Regular minutes dated November 1, 2005, November 8, 2005, November 15, 2005 and November 29, 2005; and Minutes of the San José Financing Authority dated November 15, 2005.

Action: The minutes were approved. (9-0-2. Absent: Pyle; Gonzales.)

- 2.2 (a) **ORD. NO. 27796 – Rezoning certain real property situated on the southeast corner of Miller Street and Asbury Street to A(PD) Planned Development Zoning District. PDC05-101**
[Deferred from 8/8/06 – Item 2.2(b)]

Documents Filed: (1) Supplemental memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated August 14, 2006, transmitting additional information. (2) Proof of Publication of Notice of Public Hearing, executed on August 8, 2006, submitted by the City Clerk.

Action: Dropped.

- 2.3 **Acceptance of the Office of the City Auditor’s Sales Tax Audit Results for the Quarter Ended March 31, 2006. (City Auditor)**
(Rules Committee referral 8/2/06)

Documents Filed: Report of the Sales Tax Audit Results for Quarter ended March 31, 2006 from the Office of the City Auditor.

Action: The report was accepted. (9-0-2. Absent: Pyle; Gonzales.)

- 2.4 **Adoption of a resolution authorizing the City Attorney to negotiate and execute a second amendment to the agreement with Nossaman Guthner Knox & Elliot LLP for legal services for the negotiation of the Design Build Agreement for the Airport Terminal Area Improvement Project, increasing the compensation by \$100,000 from \$150,000 to a total amount not to exceed \$250,000. CEQA: Not a Project. (City Attorney’s Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated August 3, 2006, recommending adoption of a resolution.

Public Comment: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Council Member Campos, seconded by Council Member Yeager and carried unanimously, [Resolution No. 73348](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Second Agreement to the Legal Services Agreement with Nossaman Guthner Knox & Elliot LLP, Increasing the Compensation by \$100,000 for a Total Amount Not To Exceed \$250,000”, was adopted. (9-0-2. Absent: Pyle; Gonzales.)

- 2.5 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #4 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated July 21, 2006, recommending approval of award of open purchase orders. (2) Letter from the Treatment Plant Advisory Committee, dated August 7, 2006, stating concurrence with the Staff recommendation.

Action: The award of the open purchase orders were approved. (9-0-2. Absent: Pyle; Gonzales.)

- 2.6 Report on bids and award the purchase of self-contained breathing apparatus on behalf of various local agencies within Santa Clara County to the low bidder, Bauer Compressor, Inc. (Hayward, CA), for a total amount not to exceed \$161,558 using Urban Area Security Initiative (UASI) grant funds and authorize the Director of Finance to execute the purchase order. CEQA: Not a Project. (Finance)**

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

Action: The purchase was approved. (9-0-2. Absent: Pyle; Gonzales.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.4 Adoption of a resolution authorizing the Director of Finance to:**
- (a) Execute an amendment to the agreement with Nortel Networks Corporation ("Nortel") for annual Operations and Maintenance services of the converged network and telephony system in an amount not to exceed \$1,102,500; and**
 - (b) Execute one annual option to renew the O&M Services effective July 1, 2007 subject to appropriation of funding.**
- CEQA: Not a project. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated July 26, 2006, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Finance Scott Johnson, dated August 10, 2006, transmitting additional information.

Public Comment: Erik Larsen (AFSCME Local 101/MEF) spoke in support of the Staff recommendation.

3.4 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Reed and carried unanimously, [Resolution No. 73349](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Amendment to the Agreement with Nortel Networks Corporation for Annual Operations and Maintenance Services of the Converged Network and Telephony System", was adopted. (9-0-2. Absent: Pyle; Gonzales.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Adoption of a resolution approving revisions to the Council Policy 6-29: Post-Construction Urban Runoff Management to:

- (a) Require the implementation of Post-Construction Best Management Practices (BMPs) and installation of Storm Water Treatment Control Measures (TCMs) in all development projects that create, replace or add 10,000 square feet or more of impervious surface;
- (b) Update the Policy definition of "Other Unenumerated Land Uses of Concern," eliminate the Policy definitions of "Land Uses of Concern" and "Major Project," and add a Policy definition of "Applicable Project;" and
- (c) Make technical clarifications regarding exclusion of roof area from project square footage calculation for determining whether numerically sized Treatment Control Measures (TCMs) are required.

