



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, SEPTEMBER 26, 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 - Chavez, Cortese, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Campos, Chirco, LeZotte (Excused).

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) In re Dellinger; (2) Cubarici v. Aguilar, et al.; San José Silicon Valley Chamber of Commerce Political Action Committee, et al. v. City of San José, et al.; (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza and Mark Danaj; Employee Organizations: (1) San José Police Officers' Association, (2) International Association of Firefighters, (3) Municipal Employees Federation, (4) Confidential Employees Organization, (5) Association of Maintenance Supervisory Personnel, (6) Operating Engineers, Local 3, (7) International Brotherhood of Electrical Workers, (8) Association of Building and Mechanical and Electrical Inspectors, (9) Association of Engineers and Architects.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:50 a.m. and reconvened at 1:38 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

Ley Va Middle School Student Body Officers' and City Year Members' presentation of the "Importance of Community Partnership". (District 8)

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, the Orders of the Day and the Amended Agenda were approved, with Item 2.11 deferred to October 3, 2006. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation honoring Mr. Cong Thanh Do and his return to the United States. (Chavez/Nguyen/Pyle)

Action: Deferred to the evening of October 3, 2006.

CONSENT CALENDAR

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

2.1 Approval of Minutes.

- (a) **Regular Minutes of December 13, 2005**
[Deferred from 9/19/05 – Item 2.1(b)]

Action: Deferred to October 3, 2006.

2.2 Final adoption of ordinances:

- (a) **ORD. NO. 27863 – Amending Section 4.68.140 of Chapter 4.68, Section 4.72.100 of Chapter 4.72, Section 4.74.100 of Chapter 4.74, and Section 4.78.260 of Chapter 4.78, all of Title 4 of the San José Municipal Code and amending Section 9.10.960 of Chapter 9.10 of Title 9 of the San José Municipal Code to authorize the Director of Finance to waive penalties imposed on delinquent payments of Utility Users Taxes, Transient Occupancy Taxes, Occupancy Taxes, Disposal Facility Taxes and Solid Waste Enforcement Fees.**

Documents Filed: Proof of publication of title of Ordinance No. 27863, executed September 22, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27863](#) was adopted. (11-0.)

- 2.3 Approval of a cooperation agreement between the City of San José and the 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 \$423,711 including construction cost in the amount of \$355,788, project administration and management in the amount of \$32,344, and a ten percent (10%) contingency in the amount of \$35,579. CEQA: Exempt, PP06-066. Council District 3. (Transportation) (Deferred from 9/12/06 – Item 2.3)**

Documents Filed: Memorandum from Director of Transportation Helmer, dated September 21, 2006, recommending approval of the cooperation agreement.

Action: The cooperation agreement between the City of San José and the City of Santa Clara was approved. (11-0.)

- 2.4 Acceptance of the Finding Reports from Kafoury, Armstrong and Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer. (City Auditor) (Rules Committee referral 9/13/06)**

Documents Filed: Memorandum from City Auditor Silva, dated September 12, 2006, submitting the finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer for quarter ended June 30, 2006.

Action: The Finding Reports from Kafoury, Armstrong and Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, were accepted. (11-0.)

- 2.5 Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (Cityside Redevelopment Fund):**

- (a) **Increase the estimate for Earned Revenue by \$137,675.**
- (b) **Increase the appropriation to the Department of Transportation for the Pedestrian Improvements Project (PSM #431, Amendment 1) in the amount of \$43,675.**
- (c) **Increase the appropriation to the Department of Public Works for the South First Streetscape Project (PSM #433, Amendment 1) in the amount of \$94,000.**

CEQA: Resolution No. 72767 and Exempt, File No. PP06-105. Council District 3. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Lisenbee, dated September 6, 2006, recommending adoption of an ordinance and resolution.

2.5 (Cont'd.)

