

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, OCTOBER 31, 2006

The Council of the City of San José convened in regular session at 9:00 a.m. in the Mayor's Conference Room T1841, at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:33 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) City of San José v. Donati Bascom Building LLC; (2) Comcast of California II, LLC v. City of San José/Comcast of California II, LLC. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation with significant exposure in one (1) matter. (C) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: (1) Property: 696 No. 6th Street; Designated Representatives: Harry Mavrogenes and Les White for the Redevelopment Agency of the City of San José and City of San José and Phil Kerr for Olson Urban Housing, LLC and First Community Housing; Under Negotiation: The direction will concern price and terms of payment. (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; (2) International Association of Firefighters (IAFF).

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

INVOCATION

Reverend Charlotte Bear, Cambrian Park United Methodist Church. (District 9)

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 carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11.0)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Geometrics Corporation for their contributions to San José. (Mayor/Reed)

Action: Mayor Gonzales and Council Member Reed recognized and commended Geometrics Corporation for their important contributions to the City of San José.

1.2 Presentation of the Government Finance Officers Association's "Certificate of Achievement for Excellence in Financial Reporting" and the "Award of Financial Reporting Achievement" to the San José Redevelopment Agency. (Mayor/Executive Director) (Rules Committee referral 10/18/06)

Action: Mayor Gonzales and Executive Director Redevelopment Agency Harry Mavrogenes recognized and commended the Redevelopment Agency for the Government Finance Officers Association's "Certificate of Achievement for Excellence in Financial Reporting" and the "Award of Financial Reporting Achievement".

1.3 Presentation of a commendation to Lina Broydo, Director of Public Relations for the Fairmont San José Hotel, for her many years of outstanding professional and community service to the San José community. (Mayor) (Rules Committee referral 10/25/06)

Action: Mayor Gonzales recognized and commended Ms. Lina Broydo for her exceptional professional and community service to the citizens of San José.

1.4 Presentation of a proclamation recognizing October as Domestic Violence Awareness Month. (Campos/Williams) (Rules Committee referral 10/25/06)

Action: Mayor Gonzales and Council Members Campos and Williams recognized the month of October as "Domestic Violence Awareness Month".

- 1.5 Presentation of commendation to John Nguyen for his dedication to volunteerism, his constant participation and assistance with numerous events throughout the City of San José, and his leadership and community spirit. (Nguyen)
(Rules Committee referral 10/25/06)**

Action: Mayor Gonzales and Council Member Nguyen recognized and commended Mr. John Nguyen for his dedication and leadership to the community of San José.

- 1.6 Presentation of a commendation to Angie Horne for her extraordinary volunteer services to the Bagby Elementary School community and the people of San José. (Yeager)
(Rules Committee referral 10/25/06)**

Action: Mayor Gonzales and Council Member Yeager recognized and commended Ms. Angie Horne for her amazing contributions to Bagby Elementary School and the residents of San José.

- 1.7 Presentation of commendations to the City of San José Multi-Departmental Team and to Elite Racing for the successful debut of the San José Rock n' Roll Half Marathon. (Office of Economic Development)
(Rules Committee referral 10/25/06)**

Action: Mayor Gonzales and Director of the Office of Economic Development Paul Krutko recognized and commended the City of San José Multi Departmental Team and Elite Racing for the success of the San José Rock n' Roll Half Marathon.

CONSENT CALENDAR

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

- 2.2 (a) ORD. NO. 27885 – Rezoning certain real property situated on the southwesterly corner of Eberly Drive and Neilson Court to A(PD) Planned Development Zoning District. PDC04-091
[Deferred from 10/17/06- Item 2.2(d) and 10/24/06 – Item 2.2(a)]**

Action: Deferred to November 14, 2006.

- (b) ORD. NO. 27894 – Amending Section 4.46.039.8 of Chapter 4.46 of Title 4 of the San José Municipal Code to extend the period of suspension of collection of the Building and Structure Construction Tax for the Construction of Special Industrial Use Tenant Improvements.**

2.2 (b) (Cont'd.)

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 27, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27894](#) was adopted. (11-0.)

(c) **ORD. NO. 27895 – Amending Section 4.46.039.9 of Chapter 4.46 of Title 4 of the San José Municipal Code to extend the period of suspension of collection of the Building and Structure Construction Tax for the Construction of Office Use Tenant Improvements in the Downtown Core.**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 27, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27895](#) was adopted. (11-0.)

2.3 **Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period August 16, 2006 through September 15, 2006. (City Auditor) (Rules Committee referral 10/18/06)**

Documents Filed: Report of Activities and findings for the Period August 16, 2006 through September 15, 2006 from the Office of the City Auditor.

Action: The Report was accepted. (11-0.)

