



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 29, 2006

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

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:31 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) County of Santa Clara, et al. v. City of San José, et al.; (2) City of San José, et al. v. County of Santa Clara; (3) In Re American GI Forum; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (b) with respect to anticipated litigation of significant exposure in one (1) matter. (C) to confer with Real Property Designated Representatives pursuant to Government Code Section 54856.8: Properties: (1) Property: Norman Y. Mineta San José International Airport Terminal Buildings, Gates and Ramp Areas; City Negotiator(s): William F. Sherry, A.A.E., Director of Aviation; Negotiating Parties: City of San José and Airborne Express (ABX), Alaska Airlines, American Airlines, Continental Airlines, Delta Airlines, Federal Express, Frontier Airlines, Hawaiian Airlines, Horizon Air, JetBlue Airways, Mexicana Airlines, Northwest Airlines, Southwest Airlines, United Airlines, United Parcel Service, and US Airways; Under Negotiation: Price and terms of payment; and (D) 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 11:35 a.m. and reconvened at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - None.

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

INVOCATION

Kevin Arnold, Board President of Poetry Center San José presented a poem by Walt Whitman. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

1.2 Presentation of a commendation for teams supporting Strong Financial Management. (Finance)

Action: Mayor Gonzales and Director of Finance Scott Johnson recognized and commended the teams supporting strong financial management. Director Johnson presented three special awards of finance excellence to Mayor Gonzales.

1.3 Presentation of \$1,500 scholarships to Felicia Aldaña and Loretta Ruby Romandia on behalf of the Hispanic Association of City Employees (HACE) as this year's award recipients. (Chavez/Campos) (Rules Committee referral 8/23/06)

Action: Mayor Gonzales, Vice Mayor Chavez and Council Member Campos presented scholarships to Ms. Aldaña and Ms. Romandia on behalf of the Hispanic Association of City Employees.

1.4 Presentation of a proclamation declaring the month of August as "Breastfeeding Awareness Month" in the City of San José encouraging the community to learn about the benefits of breastfeeding, and to support mothers, families and organizations that help to improve the health of babies, their families and the entire community. (Chavez) (Rules Committee referral 8/23/06)

Action: Mayor Gonzales and Vice Mayor Chavez recognized August 2006 as "Breastfeeding Awareness Month" in the City of San José.

**1.5 Presentation of a proclamation declaring September 6-13, 2006 as the “Ethiopian New Year”. (Chavez)
(Rules Committee referral 8/23/06)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized September 6-13, 2006, as the “Ethiopian New Year”.

CONSENT CALENDAR

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

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 27826 – Amending the time limitations extending by one year the effectiveness of the Redevelopment Plan and the last day to repay indebtedness or receive property taxes with respect to the Redevelopment Plans for the Alameda, Alum Rock Avenue, East Santa Clara Street, Park Center Plaza, San Antonio Plaza, Story Road and West San Carlos Street Redevelopment Project Areas.**

Documents Filed: Proof of publication of title of Ordinance No. 27826, executed August 22, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27826](#) was adopted. (11-0).

- (b) **ORD. NO. 27827 – Making certain findings and amending the time limitations by extending one year the effectiveness of the Redevelopment Plan and the last day to repay indebtedness or receive property taxes with respect to the Redevelopment Plans for the Century Center, Edenvale, Guadalupe-Auzerais, Japantown, Julian-Stockton, Market Gateway, Olinder, Pueblo Uno, Rincon de Los Esteros (except 3rd Expansion) and Monterey Corridor Redevelopment Project Areas.**

Documents Filed: Proof of publication of title of Ordinance No. 27827, executed August 22, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27827](#) was adopted. (11-0).

2.3 Approval of a continuation to the agreement with Brown-Buntin Associates, Inc. for Airport Noise Consultant Services at the Norman Y. Mineta San José International Airport, extending the term from July 01, 2006 to June 30, 2007 and increasing the maximum compensation by \$62,200, from \$172,925 to \$235,125. CEQA: Resolution Nos. 67380 and 71451, PP06-124. (Airport)

2.3 (Cont'd.)

Documents Filed: Memorandum from Director of Aviation Sherry, dated August 9, 2006, recommending Council approval of continuation agreement with Brown-Buntin Associates, Inc. for Airport Noise Consultant Services at Norman Y. Mineta San Jose International Airport.

Action: The continuation to the agreement with Brown-Buntin Associates, Inc. for Airport Noise Consultant Services at the Norman Y. Mineta San José International Airport was approved. (11-0).

2.4 Approval of the following 2006-2007 appropriation ordinance amendments in the General Fund related to the annual City of San José Volunteer Celebration:

(a) Increase the Volunteer Recognition Program appropriation in the amount of \$15,000 and rename the appropriation as directed to Annual City of San José Volunteer Celebration.

(b) Decrease the Contingency Reserve by \$15,000.

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

Documents Filed: Memorandum from Budget Director Lisenbee, dated August 9, 2006, recommending Council adoption of Appropriation Ordinance amendments related to the annual City of San Jose Volunteer Celebration.

Action: [Ordinance No. 27835](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the General Fund for the Annual City of San Jose Volunteer Celebration; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (11-0).

2.5 (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (Cityside Redevelopment Fund):

(1) Increase the estimate for Beginning Fund Balance by \$49,680.

(2) Increase the estimate for Earned Revenue by \$47,500.

(3) Increase the appropriation to the Department of Public Works for the Starbird Teen Center Project (PSM #423, Amendment 1) in the amount of \$49,680.

(4) Establish an appropriation to the Parks, Recreation, and Neighborhood Services Department for the Hank Lopez Community Center Improvements Project (PSM #457) in the amount of \$47,500.

(b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Hank Lopez Community Center Improvements Project as more specifically described in the memorandum from the Redevelopment Agency, dated June 1, 2006.

CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (City Manager's Office)

2.5 (Cont'd.)

Documents Filed: Memorandum from Budget Director Lisenbee, dated August 9, 2006, recommending Council adoption of Appropriation Ordinance and Funding Sources Resolution Amendments relative to Services for Redevelopment Capital Projects Fund.

Action: The appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund were approved, and [Ordinance 27836](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Starbird Teen Center and Hank Lopez Community Center Improvements Projects; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73365](#), entitled: "A Resolution of the Council of the City of San Jose Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund"; and [Resolution No. 73366](#), entitled: "Resolution of the Council of the City of San Jose Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the East Valley/680 Neighborhood of the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (11-0).

2.6 Approval to amend an agreement with the REP Theatre.

- (a) **Acceptance of progress report on the long term fiscal management of the San José Repertory Theatre (REP).**
- (b) **Adoption of a resolution authorizing the City Manager to negotiate and execute a second amendment to the Agreement for Operation and Management of the Theatre (REP) entered into on December 14, 1995, to make an advance payment of the City funding assistance to the REP in the amount of the remaining three quarterly payments for the FY 2006-07 in an amount of \$225,000.**

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

Action: See Item 9.1 for documents filed and action taken.

2.7 Approval of a second amendment to the grant agreement with San José Stage Company for an additional grant amount for the third year of the term in an amount not to exceed \$71,289, thereby increasing the total grant amount to \$214,128 for the three-year term. CEQA: Not a Project. (Economic Development)

Documents Filed: Memorandum from Office of Economic Development Director Krutko, dated August 9, 2006, recommending Council approval of a second amendment to the grant agreement with San Jose Stage Company.

Action: The second amendment to the grant agreement with San José Stage Company was approved. (11-0).

2.8 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #5 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: Memorandum from Finance Director Johnson, dated August 9, 2006, recommending Council approval of award of open purchase orders and authorization for Director of Finance to execute purchase orders.

Action: The award of the open purchase orders FY 2006-2007 List #5 and authorization for the Director of Finance to execute the purchase orders was approved. (11-0).