Action: [Ordinance No. 27875](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Pedestrian Safety Improvements Project and the South First Streetscape Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and [Resolution No. 73420](#), entitled: “A Resolution of the Council of the City of San José 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”, were adopted. (11-0.)

**2.6 Approval to reject all bids for the construction project entitled, “San José/Santa Clara Water Pollution Control Plant, FY 1997/1998 Compressed Air Upgrade Project.” CEQA: Exempt, PP05-124. (Environmental Services)
(Deferred from 8/22/06 – Item 2.5)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated September 6, 2006, recommending approval to reject all bids for the construction project.

Action: The rejection of all bids for the project was approved. (11-0.)

2.7 Approval of the second amendment to the agreement with the consulting firm, Carollo Engineers, for the project entitled, “San José/Santa Clara Water Pollution Control Plant: Wet Weather Reliability and Hydraulic Capacity Project,” amending the scope of services and increasing the total compensation by \$658,000 from \$5,450,000, for a total maximum compensation amount not to exceed \$6,108,000, with no change to the term of agreement. CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated September 6, 2006, recommending approval of the second amendment to the agreement.

Action: The second amendment to the agreement with the consulting firm, Carollo Engineers, was approved. (11-0.)

2.8 Approval of a second amendment to the agreement with enfoTech & Consulting, Inc. to extend the term of the agreement by 15 months from September 30, 2006 to December 31, 2007 for the development and implementation of the Environmental Enforcement Data Management System at no additional cost to the City. CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated September 6, 2006, recommending approval of the second amendment to the agreement.

2.8 (Cont'd.)

Action: The second amendment to the agreement with enfoTech & Consulting, Inc. was approved. (11-0.)

2.9 Report on bids and award of contract for Installation of Potable and Non-Potable Water Services and Mains: FY 2006-2007 to the low bidder, San José Water Company, for the estimated term of October 2006 to November 2007, in an amount not to exceed \$573,485.69. CEQA: Exempt, File No. PP05-130. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services Stufflebean, dated September 6, 2006, reporting on bids and recommending award of contract. (2) Letter from the Treatment Plant Advisory Committee, dated September 11, 2006 stating concurrence with the Staff recommendation.

Action: The award of the contract to the low bidder, San José Water Company, was approved. (11-0.)

2.10 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #7 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 Director of Finance Johnson, dated September 6, 2006, recommending approval of award of open purchase orders.

Action: The award of open purchase orders for FY 2006-2007 List #7 was approved. (11-0.)

2.11 Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the consultant agreement for management and design services with Beals Alliance, Inc., for the Lake Cunningham Regional Skate Park Master Plan Amendment Project extending the term from March 31, 2008 to June 30, 2008, and increasing the compensation by \$167,991, from \$500,000 for a total agreement amount not to exceed \$667,991. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Action: Deferred to October 3, 2006, per Orders of the Day.

- 2.12 Approval of the sale of a portion of Ninth Street and adoption of a resolution to:**
- (a) Declare the vacated 5,140 square foot portion of North Ninth Street of City-owned property surplus to the needs of the City.**
 - (b) Authorize its sale to Standard Pacific Corporation for \$308,400.**
 - (c) Delegate authority to the Director of Public Works to execute all documents necessary to complete the transfer of the property.**

CEQA: Mitigated Negative Declaration PDC05-059. Council District 3. SNI: 13th Street. (Public Works)

Documents Filed: Memorandum from Director of Public Works Allen, dated September 6, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73421](#), entitled: "A Resolution of the Council of the City of San José Declaring Certain City-Owned Property Surplus and Authorizing the Director of Public Works to Execute an Agreement to Sell and All Necessary Documents Necessary for the Transfer of Such Property to the Adjacent Property Owner, Standard Pacific Corporation", was adopted. (11-0.)

