

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, OCTOBER 10, 2006

The Council of the City of San José convened in a Special Council Session at 5:25 p.m. in the City Hall Committee Rooms W118-120.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Pyle, Reed, Williams.

Absent: Council Members - LeZotte, Nguyen, Yeager; Gonzales. (Excused)

PLEDGE OF ALLEGIANCE

Council Member Campos led the Pledge of Allegiance.

(1) Receive and review a report on the actions taken by the City of San José in response to July's heat storm and resulting power failures.

Documents Filed: (1) Memorandum from Mayor Gonzales, dated October 6, 2006, transmitting questions for the study session. (2) Memorandum from Director of Office of Emergency Services Kimberly Shunk, dated October 3, 2006, recommending acceptance of the July 2006 Heat Storm and Related Power Failures Report.

Director of Office of Emergency Services Kimberly Shunk presented an overview of the actions taken by the City of San José in response to July's heat storm and resulting power failures.

(2) Receive and review a report on PG&E's Long Term Plan and Interim Strategy.

Darren Ettner, PG&E Representative presented an outline on PG&E's Long Term Plan and Interim Strategy.

(3) Presentation by Volunteer Center of Silicon Valley (CADRE)

A representative of the Volunteer Center of Silicon Valley presented an overview of the Services Provided by CADRE.

(4) Receive Presentation by the Offices of Sally Lieber and Elaine Alquist on the State's Role.

Speaker Pro Tem Sally Lieber presented an outline of the State's Role.

A short discussion followed with comments by Council.

ADJOURNMENT

The Study Session was adjourned at 6:48 p.m.

RECESS/RECONVENE

The City Council recessed at 6:48 p.m. from the Study Session and reconvened at 7:06 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - LeZotte, Nguyen; Gonzales. (Excused)

(1) General Election Ballot – Propositions 83 Through 90 Approve City Positions on the November 2006 Statewide.

Documents Filed: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated October 4, 2006, recommending approval of the support positions.

<u>Proposition</u>	<u>Recommended City Position</u>
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(a) 83: Sex Offenders. Sexually Violent Predators. Punishment. Residence Restrictions and Monitoring.	Support
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Action: Upon motion by Council Member Cortese, seconded by Council Member Pyle and carried unanimously, the support position was accepted. (8-0-3. Absent: LeZotte, Nguyen; Gonzales.)

(b) 84: Water Quality. Safety and Supply. Flood Control Natural Resource Protection. Park Improvements.	Support
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Action: Upon motion by Council Member Williams, seconded by Council Member Yeager and carried unanimously, the support position was accepted. (8-0-3. Absent: LeZotte, Nguyen; Gonzales.)

- (1) (c) 85: Waiting Period and Parental Notification Before Termination of Minor’s Pregnancy. Oppose

Action: Upon motion by Council Member Yeager, seconded by Council Member Cortese and carried, the oppose position was accepted. (7-1-3. Noes: Reed Absent: LeZotte, Nguyen; Gonzales.)

- (d) 86: Tax on Cigarettes. Support

Action: Upon motion by Council Yeager, seconded by Council Member Campos and carried unanimously, the support position was accepted. (8-0-3. Absent: LeZotte, Nguyen; Gonzales.)

- (e) 87: Alternative Energy. Research. Production. Incentives. Tax on California Oil Producers. No Position

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed and carried, the support position was accepted in lieu of the Staff recommendation. (7-1-3. Noes: Williams. Absent: LeZotte, Nguyen; Gonzales.)

- (f) 88: Education Funding. Real Property Parcel Tax. No Position

Action: Upon motion by Council Member Yeager, seconded by Council Member Campos and carried unanimously, the “no position” was accepted. (8-0-3. Absent: LeZotte, Nguyen; Gonzales.)

- (g) 89: Political Campaigns. Public Financing. Corporate Tax Increase. Campaign Contribution and Expenditure Limits. Support

Action: Upon motion by Council Member Yeager, seconded by Council Member Pyle and carried, the support position was accepted. (7-1-3. Noes: Williams. Absent: LeZotte, Nguyen; Gonzales.)

- (h) 90: Government Acquisition, Regulation of Private Property Oppose

Public Comment: Jair Prieto spoke in support of Proposition 83. Beth Gonzales spoke in support of Proposition 86. Ross Signorino expressed support for Propositions 86 and in opposition to Proposition 89.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried, the oppose position was accepted. (7-1-3. Noes: Cortese. Absent: LeZotte, Nguyen; Gonzales.)