2.9 Approval of actions related to the Dolce Hayes Mansion and adoption of a resolution authorizing the City Manager to:

- (a) **Negotiate and execute a Continuation Agreement with Horwath Hospitality & Leisure, LLC for asset management oversight services to the Dolce Hayes Mansion on behalf of the City to retroactively extend the term of the agreement for an additional year through June 30, 2007, and to increase the compensation by an amount not to exceed \$66,300 for a total amount not to exceed \$162,250 for the term of the agreement, December 1, 2004 through June 20, 2007; and**
- (b) **Exercise, at the City's sole discretion, a one-year option to extend the term of the agreement through June 30, 2008 with the compensation not to exceed \$72, 576, subject to appropriation of funds in FY 2007-08, for a total compensation for the term of the agreement, December 1, 2004 through June 30, 2008, in an amount not to exceed \$234,826.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Finance Director Johnson, dated August 9, 2006, recommending Council adoption of a resolution authorizing the City Manager to negotiate and execute a Continuation Agreement with Horwath Hospitality & Leisure, LLC for asset management oversight services to the Dolce Hayes Mansion on behalf of the City and authorize the City Manager at the City's sole discretion to exercise a one year option for extension.

Action: The actions related to the Dolce Hayes Mansion were approved and Resolution No. 73367, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute a Continuation Agreement with Horwath Hospitality & Leisure, LLC for Asset Management Oversight Services to the Dolce Hayes Mansion", was adopted. (11-0).

- 2.10 Approval to negotiate and execute a contract for Transient Occupancy Tax Compliance Services: Approval of an agreement with Tax Compliance Services (TCS) to provide Transient Occupancy Tax (TOT) compliance services, education (to hotels and the City) and related consulting services for a term from September 1, 2006 until August 31, 2007, for \$42,500 per year and authorizing the Director of finance to extend the contract for three annual option periods for \$42,500 per year for a total compensation not to exceed \$170,000, subject to annual appropriations of funds by the City Council. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Finance Director Johnson, dated August 9, 2006, recommending Council approval for negotiation and execution of an agreement with Tax Compliance Services to provide Transient Occupancy Tax compliance services, education and related consulting services.

Action: The negotiation and execution of the agreement with Tax Compliance Services (TCS) was approved and the Director of Finance authorized to extend the contract for three annual option periods, as specified, were approved. (11-0).

- 2.11 Approval to submit a grant application for Edenvale Library and adoption of a resolution ratifying the City Manager's application for a grant from the U.S. Department of Housing and Urban Development (HUD) in the amount of \$124,263 for a youth serving facility, and authorizing the execution of all documents necessary to obtain and implement the grant, if awarded. CEQA: Edenvale Branch Library, Mitigated Negative Declaration, File No PP05-011. (Library)**

Documents Filed: (1) Memorandum from Library Director Light, dated August 21, 2006, recommending Council adoption of a resolution ratifying the City Manager's application for a grant from the U.S. Department of Housing and Urban Development and authorizing the execution of all necessary documents, if awarded; and (2) Memorandum from Council Member Williams, dated August 24, 2006, recommending Council approval to submit a grant application for Edenvale Library.

Action: The submission of a grant application for Edenvale Library was approved and [Resolution No. 73368](#), entitled: "A Resolution of the Council of the City of San Jose Ratifying the Submittal of a Grant Application and Authorizing the City Manager to Execute and Submit an Application to the United States Department of Housing and Urban Development for a Grant for a Federal Economic Development Initiative Special Purpose Grant for a Youth-Serving Facility, in an Amount of \$124,263.00, to Accept the Grant if Awarded, and to Execute all Related Documents", was adopted. (11-0).

- 2.12 Approval of turnkey park agreement for Curci Park and related fiscal actions.**
- (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Park Trust Fund (Fund 375):**
 - (1) Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$51,298 for the Curci Park Site Turnkey Project;**
 - (2) Establish an appropriation for the Curci Park Site Improvements project in the amount of \$206,550 to the Department of Parks, Recreation and Neighborhood Services;**
 - (3) Increase the estimate for Earned Revenue by \$51,298; and**
 - (4) Decrease the Reserve: Hamann Park Renovation Project by \$206,550.**
 - (b) Approval of a Turnkey Park Agreement with Pfeiffer Ranch II, Inc., for Planned Development Permit PD05-062 (PT05-080) to construct park improvements on the Curci Park site and to reimburse Pfeiffer Ranch II, Inc. in an amount not to exceed \$206,550 for park and street improvements on the Curci Park site associated with Planned Development Permit PD05-062.**

CEQA: Mitigated Negative Declaration, PDC05-046. Council District 6. (Parks Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Parks, Recreation and Neighborhood Services Acting Director Balagso and Budget Director Lisenbee, dated August 9, 2006, recommending Council adoption of Appropriation Ordinance and Funding Sources Resolution Amendments for park improvements at Curci Park site and approval of a turnkey agreement with Pfeiffer Ranch II, Inc.

Action: The Turnkey Park Agreement with Pfeiffer Ranch II, Inc., related to Curci Park was approved; [Ordinance No. 27837](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the Subdivision Park Trust Fund for the Curci Park Site Turnkey Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and [Resolution No. 73369](#), entitled: "A Resolution of the Council of the City of San Jose Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Subdivision Park Trust Fund", were adopted. (11-0).

- 2.13 Adoption of a resolution of intention to conditionally vacate a portion of a public service easement created by Tract 8454, located on the northeast corner of Murphy and Ringwood Avenues, and setting a public hearing on September 19, 2006 at 1:30 p.m. CEQA: Mitigated Negative Declaration, PDC90-060. Council District 4. (Public Works)**

Documents Filed: Memorandum from Public Works Director Allen, dated August 9, 2006, recommending Council adoption of resolution of intention to conditionally vacate a portion of a public service easement created by Tract 8464 and setting a public hearing date.

2.13 (Cont'd.)

Action: [Resolution No. 73370](#), entitled: "A Resolution of the Council of the City of San Jose Setting a Public Hearing to Consider Whether to Conditionally Vacate a Public Service Easement on Northeast Corner of Murphy and Ringwood Avenues", was adopted. (11-0).

2.14 Approval of an ordinance amending Chapter 3.28 of the San José Municipal Code to clarify provisions of the Federated City Employees' Retirement System relating to tax qualification provisions of the Internal Revenue Code. CEQA: Not a Project. (Retirement)

Documents Filed: Memorandum from Federated City Employees' Retirement Board Secretary Overton, dated August 9, 2006, recommending Council approval of an ordinance amending Chapter 3.28 of the San Jose Municipal Code clarifying provisions of the Federated City Employees' Retirement System relating to tax qualification provisions of the Internal Revenue Code.

Action: [Ordinance No. 27838](#), entitled: "An Ordinance of the City of San Jose Amending Chapter 3.28 of Title 3 of the San Jose Municipal Code to Establish a Separate Medical Benefits Account in the Federated City Employees Retirement Fund for Medical and Dental Benefits, to Add Provisions Relating to Plan Termination, to Make Technical Amendments Related to Internal Revenue Code Provisions for qualified governmental Retirement Plans", was passed for publication. (11-0).

2.15 Approval of an agreement for street pavement maintenance on Martin Avenue. Approval of a cooperation agreement between the City of San José and City of Santa Clara to perform street pavement maintenance on Martin Avenue from Brokaw Road to De La Cruz Boulevard in an amount not to exceed \$380,000. CEQA: Exempt, PP06-066. Council District 3. (Transportation)

Action: This item was deferred to September 12, 2006.

2.16 Approval of an agreement between the City of San Jose and Michael G. Akatiff and Christy D. Akatiff to lease a parking lot for HP Pavilion employees for 12 months beginning September 1, 2006 for an amount not to exceed \$126,000. CEQA: Not a Project. (Transportation)

Action: This item was dropped from the agenda.