2.13 Approval of the City/Arena Authority Restated Agreement.

- (a) Approval of the Restated Agreement between the City and the San José Arena Authority.**
- (b) Approve an amendment to the Transition Agreement between the City and the Arena Authority to extend the term for 30 days from October 1, 2006 to November 1, 2006 and increase City funding in the amount of \$17,500, from \$87,500 to a not to exceed amount of \$105,000.**

**CEQA: Not a Project. (City Manager's Office)
(Rules Committee referral 9/20/06)**

Documents Filed: Memorandum from Deputy City Manager McFadden, dated September 14, 2006, recommending: (1) approval of the Restated Agreement between the City and the San José Arena Authority; and (2) Approval of an amendment to the Transition Agreement between the City and the Arena Authority to extend the term for 30 days to November 1, 2006 and increase City funding in the amount of \$17,500, from \$52,500 to \$70,000.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and unanimously carried, the Restated Agreement between the City and the San José Arena Authority, and the amendment to the Transition Agreement between the City and the Arena Authority, were approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 13, 2006 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated September 13, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review September 26, 2006 Draft City Council Agenda
 - (a) Adds to the September 26, 2006 Draft City Council Agenda

The Committee recommended approval of the September 26, 2006 Draft City Council Agenda with one addition.

- (2) Add New Items to September 19, 2006 City Council Agenda
 - (a) Mayor and Councilmember Requests
 - (b) Council Appointee Requests

The Committee recommended approval of the September 19, 2006 City Council Agenda with five additions.

- (3) List of Reports Outstanding

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

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

- (d) Meeting Schedules
 - (1) Approval of Special Building Strong Neighborhoods Committee Meeting. Attachment: Memorandum from Deputy City Manager Linder, dated September 7, 2006, recommending approval to hold the special meeting.
 - (2) Approval of Facility Reuse City Council Study Session. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated September 7, 2006, recommending approval to schedule the study session.
 - (3) Approval of changes to the Summer and Fall 2006 City Council General Plan Hearings. Attachment: Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated September 7, 2006, recommending approval of changes to the Summer and Fall 2006 City Council General Plan Hearings.

The Committee approved the Special Meeting, Study Session and the Summer and Fall 2006 General Plan Hearings.

3.2 Report of the Rules Committee – September 13, 2006 (Cont'd)
Vice Mayor Chavez, Chair

(e) The Public Record. Attachment: Memorandum from City Clerk Price, dated September 7, 2006, transmitting items for the public record and administration for the period August 30 – September 5, 2006. The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

(1) Approval of appointment of Troy Bentley Overton to fill a vacant position on the Appeals Hearing Board (Chirco). Attachment: Memorandum from Council Member Chirco, dated September 6, 2006, recommending appointment of Troy Bentley Overton.

The Committed approved the appointment.

(g) Rules Committee Reviews, Recommendations and Approvals

(2) Approval of the addition of an Audit of Code Enforcement to the City Auditor's Work Plan (Cortese)

Deferred to September 27, 2006.

(h) Review of Significant Public Records Act Requests - There were none.

(i) Review of Council Policy Updates per Sunshine Reforms - There were none.

(j) Open Forum

(1) William Garbett contended that the City Council violated the Brown Act on September 12, 2006 when it approved the Cooperation Agreement with the County relating to the Old Civic Center. He argued that there had been no vote of the people.

City Attorney Richard Doyle advised the Committee that the Council had followed proper protocol and had taken appropriate action. Deputy City Manager Deanna Santana noted that all relevant documentation had been circulated in a timely manner.

(2) Bill Chew read a letter he sent to City Manager Les White regarding his concern about the number of Christmas tree ornaments thrown away each year after "Christmas in the Park". He suggested that the ornaments could be collected and sold for a minimal amount.

(k) Adjournment - The meeting was adjourned at 2:20 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, the Rules Committee Report and the Actions of September 13, 2006, were accepted, with Item 3.2(g)(2) deferred to September 27, 2006. (11-0.)