- (2) **Consideration of various actions related to independent committees including recommendations related to proposed amendments to Chapter 12.06 of the San José Municipal Code and referrals to the Elections Committee to review various provisions of Chapter 12.06 relating to the Municipal Campaign Contributions. (Reed)**
(Continued from 10/3/06 – Item 3.8)
- (3) **Adoption of an urgency ordinance amending Chapter 12.06 of Title 12 of the San José Municipal Code to add Sections 12.06.090 and 12.06.340 to reinstate limits on campaign contributions to independent committees and suspending enforcement of Section 12.06.310. CEQA: Not a Project. (City Attorney’s Office)**
(Continued from 10/3/06 - Item 3.9)

Documents Filed: (1) Memorandum from Council Member Reed, dated September 29, 2006, recommending that Staff prepare an amendment to the Municipal Code on an urgency basis and additional recommendations. (2) Memoranda from City Attorney Richard Doyle, dated September 28, 2006 and October 10, 2006, regarding the limits on campaign contributions to independent committees. (3) Letter from Sutton Law Firm, dated October 3, 2006, regarding the proposed urgency ordinance. (4) Letter from Olson, Hagel & Fishburn LLP, dated October 3, 2006, regarding the proposed urgency ordinance. (4) Letter from the public dated October 10, 2006, regarding the use of City monies.

The Council heard Items 2 and 3 concurrently.

City Attorney Richard Doyle outlined his memorandum dated October 10, 2006, regarding the limits on campaign contributions to Independent Committees and responded to numerous Council questions.

Discussion followed.

Council Member Cortese expressed concern about the proposed ordinance, because it may interfere with first amendment rights. Council Members Yeager, Pyle , Campos and Williams raised several concerns about the proposed ordinance and agreed that more information is needed.

Motion: Council Member Yeager moved to refer this item back to the City Attorney for further work and to the Elections Commission for consideration. Council Member Campos seconded the motion.

Council Member Reed expressed support for recommendations outlined in his memorandum. Vice Mayor Chavez concurred and added that the Elections Commission should look at more immediate disclosure requirements.

Public Comment: Walter Wilson expressed his opinion regarding the limit of communications and the right of free speech. Ross Signorino criticized the Chamber of Commerce Political Action Committee (COMPAC) for recent campaign materials. Jaiv Prieto voiced objection to taxes.

(2)(3) (Cont'd.)

Action: On a call for the question, the motion for Item (3) carried unanimously, the urgency ordinance was not adopted and this entire issue was referred to the City Attorney and Elections Commission for further work. (8-0-3. Absent: LeZotte, Nguyen; Gonzales.)

Upon motion by Council Member Reed, seconded by Council Member Cortese and carried unanimously, Item (2) was referred to the City Attorney and Elections Commission with the exception of directing the City Attorney to move forward with sending a letter to all independent expenditure committees to give them notice that they must comply with City regulations still in effect. (8-0-3. Absent: LeZotte, Nguyen; Gonzales.)

PUBLIC COMMENTS

- (1) Phaedra Ellis-Lamkins, South Bay Labor Council, expressed frustration regarding certain negative comments made about Labor Unions. She asserted that labor complies with campaign regulations and argued that COMPAC has had no repercussions for not complying with the law.
- (2) Walter Wilson criticized Mayoral Candidate Chuck Reed.

ADJOURNMENT

The Council of the City of San José convened at 9:00 p.m. in memory of Alena Wilcoxon, a long time San José resident and San José East/Evergreen Rotarian who served the community for years through programs such as Tapestry and Talent.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/10-10-06MIN

CLOSED SESSION

The Council of the City of San José convened at 9:00 p.m. in Closed Session in the City Hall Wing, Conference Room W133, at City Hall, immediately following the Public Session/Special Meeting.

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

Absent: Council Members - LeZotte, Nguyen; Gonzales. (Excused)

Upon motion unanimously adopted, Council recessed at 9:04 p.m. to a Closed Session in Conference Room W133, (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) City of San José, et al. v. County of Santa Clara, et al. (2) City of Santa Clara v. City of San José, et al.

By unanimous consent, Council adjourned at 9:45 p.m. from the Closed Session.

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