2.17 Approval of actions related to the Safe Routes to Schools grant agreement.

- (a) **Adoption of a resolution authorizing the City Manager to negotiate and execute a Safe Routes to School (SR2S) grant agreement with the California Department of Transportation (Caltrans) that will provide for the City's receipt of grant funds, in an amount not to exceed \$382,500, for the installation of pedestrian countdown signals at 98 intersections throughout San José and for pedestrian outreach and education through the City's Street Smarts School Education Program, to accept the grant and to execute any necessary documents.**
- (b) **Adoption of the following appropriation ordinance and funding sources resolution amendments in the Construction Excise Tax Fund:**
 - (1) **Establish an appropriation to the Department of Transportation for the Traffic Safety – School Walking Routes Project in the amount of \$435,000.**
 - (2) **Increase the estimate for Earned Revenue in the amount by \$382,500.**
 - (3) **Decrease the Ending Fund Balance by \$52,500.**

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

Documents Filed: Memorandum from Department of Transportation Director Helmer and Budget Director Lisenbee, dated August 9, 2006, recommending Council authorization for the City Manager to negotiate and execute a Safe Routes to School grant agreement with the California Department of Transportation (Caltrans) and adoption of an Appropriation Ordinance and Funding Sources Resolution Amendments.

Action: The actions related to the Safe Routes to Schools grant agreement were approved and [Resolution No. 73371](#), entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute a Grant Agreement with the State of California Department of Transportation for a Safe Routes to School Grant in an Amount Not to Exceed \$382,500, and Authorizing the City Manager to Accept the Grant and to Execute Any Documents Necessary to Effectuate the Grant"; [Ordinance No. 27839](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the Construction Excise Tax Fund for the Traffic Safety – School Walking Routes Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and [Resolution No. 73372](#), entitled: "A Resolution of the Council of the City of San Jose Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Construction Excise Tax Fund", were adopted. (11-0).

**2.18 Approval of the City Auditor's travel calendar through December 31, 2006. The events are no cost to the City, as the sponsoring organization has agreed to reimburse the City for the City Auditor's expenses. (City Auditor)
(Rules Committee referral 8/23/06)**

Documents Filed: Memorandum from City Auditor Silva, dated August 16, 2006, requesting Council approval of City Auditor's upcoming travel calendar.

Action: The City Auditor's travel calendar was approved. (11-0).

**2.19 Adoption of a resolution authorizing the City Manager to complete and submit the application for a new Enterprise Zone designation for 15 years and take any other actions necessary to submit the Enterprise Zone application to the State Housing and Community Development Department. CEQA: Not a Project. Council Districts 3 and 7. (Economic Development)
(Rules Committee referral 8/23/06)**

Documents Filed: Memorandum from Economic Development Director Krutko, dated August 23, 2006, recommending Council adoption of a resolution authorizing the City Manager to complete and submit San Jose's application of a new Enterprise Zone to the State Housing and Community Development Department.

This item was pulled from the Consent Calendar by Council Member Campos for questions to staff.

Action: Upon motion by Council Member Williams, seconded by Council Member Yeager, and unanimously carried, [Resolution No. 73373](#), entitled: "A Resolution of the Council of the City Authorizing the City Manager to Complete and Submit an Application for a New Enterprise Zone Designation for 15 Years and Take Any Other Action Necessary to Submit the Enterprise Zone Application to the State Housing and Community Development Department", was approved. (11-0).

2.20 Approval of actions related to the Greater Terrace Drive Soil Testing Project.

- (a) **Approval of a master agreement with URS Corporation, in an amount not to exceed \$100,000, to perform various services related to environmental testing of soil on Terrace Drive and on certain residential properties located on Terrace Drive.**
 - (b) **Adoption of Appropriation Ordinance amendments in the General Fund to:**
 - (1) **Establish an appropriation to the Public Works Department for the Greater Terrace Drive Soil Testing project in the amount of \$100,000;**
 - (2) **Decrease the Contingency Reserve by \$100,000.**
- CEQA: Exempt, PP06-138. (City Manager's Office)
(Rules Committee referral 8/23/06)**

Documents Filed: Memorandum from Public Works Director Allen and Budget Director Lisenbee, dated August 24, 2006, recommending Council approval of a master agreement with URS Corporation to perform various services related to environmental testing on Terrace Drive and certain residential properties therein and adoption of Appropriation Ordinance Amendments.

Action: The master agreement with URS Corporation related to the Greater Terrace Drive Soil Testing Project was approved and [Ordinance No. 27840](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the General Fund for the Greater Terrace Drive Soil Testing Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (11-0).

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – August 16, 2006 Vice Mayor Chavez, Chair

Documents Filed: (1) The Rules Committee Report, dated August 16, 2006; and (2) The Rules Committee Report (Partial), dated August 23, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review August 29, 2006 Draft Agenda

The Committee recommended approval of the August 29, 2006 Draft Agenda.

- (2) Add New Items to August 22, 2006 Agenda
 - (a) Mayor and Council Member Requests
 - (b) Council Appointee Requests

The Committee recommended approval of the August 29, 2006 Agenda with two additions.

- (3) List of Reports Outstanding

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

- (c) Legislative Update
 - (1) State
 - (2) FederalThere were no reports.

- (d) Meeting Schedules - There were none.

- (e) The Public Record - There were none filed.

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

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Recommend that the Rules Committee Drop the Radio Channel Staffing Audit from the City Auditor's 2006-07 Audit Workplan. (Auditor). Attachment: Memorandum from City Auditor Silva, dated August 3, 2006 recommending Rules Committee drop the Radio Channel Staffing Audit from the Auditor's workplan.

The Committee recommended approval.

3.2 Report of the Rules Committee – August 16, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
- (2) Approval of travel for Council Member Pyle to Dublin, Ireland to attend the 20th anniversary of the sister city relationship between San Jose and Dublin, Cambridge, East England and Amsterdam to enhance the City of San Jose's relationship with East England and key government, businesses, universities and cultural leaders on September 1 – 10, 2006. (Pyle). Attachment: Memorandum from Council Member Pyle, dated August 8, 2006, requesting approval of travel.
 - (3) Approval of travel for Council Member Williams to Dublin, Ireland to attend the 20th anniversary of the sister city relationship between San Jose and Dublin, Cambridge, East England and Amsterdam to enhance the City of San Jose's relationship with East England and key government, businesses, universities and cultural leaders on September 1 – 10, 2006. (Williams). Attachment: Memorandum from Council Member Williams, dated August 7, 2006, requesting approval of travel.
 - (4) Approval of travel for Council Member Yeager to attend San Jose/Silicon Valley Chamber of Commerce Annual "City to City" Trip on October 11-13, 2006 in New Orleans, Louisiana. (Yeager). Attachment: Memorandum from Council Member Yeager, dated August 8, 2006, requesting approval of travel.
 - (5) Approval of travel for Council Member LeZotte to attend the League of California Cities Annual Conference in San Diego, California from September 6-9, 2006. (LeZotte). Attachment: Memorandum from Council Member LeZotte, dated August 2, 2006, requesting approval of travel.
 - (6) Approval of travel for Council Member Campos to attend the National League of Cities Congressional Congress of Cities and Exposition 2006, from December 5-9, 2006 in Reno, Nevada. (Campos). Attachment: (1) Memorandum from Council Member Campos, dated August 9, 2006, requesting approval of travel; and (2) Memorandum from City Clerk Price, dated August 10, 2006, summarizing the Travel Fund expenditures to date.

The Committee recommended approval of the Council Member's travel requests.

- (h) Review of Significant Public Records Act Requests - There were none.
- (i) Review of Council Policy Updates per Sunshine Reforms (PIR #12) - There were none.
- (j) Open Forum - There were none.
- (k) Adjournment - The meeting was adjourned at 2:15 p.m.

**3.2 Report of the Rules Committee (Partial) – August 23, 2006
Vice Mayor Chavez, Chair**

(c) Legislative Update

(1) State

- (a) Support Proposition 1A – Transportation Funding Protection and Proposition 1B – Highway Safety, Traffic Reduction, Air Quality, Port Security Bond Act of 2006
- (b) Support Proposition 1C – Housing and Emergency Shelter Trust Fund Act of 2006
- (c) Support Proposition 1D – Kindergarten – University Public Education Facilities Bond Act of 2006
- (d) Proposition 1E – Disaster Preparedness and Flood Prevention Bond Act of 2006

The Committee recommended approval. See Item 3.10 for Council action taken.