3.4 Adoption of an ordinance ratifying the final Fiscal Year 2005-2006 appropriation increases detailed in this report. CEQA: Not a Project. (City Manager's Office)

Action: Deferred to October 3, 2006.

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Adoption of a resolution to:

- (a) **Initiate proceedings to consider the Arguello Gosbey House located at 456 North 3rd Street, as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.**
- (b) **Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.**
- (c) **Set a public hearing on October 24, 2006 at 1:30 p.m.**
CEQA: Exempt, File No. HL06-156. Council District 3. SNI: 13th Street. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated September 7, 2006, recommending adoption of a resolution. (2) Affidavit of Routing executed on October 6, 2006, and distributed by the City Clerk.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, [Resolution No. 73422](#), entitled: "A Resolution of the Council of the City of San José Initiating Proceedings on Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, to Designate the Arguello Gosbey House Presently Located at 456 North Third Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature and Providing Direction to the City Clerk in Connection with Such Initiation Proceedings", was adopted. (11-0.)

NEIGHBORHOOD SERVICES

**5.1 Report of the All Children Achieve Committee – September 14, 2006
Council Member Yeager, Chair**

Documents Filed: The All Children Achieve Committee Report, dated September 14, 2006.

- (a) Update on 2006 Kindergarten Readiness and its Implications for City Provided Services to preschoolers. Attachment: Memorandum from Director of San José Public Library Light, dated August 31, 2006, recommending acceptance of the Kindergarten Readiness Study.

The Committee accepted the Staff Report.

**5.1 Report of the All Children Achieve Committee – September 14, 2006 (Cont'd.)
Council Member Yeager, Chair**

- (b) Update on Youth Commission Work Plan. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated September 6, 2006, recommending acceptance of the update report.

The Committee accepted the Staff Report.

- (c) Update on Early Care and Education Strategic Plan 2006. Attachment: Memorandum from Director of the San José Public Library Light, dated August 31, 2006, requesting a deferral of the item to October 12, 2006. (Deferred to October 2006).
- (d) Oral Petitions - There were none presented.
- (e) Adjournment - The meeting was adjourned at 2:15 p.m.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and unanimously carried, the All Children Achieve Committee Report and the Actions of September 14, 2006, were accepted, with Item 5.1(c) deferred to October 2006. (11-0.)

5.2 Adoption of the following policies in order to comply with the U.S. Department of Housing and Urban Development (HUD) requirements:

- (a) **Adoption of a policy related to Section 3, which is a federal requirement that all grantees, contractors, or sub-recipients of federal HUD funds providing housing rehabilitation, housing construction, or other public construction projects, to outreach and hire, when appropriate, low-income individuals or subcontract with Section 3 businesses (those residing in low-income areas).**
- (b) **Adoption of a policy related to Minority-Owned and Women-Owned Business Enterprises (MBE/WBE), which is a federal requirement that all grantees, contractors, or sub-recipients of Federal HUD funds over \$10,000 provide outreach to minority-owned and women-owned businesses when soliciting bids for subcontracts of services and/or construction projects.**

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Krutko, dated September 12, 2006, recommending adoption of the policies.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and unanimously carried, the policies related to Section 3 of Federal HUD requirements, and related to Minority-Owned and Women-Owned Business Enterprises, were adopted. (11-0.)

5.3 Approval of actions related to the CAPER and CDBG contracts.

- (a) **Approval of the FY2005-2006 Consolidated Annual Performance Evaluation Report (CAPER).**
- (b) **Adoption of a resolution authorizing the Director of Housing to negotiate and execute all amendments and modifications to Community Development Block Grant (CDBG) contracts and unexecuted CDBG contracts that were awarded funding by the City Council prior to FY 2006-2007, where those amendments and modifications are for non-capital Community Development Block Grant (CDBG) projects that in the determination of the Director of Planning are not projects requiring CEQA/NEPA review.**

CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Director of Housing Krutko, dated September 6, 2006, recommending approval of the report and authorization for the Director of Housing to negotiate and execute all amendments and modifications. (2) Supplemental memorandum from Director of Housing Krutko, dated September 25, 2006, recommending approval of the report and adoption of the resolution. (3) Draft of the Consolidated Annual Performance Evaluation Report, 2005-2006.