CEQA: Exempt, File No. PP05-012. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated July 26, 2006, recommending approval of revising City Council Policy 6-29.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, [Resolution No. 73350](#), entitled: "A Resolution of the Council of the City of San José Approving a City Council Policy Revising Requirements Related to the Control of Stormwater Runoff from New and Redevelopment Projects" was adopted. (9-0-2. Absent: Pyle; Gonzales.)

NEIGHBORHOOD SERVICES

5.2 Adoption of a resolution as follows:

- (a) **Acceptance of the summary of costs and findings of the Summary 33433 Report pursuant to Health and Safety Code Section 33433 for the sale and disposition of the property located at 525 South Ninth Street under the terms and conditions of the proposed Disposition and Development Agreement (“DDA”).**
- (b) **Approval of a DDA between the City of San José and the proposed partnership between First Community Housing and the John Stewart Company, or their designated affiliate, for the development of the New Casa Feliz, a 60-unit three- and four-story affordable housing project and authorizing the City Manager or his designee to negotiate, execute and record all documents reasonably necessary to convey the property as provided in the DDA.**
- (c) **Approval of an amendment to the Option Agreement for the subject property with Sponsor and authorizing the City Manager or his designee to negotiate and execute the amendment to the Option Agreement.**
- (d) **Approval of a funding commitment of up to \$1,000,000 to the Sponsor for development costs of the project.**

CEQA: Exempt, File No. PDC05-020. Council District 3. SNI: University. (Housing)

Documents Filed: (1) Memorandum from Director of Housing Leslye Krutko, dated July 26, 2006, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Housing Leslye Krutko, dated August 4, 2006, transmitting additional information.

Assistant Director of Housing Mike Meyers responded to Council questions regarding funding and the relocation plan.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed and carried unanimously, [Resolution No. 73353](#), entitled: “A Resolution of the Council of the City of San José (1) Accepting the 33433 Summary Report and Reuse Appraisal for the Property Located at 525 South Ninth Street; (2) Approving the Disposition and Development Agreement for the Sale and Conveyance of City Property to First Community Housing and John Stewart Company or their Designated Affiliate for \$1,260,000; (3) Approving a Loan Commitment of up to \$1,000,000 to the Developer for the Development of an Affordable Housing Project on the Property; (4) Approving an Amendment to the Option Agreement for the Property; (5) Authorizing the City Manager or his Designee to Execute the City Documents and any Amendments Reasonably Necessary to Effectuate the Intent of this Resolution”, was adopted, with Staff directed to provide an information memorandum on the relocation of the 68 tenants of New Casa Feliz. (9-0-2. Absent: Pyle; Gonzales.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Adoption of a resolution authorizing the Director of Finance to negotiate and execute agreements with:
- (1) Norcal Waste Systems, Inc., for single-family residential Solid Waste Services and Recycling Services in Districts A and C for a two-year term from July 1, 2007, through June 30, 2009.
 - (2) GreenWaste Recovery, Inc., for Yard Trimmings and Residential Street Sweeping Services in District C for a six-year term from July 1, 2007, through June 30, 2013; and
- (b) Direction to the Administration to report back to Council within 60 days on a procurement strategy for Solid Waste and Recycling Services for Districts A and C commencing July 1, 2009.
- (c) Direction to staff to prepare any public notices and reports required to prepare for the necessary single-family rate increase of 25 percent in Fiscal Year 2007-08, subject to final Council action during the City's annual budget process.

(Environmental Services/Finance)

Action: Deferred to August 22, 2006.

- 7.2 Acceptance of report on bids and award of contract for the SJ-14 Pump Stations 5 & 8/11 Reliability Project to the low bidder, Anderson Pacific Engineering Construction Inc., in the amount of \$3,736,200, and approval of a contingency in the amount of \$370,000. CEQA: Exempt, File No. SP04-054 and PD04-068. Council Districts 3 and 8. SNI: Spartan Keyes. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated July 26, 2006, recommending award of the contract. (2) Letter from the Treatment Plant Advisory Committee, dated August 7, 2006, stating concurrence with the Staff recommendation.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, the award of the contract was approved. (9-0-2. Absent: Pyle; Gonzales.)