(e) 2006 League of California Cities Resolution

The Committee recommended approval. See Item 3.11 for Council action taken.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried, the Rules/Partial Rules Committee reports and the actions of August 16, 2006 and partial report and actions of August 23, 2006, were accepted. (11-0). Noes: LeZotte [Item 3.2(g)(4) only].

3.4 Approval to continue with the Fraud and Audit Hotline that began July 1, 2005, as a one-year pilot program. CEQA: Not a Project. (City Manager’s Office/City Auditor/City Attorney)

Documents Filed: Memorandum from Interim City Manager White, City Attorney Doyle and City Auditor Silva, dated August 16, 2006, recommending Council approval to continue the Fraud and Audit Hotline.

Brief Council questions to staff.

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte, and unanimously carried, the continuation of the Fraud and Audit Hotline Pilot Program was approved, with Staff directed to (1) Report back with categories of the types of complaints filed and a better definition of “resolved”; and (2) Continue outreach efforts to employees and the public. (11-0).

**3.5 Acceptance of the status report on the implementation of 14 reforms referred to staff, and a summary on the actions and work plan of the Sunshine Reform Task Force. CEQA: Not a Project. (City Manager's Office)
(Heard concurrently with Item 9.2).**

Documents Filed: (1) Memorandum from Deputy City Manager McFadden, dated August 9, 2006, recommending Council acceptance of the status report; and (2) Supplemental memorandum from Deputy City Manager McFadden, dated August 28, 2006, transmitting a revised attachment with information inadvertently omitted from the original staff report.

Interim Deputy City Manager Dan McFadden reported on pilot program for fourteen reforms referred to staff.

Ed Rast, Chair of the Sunshine Reform Task Force, provided a status report on the Task Force Work Plan.

Brief Council questions followed.

Public Comment: Ross Signorino stated he would like to see more sunshine campaigning.

Action: Upon motion by Vice Mayor Chavez, seconded the Council Member Reed, and unanimously carried, the Status Report on the Implementation of Reforms and the summary of actions and workplan for the Task Force was accepted. (11-0).

3.6 Approval of a Cooperation Agreement related to the Old Civic Center Area.

- (a) **Approval of a Cooperation Agreement between City of San José and the County of Santa Clara related to real property issues within the Old Civic Center area.**
- (b) **Adoption of a resolution by the City requesting designation by the federal government of a local redevelopment authority for the Pvt. George L. Richey United States Army Reserve Center (155 West Hedding Street).**
- (c) **Adoption of a resolution by the City establishing an advisory board for the redevelopment plan for the Pvt. George L. Richey United States Richey Army Reserve Center, located in the Old Civic Center Area, and a joint land use advisory committee for the former City Hall site.**

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

Action: This item was deferred to September 12, 2006.

3.7 Approval to purchase an electronic citation system for the Police Department and adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with 3iInfoTech for the installation and initial purchase of an Electronic Citation System including hardware, software, one year maintenance/support, professional services, shipping and taxes, for a total amount not to exceed \$782,320.
- (b) Execute change orders not to exceed a contingency amount of \$36,680 to cover increase in initial volume or any unanticipated requirements.
- (c) Execute Purchase Orders to purchase additional quantities of handheld devices, printers and software licenses at the same unit contract price over a five year period after the date of the initial award subject to annual appropriations.
- (d) Execute four additional one-year options to renew software maintenance subject to annual appropriations.

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Finance Director Johnson, dated August 9, 2006, recommending Council adoption of a resolution authorizing the Finance Director to execute an agreement with 3iInfoTech for installation and initial purchase of electronic Citation System, execute change orders, purchase orders, and one-year options for renewal of software maintenance.

Chief of Police Robert Davis introduced Lt. Reuben Chavez who outlined the San José Police Department's Electronic Citation Pilot Project.

Council discussion followed, with Staff responding to Council questions.

Public Comment: Ross Signorino spoke in support of the proposed actions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and unanimously carried, the purchase of an electronic citation system for approved and Resolution No. 73374, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of Finance to Execute an Agreement with 3iINFOTECH for an Electronic Citation System for the Police Department", was adopted. (10-0-1). Absent: Pyle.

3.8 Approval of an ordinance amending Title 12 of the San José Municipal Code to add Chapter 12.19 to require an elected official to file monthly disclosure statements reporting the time spent on, and the income earned for services rendered that are unrelated to the duties of the office. CEQA: Not a Project. (City Attorney) (Deferred from 8/22/06 – Item 3.4)

Documents Filed: Memorandum from City Attorney Doyle, dated August 24, 2006, transmitting Council requested draft ordinance that would require elected officials to file monthly disclosure statements reporting time spent on service unrelated to duties of office and income earned.

3.8 (Cont'd.)

Motion: Council Member Yeager moved approval of the staff recommendation including a \$5,000 threshold and quarterly reporting in lieu of monthly reporting. Vice Mayor Chavez seconded the motion.

Public Comments: Bob Hines (San José Silicon Valley Chamber of Commerce), expressed support as amended. Council Member Elect Pete Constant expressed concerns about tracking and aggregating income.

City Attorney Richard Doyle responded to Council questions.

Council Member Reed stated he would like to see the Council fundraising and gift reports filed quarterly and requested that the City Attorney come back with a reporting cycle for all the various disclosure statements required to be filed by the elected officials.

Substitute Motion: Council Member Chirco moved to refer this to the Sunshine Reform Task Force, and to obtain community feedback. Council Member LeZotte seconded the motion. On a call for the question for the substitute motion, the motion failed. (5-6. Noes: Campos, Chavez, Pyle, Williams, Yeager; Gonzales.)

Further discussion on the original motion followed.

Action: On a call for the question, the original motion carried and [Ordinance No. 27841](#), entitled: "An Ordinance of the City of San Jose Amending Title 12 of the San Jose Municipal Code to Add Chapter 12.19 to Require an Elected Official to File Quarterly Disclosure Statements Reporting the Time Spent On, and the Income Earned for Services Rendered, That are Unrelated to the Duties of Office", was passed for publication. (7-4. Noes: Chirco, Cortese, LeZotte, Nguyen.)

3.9 **Adoption of a resolution in support of Assembly Bill 32 (Nunez, Pavley), the Global Warming Solutions Act, currently being heard in the California State Senate Rules Committee. (Chavez/Chirco/LeZotte/Yeager) (Rules Committee referral 8/23/06)**

Documents Filed: Memorandum from Vice Mayor Chavez, Council Members Chirco, LeZotte and Yeager, dated August 24, 2006, recommending Council adoption of a resolution supporting Assembly Bill 32 (Nunez, Pavley), the Global Warming Solutions Act.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chavez, and unanimously carried, [Resolution No. 73375](#), entitled: "A Resolution of the Council of the City of San Jose Supporting Assembly Bill 32 (Nunez, Pavley), the Global Warming Solutions Act", was adopted. (11-0).

3.10 Approval of support for State Propositions:

- (a) **Proposition 1A – Transportation Funding Protection and Proposition 1B - Highway Safety, Traffic Reduction, Air Quality, Port Security Bond Act of 2006**
- (b) **Proposition 1C – Housing and Emergency Shelter Trust Fund Act of 2006**
- (c) **Proposition 1D – Kindergarten – University Public Education Facilities Bond Act of 2006**
- (d) **Proposition 1E – Disaster Preparedness and Flood Prevention Bond Act of 2006**

(Intergovernmental Relations/Transportation)

[Rules Committee referral 8/23/06 – Items 3.2(c)(1)(a-d)]

Documents Filed: Memorandum from Department of Transportation Director Helmer and Intergovernmental Relations Director Shotwell, dated August 16, 2006, recommending Council approve recommendations of support for November 2006 State ballot Proposition 1A – Transportation Funding Protection and Proposition 1B – Transportation Bond Act.