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and unanimously carried, the FY2005-2006 Consolidated Annual Performance Evaluation Report was approved, and [Resolution No. 73423](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute All Amendments and Modifications to Community Development Block Grant (CDBG) Contracts and Unexecuted CDBG Contracts That Were Awarded Funding by the City Council Prior to FY 2006-2007, Where Those Amendments and Modifications and Unexecuted Contracts are for Non-Capital CDBG Projects, That, in the Determination of the Director of Planning, are not Projects Requiring CEQA/NEPA Review”; was adopted, with Staff directed to provide a status report on Emancipated Youth Pilot Program and information on related legislation. (11-0.)

5.5 Approval of actions related to the Lower Guadalupe River Reach A Project and the Coyote Creek Project.

- (a) **Adoption of a resolution authorizing the City Manager to submit an application for local assistance funds of up to \$350,000 from the State of California, Resource Agency, Department of Parks and Recreation (DPR) under the Recreational Trails Program to be used for the trail: Lower Guadalupe River Reach A Project, to accept any grant funds and to negotiate and execute all documents related to the grant funding agreements.**
- (b) **Adoption of a resolution authorizing the City Manager to submit an application for local assistance funds of up to \$830,000 from the State of California, Resource Agency, Department of Parks and Recreation (DPR) under the Proposition 50 River Parkways Grant Program to be used for the trail: Coyote Creek (Story Road to Phelan Avenue) Project, to accept any grant funds and to negotiate and execute all documents related to the grant funding agreements.**

CEQA: Mitigated Negative Declaration, PP04-323 and PP91-06-162. Council District: 4 and 7. SNI: Tully-Senter. (Parks, Recreation and Neighborhood Services)

5.5 (Cont'd.)

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated September 6, 2006, recommending adoption of the resolutions.

Action: Upon motion by Council Member Williams, seconded by seconded by Council Member Cortese, and unanimously carried, the actions related to the Lower Guadalupe River Reach A Project and the Coyote Creek Project were approved and [Resolution No. 73424](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application for Local Assistance Funds of Up To \$350,000 from the State of California, Resource Agency, Department of Parks and Recreation Under the Recreational Trails Program to be Used for the Trail: Lower Guadalupe River Reach a Project, to Accept the Grant if Awarded, and to Execute All Related Documents"; and [Resolution No. 73425](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application for Local Assistance Funds of up to \$830,000 from the State of California, Resource Agency, Department of Parks and Recreation Under the Proposition 50 River Parkways Grant Program to be used for the Trail: Coyote Creek (Story Road to Phelan Avenue) Project, to Accept the Grant if Awarded, and to Execute All Related Documents" were adopted. (11-0.)

5.6 Approval of report on bids and award of contract for the Joyce Ellington Branch Library.

- (a) Report on bids and award of contract for the Joyce Ellington Branch Library Project to the low bidder, John Plane Construction Co., Inc., in the amount of \$7,100,000, and approval of a contingency in the amount of \$710,000.
- (b) Adoption of the following Appropriation Ordinance amendments in the Branch Libraries Bond Projects Fund (Fund 472):
 - (1) Increase the Joyce Ellington Branch Library Project by \$1,130,000;
 - (2) Decrease the Cambrian Branch Project by \$710,000; and
 - (3) Decrease the Ending Fund Balance by \$420,000.

CEQA: Exempt, PP05-011. Council District 3. SNI: 13th Street. (Public Works/Library/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Allen, Library Director Light and Budget Director Lisenbee, dated September 6, 2006, recommending award of contract to John Plane Construction Co., Inc. and adoption of the ordinance.