PUBLIC SAFETY SERVICES

8.1 Acceptance of the San José Police Department's response to the 2005-2006 Santa Clara County Civil Grand Jury's report entitled "Racial Profiling by San José Police Department – Perception vs. Reality". CEQA: Not a Project. (Police)

Documents Filed: (1) Memorandum from Police Chief Robert Davis, dated August 2, 2006, transmitting the report. (2) Memorandum from Independent Police Auditor Barbara Attard, dated August 4, 2006, recommending Council direct the Independent Police Auditor (IPA) to conduct a review of similar civilian oversight organizations that audit police agencies to determine models whose functions could be considered to augment the IPA mission and report to the City Council on this issue in the upcoming 2006 IPA Mid-Year Report.

Public Comment: Ross Signorino spoke off topic. Robert Lopez, President, San José Police Officers Association (SJPOA) and John Tennant, General Counsel for the SJPOA, objected to further investigations or studies by a civilian oversight committee.

Action: Upon motion by Council Member Cortese, seconded by Council Member Williams and carried unanimously, the report was approved, with the City Manager directed to work with the Police Chief and the Independent Police Auditor to develop the scope of a study by the Police Department of the definitions of inquiries and complaints, as well as processes used in other jurisdictions; the scope and timeline shall be taken to the Rules Committee for review and consideration before Council approval. (9-0-2. Absent: Pyle; Gonzales.)

MOTION: Council Member Reed moved approval to reconsider the continuance of Item 11.5 and hear the matter in the evening as originally planned. Council Member LeZotte seconded the motion. (9-0-2. Absent: Pyle; Gonzales.)

OPEN FORUM

- (1) Robert Apgar expressed personal observations.
- (2) Ross Signorino criticized campaign flyers sent out by the San José Silicon Valley Chamber of Commerce.
- (3) William Garbett stated he observed racial profiling by members of the San José Police Department.

ADJOURNMENT

The afternoon City Council Session was adjourned at 3:56 p.m.

RECESS/RECONVENE

The City Council recessed at 3:56 p.m. from the Joint City Council/Redevelopment Agency Board, and reconvened at 7:05 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Pyle; Gonzales. (Excused)

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Vice Mayor Chavez, seconded by Council Member Chirco, and carried unanimously, the below noted continuances were granted. (9-0-2. Absent: Pyle; Gonzales.)

CEREMONIAL ITEMS

- 1.2 Presentation to the Arthritis Foundation and Office of San José Arthritis Walk for their commitment to public health and dedication to community awareness in fighting arthritis. (Cortese)**
(Rules Committee referral 8/2/06)

Action: Vice Mayor Chavez and Council Member Cortese recognized and commended the Arthritis Foundation and the Office of San José Arthritis Walk for their commitment and dedication in fighting arthritis.

- 1.3 Presentation of a commendation to Dave and Barbara Kocina for their dedication to the youth of their neighborhood through their 28 years of coaching Little League Baseball and teaching life skills to hundreds of South San José youth. (Mayor/Williams)**
(Rules Committee referral 8/9/06)

Action: Vice Mayor Chavez and Council Members Campos and Williams recognized and commended Dave and Barbara Kocina for their dedication to the hundreds of youth in South San José.

- 1.4 Presentation of a commendation to Jim Kosmala for his dedication to the youth of his neighborhood, through his twenty years of coaching Little League Baseball and teaching life skills to hundreds of youth in South San José. (Mayor/Williams)**
(Rules Committee referral 8/9/06)

Action: Vice Mayor Chavez and Council Member Williams recognized and commended Mr. Jim Kosmala for his service and dedication to the hundreds of youth in South San José.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.4 Adoption of a resolution initiating proceedings, and setting September 19, 2006 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Story No. 57 which involves the annexation to the City of San José of 3.18 gross acres of land located at the south side of Fleming Avenue, approximately 1,032 feet southeast of Alum Rock Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection, Area No. 01 (Library Services) County Service and County Sanitation District 2-3. CEQA: Mitigated Negative Declaration. Council District 5. (Planning, Building and Code Enforcement).**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated July 26, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 4, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member Campos, seconded by Council Member Cortese and carried unanimously, [Resolution No. 73351](#), entitled: “A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Story No. 57 and Described Herein, and Giving Notice of Hearing on the Proposed Reorganization and Written Protests”, was adopted. (9-0-2. Absent: Pyle; Gonzales.)

PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Reed, seconded by Council Member Yeager, and carried unanimously, the Public Hearings on Consent Calendar were approved and the below listed actions were taken as indicated. (9-0-2. Absent: Pyle; Gonzales.)

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the east side of De Anza Boulevard, 350 feet northerly of Sharon Drive (1426 S. De Anza Boulevard) (Yu-Sheng Kao, Owner) from R-2 Residential District to A(PD) Planned Development Zoning District Residential District to allow up to four single family attached/detached residences on a 0.52 gross acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1). CEQA: Exempt. PDC05-027 – District 1 [Continued from 6/20/06 – Item 11.1(a)]**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-027, dated July 5, 2006, recommending approval on the subject property. (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel dated July 26, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on July 10, 2006, submitted by the City Clerk.

11.1(a)(Cont'd.)

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

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27828](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of De Anza Boulevard, 350 Feet Northerly of Sharon Drive (1426 S. De Anza Boulevard) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0-2. Absent: Pyle; Gonzales.)

- (b) **Consideration of an ordinance rezoning the real property located at/on the northeast corner of Almaden Avenue and West Alma Avenue (1390 Almaden Ave.) (Neighborhood Housing Services Silicon Valley, Rodney Geiman, Owner) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District and associated Planned Development Permit to allow up to 17 single family attached residences on a 0.75 gross acre site. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: Mitigated Negative Declaration. SNI: Washington. PDC06-021 & PD06-022 - District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-021 & PD06-022, dated July 27, 2006, recommending approval on the subject property. (2) Proofs of Publications of Notices of Public Hearings, executed on August 4, 2006 and August 7, 2006, submitted by the City Clerk.

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

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 27829](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Almaden Avenue and West Alma Avenue (1390 Almaden Avenue) to A(PD) Planned Development Zoning District”, was passed for publication and Resolution No. 73354, entitled: “A Resolution of the Council of the City of San José Granting Subject to Conditions, A Planned Development Permit to Allow the Use of Certain Real Property Described Herein for Seventeen Single Family Attached Residences”, was adopted. (9-0-2. Absent: Pyle; Gonzales.)

- 11.1 (c) **Consideration of an ordinance rezoning the real property located at the northeast corner of Old Tully Road and Monterey Highway from LI Light Industrial Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses on an approximately 6.0 gross acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (5-0-2). CEQA: Resolution No. 65459.**
C05-120 - District 7

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-120, dated July 3, 2006, recommending approval on the subject property. (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated August 10, 2006, transmitting the Planning Commission recommendation. (3) Proofs of Publications of Notices of Public Hearings, executed on July 28, 2006 and August 7, 2006, submitted by the City Clerk.

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

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27830](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of Old Tully Road and Monterey Highway (2300 Monterey Road) to CN Commercial Neighborhood Zoning District”, was passed for publication. (9-0-2. Absent: Pyle; Gonzales.)

- (d) **Consideration of a director initiated rezoning ordinance rezoning an approximately 7 gross acres containing 28 parcels on the southeast side of Mabury Road, east of King Road from County of Santa Clara to R-1-8 Single Family Residence Zoning district for single family residential purposes (Numerous Owners). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: EIR Resolution No. 65459.**
C06-032 – District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-032, dated July 26, 2006, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on August 4, 2006, submitted by the City Clerk.

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

11.1(d)(Cont'd.)

Action: The recommendation the Planning Director was approved, and [Ordinance No. 27831](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Side of Mabury Road, Northeast of King Road from County of Santa Clara to R-1-8 Single Family Residence Zoning District”, was passed for publication. (9-0-2. Absent: Pyle; Gonzales.)