Public Comments: Bera Chang (Silicon Valley Leadership Group) and Clarice Veloso (EAH Housing and Santa Clara County Housing Action Coalition) stated support for Item 1C.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, the recommended City positions of support for State Propositions were approved. (11-0).

3.11 Approval of the recommended City positions for four (4) resolutions to be considered at the Annual League of California Cities Conference to be held in San Diego, California, on September 6-9, 2006.

<u>Resolution</u>	<u>Recommended City Position</u>
(a) Resolution relating to annual conference resolution procedures.	Approve
(b) Resolution relating to the number of alternate voting delegates a City may designate– bylaws amendment.	Approve
(c) Resolution relating to encouraging health and wellness in cities.	Approve
(d) Resolution relating to forfeiture of vehicles used in illegal speed contests and exhibitions of speed.	Approve

(Intergovernmental Relations)

[Rules Committee referral 8/23/06 – Items 3.2(c)(1)(e)]

Documents Filed: Memorandum from Intergovernmental Relations Director Shotwell, dated August 17, 2006, recommending Council approve recommended City positions for four resolutions being considered at the Annual League of California Cities Conference in San Diego.

3.11 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos, and unanimously carried, the recommended City positions for the four League of California Cities resolutions were approved. (10-0-1). Absent: Chirco.

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Approval of the following actions to continue funding for the preparation of the Coyote Valley Specific Plan, and its related environmental documents and regulatory permits:

- (a) Approval of the Second Amendment to the Amended and Restated Funding and Reimbursement Agreement with Coyote Housing Group, LLC for the work associated with the preparation of the Coyote Valley Specific Plan, related environmental documents, and regulatory permits to extend the term from December 31, 2006 to June 30, 2007; and increase the amount of funding to cover staff and consultant costs through June 30, 2007 by approximately \$2.55 million for a total of \$15.95 million.
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute amendments to the agreements between the City and Dahlin Group, KenKay Associates, Economic and Planning Systems, Apex Strategies, and David J. Powers and Associates to extend the term of each of the agreements from September 30, 2006 to June 30, 2007, and to increase the total amount of compensation for each firm as follows:
 - (1) Dahlin Group, a land planning and urban design firm, to complete the preparation of the Coyote Valley Specific Plan for an additional amount not to exceed \$500,000, for a total contract amount not to exceed \$970,630.
 - (2) Ken Kay Associates, a land planning and landscape architecture firm, to provide specific services to complete the specific plan and assist with the “form-based” zoning for an additional amount not to exceed \$300,000, for a total contract amount not to exceed \$733,420.
 - (3) Economic and Planning Systems to prepare additional fiscal and financial feasibility analyses for an additional amount not to exceed \$300,000, for a total contract amount not to exceed \$600,000.
 - (4) Apex Strategies to provide additional outreach, facilitation, and document preparation and publishing services through the adoption of the specific plan for an additional amount not to exceed \$55,000, for a total contract amount not to exceed \$323,500.
 - (5) David J. Powers and Associates Inc for additional services required to complete the EIR for an additional amount not to exceed \$206,000, for a total contract amount not to exceed \$2,034,570.

- 4.3 (c) Adoption of the following amendments to the 2006-2007 annual appropriation ordinance and funding sources resolution amendments in the General Fund as follows:
- (1) Increase the City-Wide appropriation for the Coyote Valley Specific Plan by \$2,549,775; and
 - (2) Increase earned revenue from Other Revenue by \$2,549,775.
- (d) Adoption of a resolution authorizing the Director of Planning, Building and Code Enforcement to approve minor amendments to the funding agreement to account for increases in funding that may be received from Coyote Housing Group, LLC, and to extend the term of this agreement for up to 12 months.
- (e) Adoption of a resolution authorizing the Director of Planning, Building and Code Enforcement to approve minor amendments between the City and the following CVSP consultants to extend the terms of each of their agreements from September 30, 2006 to June 30, 2007:
- (1) Crawford Multari & Clark Associates.
 - (2) Wetland Research Associates.
 - (3) Schaaf & Wheeler.
 - (4) Hexagon Transportation.
 - (5) HMH Engineers.
 - (6) Engeo Engineers.
 - (7) Basin Research Associates.
 - (8) Lowney Associates.
 - (9) David J. Powers & Associates.
- (f) Adoption of a resolution authorizing the City Attorney to approve minor amendments between the City and Morrison and Forester to extend the term of the agreement from September 30, 2006 to June 30, 2007.
CEQA: Exemption, PP-06-211. Council District 2. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel and Assistant Budget Director Maguire, dated August 10, 2006, recommending Council approval of actions outlined above.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, the fiscal actions related to the Coyote Valley Specific Plan were approved; the Second Amendment to the Amended and Restated Funding and Reimbursement Agreement with Coyote Housing, LLC, was approved; [Resolution No. 73376](#), entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute Amendments to the Agreements with Dahlin Group, Inc., Kenkay Associates, Inc., Economic and Planning Systems, Inc., Apex Strategies and David J. Powers and Associates, Inc. to Extend the Term from September 30, 2006 to June 30, 2007 and to Increase the Total Amount of Compensation for Each Firm"; [Ordinance No. 27842](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the General Fund for the Coyote Valley Specific Plan; and Providing That This Ordinance Shall Become Effective Immediately

4.3 (Cont'd.)

Upon Adoption”; [Resolution No. 73377](#), entitled: “A Resolution of the Council of the City of San Jose Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the General Fund”; [Resolution No. 73378](#), entitled: :”A Resolution of the Council of the City of San Jose Authorizing the Director of Planning, Building and Code Enforcement to Extend the Term of the Amended and Restated Funding and Reimbursement Agreement with Coyote Housing Group LLC for the Preparation of the Coyote Valley Specific Plan and Related Matters Through June 30, 2008”; [Resolution No. 73379](#); entitled: “A Resolution of the Council of the City of San Jose Authorizing the Director of Planning, Building and Code Enforcement to Negotiate and Execute Amendments to Agreements with Coyote Valley Specific Plan Consultants to Extend the Term Through June 30, 2007”; and [Resolution No. 73380](#), entitled: “A Resolution of the Council of the City of San Jose Authorizing the City Attorney to Negotiate and Execute Amendments to the Agreement with Morrison and Forester LLP for Legal Services to Extend the Term to June 30, 2007”, were adopted. (10-0-1). Absent: Chirco.

- 4.4 Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 3, 2006 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Penitencia No. 73 which involves the annexation to the City of San José of an approximately 7-Acre County Pocket containing twenty-eight parcels on the southeast side of Mabury Road, east of King Road, and the detachment of the same from the appropriate special districts including County Lighting County Service, Central Fire Protection and Area No. 01 (Library Services) County Service Districts. CEQA: Resolution No. 65459. Council District 3. (Planning, Building and Code Enforcement)**

Action: Continued to October 3, 2006, to be heard in the evening.

- 4.5 Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 3, 2006 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Piedmont No. 51 which involves the annexation to the City of San José of an approximately 2.3-Acre County Pocket two parcels on the southwesterly side of Stone Creek Drive, approximately 120 feet southerly of Isadora Drive, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service Districts. CEQA: Resolution No. 65459. Council District 4. (Planning, Building and Code Enforcement)**

Action: Continued to October 3, 2006, to be heard in the evening.

- 4.6 Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 3, 2006 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Cypress No.30 which involves the annexation to the City of San José of an approximately 3.2-Acre County Pocket containing fifteen parcels 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, and the detachment of the same from the appropriate special districts including West Valley Sanitation, Central Fire Protection and Area No. 01 (Library Services) County Service Districts and County Lighting County Service Districts. CEQA: Resolution No. 65459. Council District 1. (Planning, Building and Code Enforcement)**

Action: Continued to October 3, 2006, to be heard in the evening.