Public Comment: George Fokos objected to the expenditures.

A short discussion followed.

5.6 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, the award of the contract to the low bidder, John Plane Construction Co., Inc., with related contingency, was approved; [Ordinance No. 27876](#), entitled: “An ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the Branch Libraries Bond Projects fund for the Joyce Ellington Branch Library Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted, with Staff directed to bring back in November 2006 changes to the Leadership in Energy and Environmental Design (LEED) policy that will ensure that all new public facilities are LEED certified. (11-0.)

5.7 **Report on bids and award of contract for the Pearl Avenue Branch Library Project to the low bidder, Bogard Construction, Inc., in the amount of \$6,099,900, and approval of a contingency in the amount of \$610,000. CEQA: Exempt, PP06-064. Council District 9. (Public Works/Library)**

Documents Filed: (1) Memorandum from Director of Public Works Allen and Library Director Light, dated September 6, 2006, recommending bid opening for the Pearl Avenue Branch Library Project. (2) Supplemental memorandum from Director of Public Works Allen and Library Director Light, dated September 21, 2006, recommending award of contract to Bogard Construction, Inc.

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Chavez, and unanimously carried, the award of the contract to the low bidder, Bogard Construction, Inc., with specified contingency, was approved. (11-0.)

5.8 **Approval to name a new park: As recommended by the Parks and Recreation Commission, name a new park located at the intersection of Curci Drive and St. Elizabeth Street as “St. Elizabeth Park”. (City Clerk) (Rules Committee referral 9/20/06)**

Documents Filed: Memorandum from City Clerk Price, dated September 19, 2006, recommending naming the new park located at the intersection of Curci Drive and St. Elizabeth Street as St. Elizabeth Park.

Action: Upon motion by Council Member Yeager, Council Member Reed, and unanimously carried, the approval to name the new park as “St. Elizabeth Park” was granted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee – September 14, 2006 Council Member Campos, Chair

Documents Filed: The Building Better Transportation Committee Report dated September 14, 2006.

- (a) Options for maintaining trail access during construction projects. Attachment: Memorandum from Director of Public Works Allen and Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated August 31, 2006, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (b) Report on State and Regional Transportation Funding. Attachment: Memorandum from Director of Transportation Helmer, dated September 1, 2006, recommending acceptance of the status report and approval of the updated list of priority projects.
 - (1) Report on Funding Opportunities
 - (2) Recommendations on City Advocacy and Priority Projects

The Committee accepted the Staff Report and recommended it to be forwarded to the City Council for approval on the list of priority projects for regional funding. See Item 6.3 for Council Action taken.

- (c) Status Report on Taxi Program. Attachment: Memorandum from Director of Transportation Helmer, Director of Aviation Sherry and Police Chief Davis, dated September 6, 2006, recommending acceptance of the report and direction to staff to report back at the December 2006 meeting.

The Committee accepted the Staff Report.

- (d) Oral Petitions - There were none presented.
- (e) Adjournment - The meeting was adjourned at 11:14 a.m.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chavez, and unanimously carried, the Building Better Transportation report and actions of September 14, 2006, were accepted, with the request from Council Member Cortese that his absence be noted as “excused” because of a conflict with a meeting of the Association of Bay Area Governments (ABAG). (11-0.)