- (e) **Consideration of a director initiated rezoning ordinance rezoning an approximately 2.3 gross acres consisting of 2 parcels on the southwesterly side of Stone Creek Drive, approximately 120 feet southerly of Isadora Drive from County of Santa Clara to R-1-8 Single Family Residence Zoning district for single family residential purposes (Numerous Owners). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: EIR Resolution No. 65459. C06-035 – District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-035, dated July 29, 2006, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on August 4, 2006, submitted by the City Clerk.

This item was pulled for public comment.

Public Comment: Vice Mayor Chavez opened the public hearing.

Joe McCord, Karl Inderbitzin, Barbara Mulford and Sal Caltabiano voiced objections to the proposed annexation and rezoning. Vice Mayor Chavez closed the public hearing.

Brief Council discussion ensued. Acting Director of Planning, Building and Code Enforcement Joe Horwedel proposed that Staff could (and would) do a better job in the future with community outreach to ensure the public clearly understands the annexation process. He emphasized that zoning will not change until the property owner makes the application.

Action: Upon motion by Council Member Reed, seconded by Council Member Williams and carried unanimously, the recommendation the Planning Director was approved, and [Ordinance No. 27832](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated Southwesterly Side of Stone Creek Drive, Approximately 120 feet Southeasterly of Isadora Drive”, was passed for publication. (9-0-2. Absent: Pyle; Gonzales.)

- 11.1 (f) **Consideration of a director initiated rezoning ordinance rezoning an approximate 10.89 gross acre site located on the southwesterly corner of Capitol Avenue and Gimelli Way from County of Santa Clara to RM Multiple Residence District for multiple residential purposes (Genevieve M. Merlino, Owner). CEQA: EIR Resolution No. 65459.
C06-044 – District 5**

Documents filed: Proof of Publication of Notice of Public Hearing, executed on August 4, 2006, submitted by the City Clerk.

Action: Continued to September 19, 2006.

- 11.1 (g) **Consideration of a director initiated rezoning ordinance rezoning an approximate 3.2 gross acre site located on both sides of Maria Way and Antonio Lane and the west side of Essex Way, extending approximately 180 feet north of Valley Forge Way from County of Santa Clara to R-1-8 Single Family Residence District for single family residential purposes on (Numerous Owners). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: EIR Resolution No. 65459.
C06-045 – District 1**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-045, dated July 27, 2006, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on August 4, 2006, submitted by the City Clerk.

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

Action: The recommendation the Planning Director was approved, and [Ordinance No. 27833](#) entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on Both Sides of Maria Way and Antonio Lane and the West Side of Essex Way, Extending Approximately 180 Feet North of Valley Forge Way to R-1-8 Single Family Residence Zoning District”, was passed for publication. (9-0-2. Absent: Pyle; Gonzales.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of an ordinance rezoning the real property located on the southeast corner of Stevens Creek and South Winchester Boulevard (3055 Olin Ave) (FRIT San José Town & Country Village, LLC, Owner/Developer) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to: (1) allow up to 400 additional multi-family attached residences (1,601 total units if a second hotel is not built); (2) allow an additional 15,000 square feet of retail/commercial space for a total of 695,000 square feet; (3) allow up to 20,000 square feet of currently permitted general retail/commercial space to be replaced with 20,000 square feet of restaurant space for a total of 115,200 square feet of restaurant/night club uses; and (4) reduction in required parking on the 40.79 gross acre Santana Row site.**

PDC05-030 - District 6

(Continued from 6/20/06 – Item 11.6)

Documents Filed: Proofs of Publications of Notices of Public Hearings, executed on July 10, 2006 and August 7, 2006, submitted by the City Clerk.

Action: Dropped.

- 11.3 Administrative Hearing on the consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit and deny the granting of a determination for Public Convenience or Necessity for the off-sale of alcoholic beverages at an existing retail store on a 0.43 gross acre site in the CP Commercial Pedestrian Zoning District located at the southwest corner of Winchester Boulevard and Impala Drive (1539 S. Winchester Blvd.) (Ronnie Berry, Owner). Director of Planning, Building and Code Enforcement recommends to uphold the Planning Commission's decision to deny (5-0-1). CEQA: Exempt. SNI: Winchester.**

CP06-009 & ABC06-006 - District 1

Documents Filed: Proofs of Publications of Notices of Public Hearings, executed on August 4, 2006 and August 7, 2006, submitted by the City Clerk.