- 4.7 Public Hearing and approval of various actions related to the vacation of a portion of McKinley Avenue - Conduct a public hearing and adoption of two resolutions to:**
- (a) Conditionally vacate a portion of McKinley Avenue, between St. Elizabeth Drive and Meridian Avenue.**
 - (b) (1) Declare a 3,511 square foot area surplus to the needs of the City;**
(2) Authorize its sale to Sisters of the Holy Family for \$58,400 and the exchange of 2,344 square feet of Sisters of the Holy Family owned property; and
(3) Delegate authority to the Director of Public Works to execute all documents necessary to complete the transfer of the property.
- CEQA: Mitigated Negative Declaration, PDC05-046/C05-102. Council District 6. Public Works)**

Documents Filed: Memorandum from Public Works Director Allen, dated August 9, 2006, recommending conducting a public hearing and adoption of resolutions; and (2) Proof of Publication of Notice of Public Hearing, executed on August 16, 2006 and August 23, 2006, submitted by the City Clerk.

Mayor Gonzales opened the Public Hearing and there was no testimony from the floor.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and unanimously carried, the public hearing was closed, and [Resolution No. 73381](#), entitled: “A Resolution of the Council of the City of San Jose Conditionally Vacating a Portion of McKinley Avenue Between St. Elizabeth Drive and Meridian Avenue and Reserving a Public Service Easement, an Emergency Access Easement and a Sanitary Sewer Easement”; and [Resolution No. 73382](#), entitled: “A Resolution of the Council of the City of San Jose Declaring Certain City-Owned Property Surplus and Authorizing the Director of Public Works to Execute a Land Transfer Agreement and All Necessary Documents Necessary for the Sale of Such Property in the Amount of \$58,400 to the Adjacent Property Owner, Sisters of the Holy Family, a Domestic Non-Profit Organization”, were adopted. (10-0-1). Absent: Chirco.

NEIGHBORHOOD SERVICES

- 5.2 Adoption of a resolution approving the Mayfair Community Center and Park Master Plan and incorporating environmental mitigation as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, PP06-024. Council District 5. SNI Area: Mayfair. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Parks, Recreation and Neighborhood Services Acting Director Balagso, dated August 9, 2006, recommending Council adoption of a resolution approving the Mayfair Community Center and Park Master Plan Project.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, [Resolution No. 73383](#), entitled: “A Resolution of the Council of the City of San José Approving the Mayfair Community Center and Park Master Plan and Incorporating Environmental Mitigation as Described in the Master Plan”, was adopted. (11-0).

- 5.3 Approval of fiscal actions related to the allocations under the State of California 2000 and 2002 Park Bond Acts.**

- (a) **Adoption of a resolution amending allocation of amounts for application of local assistance funds for projects from the:**
- (1) **Roberti-Z’berg-Harris Urban Open Space and Recreation Grant Program under the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (Proposition 12);**
 - (2) **Roberti-Z’berg-Harris Urban Open Space and Recreation Grant Program under the 2002 Resources Bond Act (Proposition 40); and**
 - (3) **Per Capita Grant Program under the 2002 Resources Bond Act (Proposition 40) as detailed on Attachments 1, 2, and 3; and authorizing the City Manager to negotiate, execute, and submit all necessary documents for local assistance funds under these grant programs.**
- (b) **Adoption of Appropriation Ordinance amendments in the Council District 3 Construction and Conveyance Tax Fund (Fund 380) to:**
- (1) **Increase the appropriation to the Parks, Recreation and Neighborhood Services Department by \$298,000 for the Trail: Airport Parkway Under Crossing Project; and**
 - (2) **Decrease the Ending Fund Balance by \$298,000.**
- (c) **Adoption of Appropriation Ordinance amendments in the Lake Cunningham Fund (Fund 462) to:**
- (1) **Establish a reserve for Playground ADA Renovations Project in the amount of \$94,000; and**
 - (2) **Decrease the Ending Fund Balance in the amount of \$94,000.**
- (d) **Adoption of Appropriation Ordinance amendments in the City-wide Parks Construction and Conveyance Tax Fund (Fund 391) to:**
- (1) **Establish a Global Photon Property Acquisition Project to the Parks, Recreation and Neighborhood Services Department in the amount of \$50,000; and**

- 5.3 (d) (2) **Decrease the Ending Fund Balance in the amount of \$50,000.**
CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. Council Districts 3, 5, 6, 8 and 10. SNI Area Burbank/Del Monte; Gateway East; Tully/Senter; Five Wounds/ Brookwood Terrace. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Parks, Recreation and Neighborhood Services Acting Director Balagso and Budget Director Lisenbee, dated August 9, 2006, recommending Council adoption of resolution amending allocation of amounts for application of local assistance funds; and adoption of Appropriation Ordinance Amendments as outlined above.

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, the fiscal actions related to the allocations under the State of California 2000 and 2002 Park Bond Acts were approved; [Resolution No. 73384](#), entitled: "A Resolution of the Council of the City of San Jose Amending Allocation of Amounts for Application of Local Assistance Funds for Various Projects and Authorizing the City Manager to Negotiate, Execute and Submit All Necessary Documents for Local Assistance Funds Under These Grant Programs"; [Ordinance No. 27843](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the Construction Tax and Property Conveyance Tax Fund; Parks Purposes Council District No. 3 for the Trail: Airport Parkway Under Crossing Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; [Ordinance No. 27844](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the Lake Cunningham Fund for the Playground ADA Renovations Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and [Ordinance No. 27845](#), entitled: "An Ordinance of the City of San Jose amending Ordinance No. 27801 to Appropriate Moneys in the Construction and Conveyance Tax Fund; City-Wide Parks Purposes for the Global Photon Property Acquisition Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-0-1). Absent: LeZotte.

TRANSPORTATION & AVIATION SERVICES

6.2 Approval of actions related to Airline Operating Agreements and Terminal Building Leases or Licenses:

Adoption of a resolution authorizing the Director of Aviation to:

- (a) **Negotiate and execute amendments to all current and holdover Airline Operating Agreement and Terminal Building Leases or Licenses to relocate airlines in the Terminals as necessary to accommodate the Airport Terminal Area Improvement Program and with no other changes to the terms and conditions for the period from the date of execution through the earlier of City Council approval of new Airline Lease and Operating Agreements or November 30, 2007.**

- 6.2 (b) **Relocate airlines currently operating without an Operating Agreement and Terminal Building Leases or License in the Terminals as necessary to accommodate the Airport Terminal Area Improvement Program through the earlier of City Council approval of new Airline Lease and Operating Agreements or November 30, 2007.**

CEQA: Resolution Nos. 67380 and 71451; PP 06-125. (Airport)

Documents Filed: Memorandum from Aviation Director Sherry, dated August 9, 2006, recommending Council adoption of a resolution authorizing the Aviation Director to negotiate and execute amendments to all current and holdover Airline Operating Agreement and Terminal Building Leases or Licenses to relocate airlines in the Terminals; and relocate airlines without Operating Agreement and Terminal Building Leases or Licenses as necessary.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the actions related to Airline Operating Agreements and Terminal Building Leases or Licenses were approved, and [Resolution No. 73385](#), entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of Aviation to Execute Amendments to Airline Agreements Documenting Changes to Leased Space", was adopted. (11-0).

- 6.3 **Adoption of a resolution authorizing the Director of Finance to negotiate and execute the third amendment to the Agreement for the Lease and Maintenance of Airport Shuttle buses with Penske Truck Leasing Co., L.P. to extend the term of the lease for an additional one (1) year period, from April 1, 2007 to March 31, 2008, increasing total compensation by \$1,400,000 from \$15,097,145 to a not to exceed amount of \$16,497,145 subject to an earlier termination at the City's option and including the right to return six (6) rental car shuttle buses for sale by Penske. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Finance Director Johnson, dated August 9, 2006, recommending Council adoption of a resolution authorizing the Finance Director to execute the third amendment to agreement with Penske Truck Leasing Co., L.P.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chavez, and unanimously carried, [Resolution No. 73386](#), entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of Finance to Negotiate and Execute a Third Amendment to the Agreement with Penske Truck Leasing Company, L.P. for Lease and Maintenance of Airport Shuttle Buses", was adopted. (11-0).