- 6.2 Approve the Seventh Amendment to a Parking Lot Lease Agreement between the City of San José (City) and Boston Properties which includes the following:**
- (a) A provision extending the lease to be effective from October 1, 2006 to December 31, 2007, in the amount of \$498,000 (\$33,200 per month) for the property commonly referred to as Almaden/Woz Way parking lot, located at the west side of Almaden Boulevard between West San Carlos and Woz Way; and,**
 - (b) A provision allowing for the placement of public grandstands on the subject parking lot for use during the San José Grand Prix event scheduled for the weekend of July 27 – 29, 2007.**
 - (c) A provision allowing for the use of a portion of the subject parking lot for the Northern California Motorcycle Show scheduled in December 2007.**
 - (d) A provision allowing the City to have two one-year options to extend the lease under the same terms and conditions.**

CEQA: Resolution No. 72767. Not a Project. Council District 3. (Transportation) (Deferred from 9/19/06 – Item 6.3)

Documents Filed: (1) Memorandum from Director of Transportation Helmer, dated September 1, 2006, recommending approval of the Seventh Amendment which included (a), (b) and (c) above. (2) Supplemental memorandum from Director of Transportation Helmer, dated September 22, 2006, adding a provision allowing the City to have two one-year options to extend the lease under the same terms and conditions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Chirco, and unanimously carried, the Seventh Amendment to a Parking Lot Lease Agreement between the City of San José (City) and Boston Properties, was approved as specified. (11-0.)

- 6.3 Approval of an update to the City’s Regional Transportation Project Priority List, expanding the list from 30 to 36 projects by including:**
- (a) Downtown San José Freeway Access Management System.**
 - (b) Route 101-Trimble Road Interchange Upgrade.**
 - (c) Route 101-Zanker/Skyport/Fourth Interchange.**
 - (d) Route 101/Oakland Road Interchange Upgrade.**
 - (e) Route 101/Mabury Road Interchange.**
 - (f) Route 101/Blossom Hill Road Interchange.**

CEQA: Not a Project. (Transportation)

[Building Better Transportation Committee referral 9/14/06 - Item 6.1(b)(2)]

Documents Filed: Memorandum from Director of Transportation Helmer, dated September 19, 2006, recommending approval of the updated list.

A short discussion followed.

6.3 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, the updated to the City's Regional Transportation Project Priority List, was approved, with Staff directed to provide to the Mayor and Council Members, the Building Better Transportation Committee and the Santa Clara Valley Transportation Authority (VTA) an implementation strategy on funding priorities. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of actions related to Watson Park

(a) Adoption of a resolution:

- (1) **Authorizing the City Manager to submit an application for local assistance funds of up to \$750,000 from the State of California Integrated Waste Management Board (CIWMB) under the Solid Waste Disposal and Codisposal Site Cleanup Program Matching Grants to Public Entities to Abate Solid Waste Disposal Sites to be used for the Watson Park Project.**
- (2) **Authorizing the City Manager to accept any grant funds and to negotiate and execute all documents related to the grant funding agreement.**

- (b) **Approval of the first amendment to the master agreement with URS Corporation for environmental services for Watson Park, increasing the total compensation by \$800,000, for a total agreement amount of not to exceed \$1,600,000.**

CEQA: Exempt, File No. PP05-156. Council District 3. SNI: 13th Street. (Parks, Recreation and Neighborhood Services/Public Works/Environmental Services)

Documents Filed: (1) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso, Director of Public Works Allen, and Environmental Services Director Stufflebean, dated September 6, 2006, recommending adoption of the resolution. (2) Memorandum from Director of Public Works Allen, dated September 14, 2006 recommending approval of the first amendment to the master agreement.

Discussion followed.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, first amendment to the master agreement with URS Corporation was approved, and [Resolution No. 73426](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application for Local Assistance of up to \$750,000 from the State of California Integrated Waste Management Board under the Solid Waste Disposal and Codisposal Site Cleanup Program Matching Grants to Public Entities to Abate Solid Waste Disposal Sites to be Used for the Watson Park Project, to Accept the Grant if Awarded, and to Execute All Related Documents", was adopted. (9-0-2.) Absent: Nguyen, Pyle.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:56 p.m. to consider Item 9.1 in a Joint Session.