Action: Continued to August 29, 2006.

- 11.4 Consideration of an ordinance rezoning the real property located at/on the south side of Balbach Street, approximately 300 feet westerly of South Market Street from CG General Commercial Zoning District to A(PD) Planned Development Zoning District to allow 38 single family attached residences and associated improvements (120 Balbach Street) (Corotto Company Inc., Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1). CEQA: Mitigated Negative Declaration. SNI: Market Almaden.**

PDC05-078- District 3

11.4 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-078, dated July 14, 2006, recommending approval on the subject property. (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel dated July 27, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on July 12, 2006, submitted by the City Clerk.

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

Action: Upon motion by Council Member Campos, seconded by Council Member Yeager, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27834](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Balbach Street, Approximately 300 Feet Westerly of Market Street to A(PD) Planned Development Zoning District ", was passed for publication. (9-0-2. Absent: Pyle; Gonzales.)

**11.5 Administrative Hearing on the consideration of an appeal of the Planning Director's decision to approve a Planned Development Permit to construct 34 single family detached residences and a Tentative Subdivision Map to reconfigure 2 parcels into 34 lots for single family detached residential purposes on a 4.16 gross acre site, in the A(PD) Planned Development Zoning District located on the south side of Rock Avenue, approximately 800 feet westerly of Oakland Avenue (Aldo J. Scoffone, Trustee & et al, Loren J. Jones and Catherine A. Valentine, Owner; Taylor Woodrow Homes, Inc., Alan Loving, Developer). Planning Staff recommends to uphold the Director of Planning's decision to approve. No Planning Commission action. CEQA: Mitigated Negative Declaration.
PD06-003 & PT06-006 - District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PD06-003 & PT06-006, dated July 31, 2006, recommending approval on the subject property. (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel dated July 31, 2006, transmitting the Planning Staff recommendation of the subject property. (3) Proofs of Publications of Notices of Public Hearings, executed on August 4, 2006, and August 7, 2006, submitted by the City Clerk.

Public Comment: Vice Mayor Chavez opened the public hearing. Eric Schoennauer, representing the Applicant, Taylor Woodrow Homes, was available for questions. Vice Mayor Chavez closed the public hearing.

11.5 (Cont'd.)

Action: Upon motion by Council Member Reed, seconded by Council Member Williams, the recommendation of the Planning Director was approved, and [Resolution No. 73352](#), entitled: "A Resolution of the Council of the City of San José Upholding the Determination of the Planning Director to Conditionally Approve a Planned Development Permit to Construct 34 Single Family Detached Residences and a Tentative Subdivision Map to Reconfigure 2 Parcels into 34 Lots for Single Family Detached Residential Purposes, Located at the South Side of Rock Avenue, Approximately 800 Feet Westerly of Oakland Avenue on a 4.16 Gross Acre Site", was adopted. (9-0-2. Absent: Pyle; Gonzales.)

11.6 Consideration of an ordinance rezoning the real property located at the southwest corner of Monterey Road and Goble Lane rezoning from A(PD) Planned Development Zoning District which allows up to 969 single family and multi family residential units and approximately 18,000 square feet of commercial space site to A(PD) Planned Development Zoning District to modify the previously approved General Development Standards to allow (1) a reduction in setbacks along Monterey Road; (2) to allow detached units; (3) to clarify the park dedication requirement (2745 Monterey Road) (ROEM Development Corporation, Owner/Developer). CEQA: Resolution No. 72877, File No. PDC02-066. PDC06-034 - District 7

Action: Continued to September 19, 2006.

OPEN FORUM

- (1) Salvatore A. LaRosa requested assistance in resolving downtown residential parking issues. Staff to contact him for more information.
- (2) Robert Apgar expressed personal observations.
- (3) Mark Trout presented religious viewpoints.

ADJOURNMENT

The Council of the City of San José was adjourned at 8:13 p.m. in memory of Miriam Ayllon, Santa Clara Valley Transportation Authority Community Outreach Supervisor, who passed away on Sunday in a tragic rafting accident when visiting friends and family in Bolivia.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/8-15-06MIN

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