- 6.4 **Report on bids and award of contract for the Street Resurfacing 2006 Project to the low bidder, O'Grady Paving Inc., in the amount of \$1,752,930.25 and approval of a ten percent contingency in the amount of \$175,293. CEQA: Exempt, PP06-066. Council Districts 2, 3, 4, 5, 7 and 8. (Transportation)**

6.4 (Cont'd.)

Documents Filed: (1) Memorandum from Department of Transportation Director Helmer, dated August 9, 2006, reporting on bids and recommending Council award of contract to low bidder, O'Grady Paving, Inc., for the Street Resurfacing 2006 Project; and (2) Supplemental memorandum from Department of Transportation Director Helmer, dated August 25, 2006, transmitting additional information obtained after bid opening for Street Resurfacing 2006 Project.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, the award of said contract Project to the low bidder, O'Grady Paving Inc., with the specified contingency, was approved. (11-0).

PUBLIC SAFETY SERVICES

8.1 Approval of report on bids and actions related to the Fire Station 17 Relocation Project.

- (a) Report on bids and take appropriate action based on the evaluation of bids for the Fire Station 17 Relocation Project.
- (b) Approval of the first amendment to the agreement with Banducci Associates Architects to extend the term to January 31, 2008 and to increase the agreement compensation in the amount of \$30,000 for a total agreement amount of \$338,475.

CEQA: Exempt, File No. PP05-275. Council District 9. (Public Works/Fire)

Action: This item was deferred to September 19, 2006.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board was convened at 4:34 p.m. to consider Items 9.1 and 9.2 in a Joint Session.

9.1 Approval to amend an agreement with the REP Theatre.

- (a) Acceptance of progress report on the long term fiscal management of the San José Repertory.
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute a second amendment to the Agreement for Operation and Management of the Theatre ("REP") entered into on December 14, 1995, to make an advance payment of the City funding assistance to the REP in the amount of the remaining three quarterly payments for the FY 2006-07 in an amount of \$225,000.

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

9.1 (Cont'd.)

Documents Filed: (1) Memorandum from Deputy City Manager Winer, dated August 9, 2006, recommending Council adoption of resolution authorizing the City Manager to negotiate and execute a Second Amendment to the Agreement for Operation and Management of the Theatre Facility between the City of San Jose and San Jose Repertory Theatre; (2) Supplemental memorandum from Deputy City Manager Winer, dated August 23, 2006, transmitting additional information as requested by Rules Committee; (3) Information memo from Mayor Gonzales, dated August 28, 2006, transmitting copies of correspondence and Mayor's Office contacts with the San Jose Repertory Theatre regarding funding matters; (4) Memorandum from Council Member Cortese, dated August 28, 2006, recommending Council direct the City Auditor to: a) conduct an audit of the San Jose Repertory Theatre, b) approve staff recommendation to accelerate payment, c) defer action on Rep's request for loan, 4) direct staff to work with Rep to explore business reorganization, and d) direct staff to work with Rep to explore RDA funds; and (5) Memorandum from Vice Mayor Chavez and Council Members Williams and Yeager, dated August 28, 2006, recommending Council approve staff recommendation for advance payment and direct City Manager to: a) form corrective fiscal team, b) return to Council on September 12, 2006 with menu of loan options, c) establish a monthly review with progress reports, and 3) create a best practices standard for City interaction with nonprofits and report progress to Council through Building Strong Neighborhoods Committee.

Deputy City Manager Kay Winer presented an outline of the San José Repertory Theatre proposal.

Nick Nichols, Interim Managing Director, San José Repertory Theatre, spoke in support of the proposed actions.

Public Comment: The following individuals spoke in support of the proposed actions: Chris Woddall, Ruth Wilcox, and Sharon Kirsch, all San José Repertory Board members, Steven Nakano (Pathfinder High School), and Andrew Bales,

Lengthy Council discussion followed.

Motion: Vice Mayor Chavez moved approval of the joint memorandum dated August 28, 2006, she cosigned with Council Members Williams and Yeager. Several amendments were proposed resulting in the action below.

Action: On a call for the question, the motion carried unanimously, the Staff recommendations were approved, the Progress Report was accepted, and [Resolution No. 73387](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Agreement for Operation and Management of the Theatre Facility with the San José Repertory Theatre (REP) to Make an Advance Payment of the City Funding Assistance to the REP in the Amount of the Remaining Three Quarterly Payments for the Fiscal Year 2006-2007

9.1 (Cont'd.)

Totaling \$225,000”, was adopted, and the City Manager directed to: (1) Form a corrective Fiscal Team. Direct the team to join with San José Repertory Theatre and appropriate foundations to produce a concrete plan to correct infrastructure problems at the nonprofit and ensure its long term financial stability. The team shall include, but not be limited to, a representative from each of the following: Office of the City Manager, Office of the Finance Director, Office of Cultural Affairs, City Auditor and City Council Liaison to the San José Arts Commission (District 2). (2) Return to Council on September 12, 2006, with a menu of loan options with clearly defined performance standards to keep the San José Repertory Theatre in operation for the remainder of the Fiscal Year 2006-07, and look at business reorganization, a creation of a new organization and the evaluation of the debt. (3) Establish a monthly review of the REP’s progress and with reports to the team as described above. (4) Create a best practices standard for City interaction with nonprofits in crisis utilizing lessons learned with the REP and report progress to the Council through the Driving a Strong Economy Committee; and including: (5) Staff to work with the REP to explore how RDA funds may be utilized for capital needs. (11-0.)

9.2 **Acceptance of the status report on the implementation of 14 reforms referred to staff, and a summary on the actions and work plan of the Sunshine Reform Task Force. CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: See Item 3.5 for documents filed.

Action: Upon motion taken at Item 3.5 by Vice Mayor Chavez, seconded the Council Member Reed, and unanimously carried, the Status Report on the Implementation of Reforms and the summary of actions and work plan for the Task Force were accepted. (11-0).

The Redevelopment Agency Board portion of the meeting was adjourned at 5:37 p.m.

OPEN FORUM

- (1) Robert Apgar voiced personal observations.
- (2) Mark Trout presented religious points of view.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 5:41 p.m.

RECESS/RECONVENE

The Council of the City of San José recessed from the afternoon Council Session recessed at 5:41 p.m. and reconvened at 7:01 p.m. in Council Chambers, City Hall, in an evening session.

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

Absent: Council Members - Chavez, Cortese. (Excused)

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

CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing 100 Years of Filipinos in America: “A Journey of Hope”. (Mayor/Reed)

Action: Mayor Gonzales and Council Member Reed recognized and commended 100 years of Filipinos in America.

PUBLIC HEARINGS ON CONSENT CALENDAR

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and unanimously carried, the Public Hearings on Consent Calendar was approved, and the below listed items taken as indicated. (9-0-2. Absent: Chavez, Cortese.)

11.1 Public Hearings on Consent Calendar.

- (a) **Consideration of an ordinance rezoning the real property located on the northeast corner of Taylor Street and North 21st Street (1005 E. Taylor St.) from CP Commercial Pedestrian Zoning District to R-1-8 Residence Zoning District to allow residential uses on a 0.26 gross acre site. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C06-056 - District 3

Documents Filed: (1) Planning Staff report, dated August 9, 2006, recommending Council approval of conforming rezoning for Project No.C06-056; and (2) Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Mayor Gonzales opened the Public Hearing and there was no testimony from the floor.

11.1 (a) (Cont'd.)

Action: The public hearing was closed, the recommendation of the Planning Director was approved and [Ordinance No. 27846](#), entitled: "An Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the Northeast Corner of Taylor and North 21st Streets (1005 East Taylor Street) to R-1-8 Single-Family Residence District", was passed for publication. (9-0-2. Absent: Chavez, Cortese.)