9.1 Acceptance of the Quarterly Status Report on the Citywide Capital Improvement Program (CIP) including Parks, Library, and Public Safety Bond Projects, Strong Neighborhoods Initiative (SNI) Projects funded by the City and Redevelopment Agency funded projects. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

Documents Filed: (1) Memorandum from City Manager White and Redevelopment Agency Executive Director Mavrogenes, dated August 31, 2006, recommending acceptance of the Quarterly Status Report. (2) Visual overhead staff presentation of Quarterly Status Report.

Deputy City Manager Ed Shikata presented the Quarterly Status Report of the Citywide CIP and SNI Projects "Building and Success" and Director of Public Works Katy Allen outlined the smaller project successes.

A short discussion followed.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the Quarterly Status Report on the Citywide Capital Improvement Program was accepted. (11-0.)

The Redevelopment Agency Board portion of the meeting was adjourned at 3:12 p.m.

NEIGHBORHOOD SERVICES

5.4 Approval of the application process criteria, and schedule for the Fiscal Year 2007-2008 Healthy Neighborhoods Venture Fund (HNVF) application Cycle 8. CEQA: Exempt. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated September 6, 2006, recommending approval of the criteria and schedule. (2) Supplemental memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated September 21, 2006, providing additional information requested by the Rules Committee on September 20, 2006. (3) Letter from Quyen Vuong, Executive Director of International Children Assistance Network, dated September 15, 2006, requesting postponement of this item to October 3, 2006.

5.4 (Cont'd.)

Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso provided an overview of the application process criteria, and schedule for the Fiscal Year 2007-2008 Healthy Neighborhoods Venture Fund application Cycle 8 and responded to Council questions about funding criteria.

Council Member Chirco expressed appreciation to the members of the HNVF Committee for their hard work.

Council Member Reed requested a one week deferral for purposes of hearing this item in the evening to allow greater public participation. He noted that there were, however a number of public speakers present to address the Council on this item.

Public Comments: The following individuals spoke in opposition to the actions as proposed, urged the Council to ensure that the HNVF funding process is consistent for all nonprofits and recommended a comprehensive analysis be prepared to make sure that nonprofits representing minorities are considered equally: My Linh Pham (VIVO,) Dep Vuong (Pacific Links Foundation), Guyen Dinh, Hoai Ta, Ivy Vuong, and Ouyen Vuong, (International Children Assistance Network), and Lien Huong Cao (Asian American Recovery Services), Lan Tran, Arthur Bao, Bryan Do (VALC), Betty Sidmer, Thao Vinh, Thanh Le, Diem Dinh, Michel Lui, Khai Le, Thu Hin Nguyen, Ntty Nguyen (Music Club), Bill Bryson, Thong Le, Phac Le Tuan, Ben Vuong, Paul Vu, Adel Olvera (MPA students at SJSU) and Suu Truong (Association of Vietnamese Elderly).

Speaking in support were: Patricia Gardner (Silicon Valley Council Non-Profits) and Jung Lai (Coalition & TET Festival).

Mark Trout spoke off topic.

Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso and Deputy City Manager Mark Linder responded to additional Council questions.

Discussion followed. Council Member Chirco explained that the Committee will continue to strive to improve the process and added that there is not enough money to meet every applicant's needs.

Council Members Reed and Nguyen objected to imposing a cap for new or pilot programs.

Action: Upon motion by Council Member Chirco, seconded by Council Member LeZotte and carried, the application process criteria, and schedule for the Fiscal Year 2007-2008 Healthy Neighborhoods Venture Fund (HNVF) application Cycle 8, was approved. (9-2. Noes: Nguyen, Reed.)

OPEN FORUM

- (1) Daniel McCall presented personal viewpoints.
- (2) Robert Apgar voiced personal observations.
- (3) Mark Trout expressed religious opinions.

ADJOURNMENT

The Council of the City of San José adjourned at 5:11 p.m. in memory of Carl A. Lindstrom, Sr. who passed away on September 14, 2006 after a long illness.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/9-26-06MIN

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