- (b) **Consideration of a Director initiated rezoning ordinance rezoning approximately 3.7 gross acres containing 4 parcels on the southeasterly corner of Story Road and Machado Lane from County of Santa Clara to R-1-5 Single Family Residence Zoning District for single family residence purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C06-042- District 5

Action: Continued to September 19, 2006.

- (c) **Consideration of an ordinance rezoning the real property located on the east side of South King Road, 300 feet northerly of East San Antonio Street from R-1-8 Residence Zoning District to A (PD) Planned Development Zoning District to allow up to 7,000 square feet for commercial uses and up to 14 single family attached residences on a 0.618 gross acre site. SNI: Mayfair. CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (5-0-2).**

PDC05-013 - District 5

Documents Filed: (1) Memorandum from Planning Commission Secretary Horwedel, dated August 10, 2006, transmitting the Planning Commission's recommendation to Council for approval of said project; and (2) Proof of Publication of Notice of Public Hearing, executed on July 28, 2006, submitted by the City Clerk.

Mayor Gonzales opened the Public Hearing and there was no testimony from the floor.

Action: The public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved and [Ordinance No. 27847](#), entitled: "An Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the East Side of South King Road, Approximately 300 Feet Northerly of East San Antonio Street to A(PD) Planned Development Zoning District", was passed for publication. (9-0-2. Absent: Chavez, Cortese.)

- 11.1 (d) **Consideration of a Director initiated rezoning ordinance rezoning an approximately 3.6 gross acre area consisting of 13 parcels on the north side of Paula Street, east of Northrup Street and the west side of Lincoln Avenue south of Interstate 280 and north of Paul Street from County of Santa Clara to R-M Multiple Residence Zoning District for multi family residential purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C06-046 - District 6

Action: Continued to September 19, 2006.

- (e) **Consideration of a Director initiated rezoning ordinance rezoning an approximately 1.8 gross acre area consisting of 13 parcels on the north side of Paula Street, west of Northrup Street from County of Santa Clara to R-M Multiple Residence Zoning District for multi family residential purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C06-047 - District 6

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Action: Continued to September 19, 2006.

- (f) **Consideration of a Director initiated rezoning ordinance rezoning an approximately 1.7 gross acre area consisting of 11 parcels on the south side of Paula Street, west of Race Street from County of Santa Clara to R-M Multiple Residence Zoning District for multi family residential purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C06-050 - District 6

Action: Continued to September 19, 2006.

- (g) **Consideration of an ordinance rezoning the real property located on the west side of Meridian Avenue, approximately 300 feet south of Fruitdale Avenue (923 and 927 Meridian Avenue) (Gaazi, LLC Yaqoob I and Razia Y. Bhimla, Owner) from CP Commercial Pedestrian and RM Multiple Residence Zoning Districts to A(PD) Residential Zoning District to allow up to 19 single family attached residences on a podium, on a 0.32 gross acre site. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1).**
PDC05-082 - District 6

11.1 (g) (Cont'd.)

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

Mayor Gonzales opened the Public Hearing and there was no testimony from the floor.

Action: The public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved and [Ordinance No. 27848](#), entitled: "An Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the West Side of Meridian Avenue, Approximately 300 Feet South of Fruitdale Avenue (923 and 927 Meridian Avenue) to A(PD) Planned Development Zoning District", was passed for publication. (9-0-2. Absent: Chavez, Cortese.)

(h) **Consideration of two ordinances rezoning the real property located on the south side of Paul Street approximately 160 feet easterly of Meridian Way as follows:**

- (1) **PDC05-106 – Planned Development Prezoning from Unincorporated County to A(PD) Planned Development Zoning District to allow up to 15 single family attached residences on a 0.69 gross acre (1088 Paul Street) (Rockwell Homes, Michael Abdollahi, Owner)**
- (2) **C06-036 – Staff Initiated Prezoning from County to R-1-8 Single Family Residence Zoning District to allow single family detached residential use on a 0.21 gross acre site (806 Meridian Way) (Tina Nga Tran & Andy Nguyen, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (5-0-2).
District 6**

Documents Filed: (1) Memorandum from Planning Commission Secretary Horwedel, dated August 10, 2006, transmitting the Planning Commission's recommendation to Council for approval of prezoning of Project Nos. PDC05-106 and C06-036; and (2) Proof of Publication of Notice of Public Hearing, executed on July 28, 2006, submitted by the City Clerk.

Action: The public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved and [Ordinance No. 27849](#), entitled: "An Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the South Side of Paul Street, Approximately 160 Feet Easterly of Meridian Way (1088 Paul Street) to A(PD) Planned Development Zoning District"; and [Ordinance No. 27850](#), entitled: "An Ordinance of the City of San Jose Prezoning Certain Real Property Situated Near the Southeast Corner of Paul Street and Meridian Way (806 Meridian Way) to R-1-8 Single Family Residence Zoning District", were passed for publication. (9-0-2. Absent: Chavez, Cortese.)

- 11.1 (i) **Consideration of a Director initiated rezoning ordinance rezoning an approximately 1.1 gross acre site located on the west side of Kettman Road, approximately 75 feet southerly of Dashwood Avenue from County of Santa Clara to R-1-8 Single Family Residence Zoning District for single family residential purposes (Otila and Jill Tumlinson, Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C06-052 - District 8

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Action: Continued to September 19, 2006.

- (j) **Consideration of a Director initiated rezoning ordinance rezoning an approximately 1.66 gross acre site consisting of 7 parcels on 0.89 gross acres consisting of 2 parcels located on the southwest corner of Bascom and Curtner Avenues from County of Santa Clara to R-1-8 Single Family Residence District for single family residential purposes and CP Commercial Pedestrian (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C06-053 - District 9

Action: Continued to September 19, 2006.

- (k) **Consideration of an ordinance of the City of San José amending Chapter 21.04 of Title 21 of the San José Municipal Code to add a new section and amending Section 21.06.030 of Chapter 21.06 of Title 21, all related to providing for an additional appeal to the City Council of certain environmental clearance determinations. CEQA: Not a Project. (Planning, Building and Code Enforcement)**

Action: Continued to October 3, 2006.

- (l) **Consideration of an ordinance of the City of San José amending Chapter 20.100 of Title 20 of the San José Municipal code, the Zoning code, to expand the Director of Planning's authority to approve term extensions for Development Permits allowing office uses in the Downtown Zoning Districts. CEQA: Resolution No. 72767. Director of Planning, Building and Code Enforcement recommended approval and Planning Commission recommended approval with a 5-year sunset provision (4-1-2).**

11.1 (l) (Cont'd.)

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated August 8, 2006, transmitting the Planning Staff report, dated August 1, 2006 and Planning Commission memorandum dated August 10, 2006, recommending Council approval of proposed ordinance; and (2) Proof of Publication of Notice of Public Hearing, executed on July 28, 2006, submitted by the City Clerk.

Mayor Gonzales opened the Public Hearing and there was no testimony from the floor.

Action: The Public Hearing was closed, the recommendation of the Planning Director was approved and [Ordinance No. 27851](#), entitled: “An Ordinance of the City of San Jose Amending Section 20.100.500 of Part 4 of Chapter 20.100 of Title 20 of the San Jose Municipal Code to Allow the Director of Planning to Extend the Term of a Development Permit for Office Uses in the Downtown Zoning Districts”, was passed for publication. (9-0-2. Absent: Chavez, Cortese.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 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 [Continued from 8/15/06 – Item 11.3]**

Action: continued to September 19, 2006.

OPEN FORUM

- (1) Mark Trout presented religious points of view.

ADJOURNMENT

The Council of the City of San José adjourned at 7:14 p.m. in memory of the anniversary of Hurricane Katrina, in sympathy with all who have suffered loss and disruption and in appreciation for all the City employees, residents and community leaders in San José who have assisted the Gulf Coast communities following the devastation of Hurricane Katrina last year.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/8-29-06MIN

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