2.4 **Acceptance of the report on the San José Prepared! Program. CEQA: Not a Project. (Emergency Services)**

Documents Filed: Memorandum from Director of Office of Emergency Services Kimberly Shunk, dated October 11, 2006, recommending acceptance of the report.

Council Member Campos pulled this item for questions to Staff.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, the report was accepted, with Staff requested to work with the SNI groups to offer emergency training to residents in other languages and to report back on the cost to produce the Disaster Preparedness Manual in Vietnamese. (11-0.)

2.5 **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #10 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 Scott P. Johnson, dated October 11, 2006, recommending approval of the open purchase orders.

2.5 (Cont'd.)

Action: The award of the open purchase order was approved. (11-0.)

2.6 **Approval of the first amendment to the agreement between the City of San José and American Medical Response West (AMR) for Pre-Hospital Emergency Medical Care and Transportation Services to provide for direct reimbursement by AMR of City emergency medical personnel training costs in an amount not to exceed \$19,262 annually, conform City patient record-keeping requirements to the standard County format; provide the City with greater flexibility in changing the base locations of the City medical transport units; and acknowledge authority of County emergency medical services agency over patient treatment decisions and City reporting obligations. CEQA: Not a Project. (Fire)**

Documents Filed: Memorandum from Fire Chief Darryl Von Raesfeld, dated October 20, 2006, recommending approval of the first amendment to the agreement.

Vice Mayor Chavez pulled this item for questions.

Public Comment: George Fokos asked who pays for these costs.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the first amendment to the agreement was approved. (10-0-1. Absent: Campos.)

2.7 **Approval of travel by Council Member Nguyen to Chicago, Illinois on December 1-3, 2006 to attend the Vietnamese Association of Illinois 30th Annual Dinner as a keynote speaker. Source of Funds: Vietnamese Association of Illinois. (Nguyen) (Rules Committee referral 10/18/06)**

Documents Filed: Memorandum from Council Member Nguyen, dated October 13, 2006, requesting approval of the travel request.

Action: The travel request was approved. (11-0.)

2.8 **Adoption of a resolution of intention to vacate a portion of Paula Street between Race Street and Meridian Way with reservation of a public service easement over the vacated area, and setting a public hearing on November 21, 2006 at 1:30 p.m. CEQA: Mitigated Negative Declaration, PDC05-106. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated October 11, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73476](#), entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of Paula Street Between Race Street and Meridian Way", was adopted. (11-0.)

2.9 Approval of the master agreement with Gilbane Building Company for Peer Review and Implementation Support Services consultant for the Police Southside Substation Project, for a term from the date of execution to December 31, 2009, for a total agreement amount not to exceed \$1,000,000. CEQA: Mitigated Negative Declaration, File No. PP04-304. (Public Works/Police)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Chief of Police Robert L. Davis, recommending approval of the master agreement.

Action: The master agreement was approved. (11-0.)

**2.10 Approval of City Auditor Gerald Silva's travel calendar through December 31, 2006 at no cost to the City. (City Auditor)
(Rules Committee referral 10/25/06)**

Documents Filed: Memorandum from City Auditor Gerald A. Silva, dated October 18, 2006 requesting approval of travel calendar.

Public Comment: George Fokos spoke in support of the Auditor's travel.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the travel calendar was approved. (10-0-1. Absent: Campos.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.2 Report of the Rules Committee – October 18, 2006
Vice Mayor Chavez, Chair**

Documents Filed: The Rules Committee Reports dated October 11, 2006 and October 18, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review October 31, 2006 Draft City Council Agenda

The Committee recommended approval of the October 31, 2006 Draft City Council Agenda with three additions.

- (2) Add New Items to October 24, 2006 City Council Agenda

The Committee recommended approval of the October 24, 2006 City Council Agenda with five additions.

**3.2 Report of the Rules Committee – October 18, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

- (b) City Council (Cont'd.)
 - (3) List of Reports Outstanding

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

- (c) Legislative Update
 - (1) State
 - (2) FederalNo Report.

- (d) Meeting Schedules - There were none.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated October 5, 2006, transmitting items for Public Record and Administration for the period of October 3- October 10, 2006.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees
 - (1) Deferred Compensation Advisory Committee Appointments. Attachment: Memorandum from Director of Human Resources Mark Danaj, dated October 11, 2006, recommending appointment of a person to the Deferred Compensation Advisory Committee (DCAC).

The Committee appointed Donna Busse to the Deferred Compensation Advisory Committee for a four (4) year term ending March 1, 2010.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Request the City Manager to assess Code Enforcement-The General Code Complaint Handling Process and the Fee Based Multi-Family Dwelling Program. Attachment: Memorandum from Acting Director of Planning, building and Code Enforcement Joseph Horwedel, dated October 5, 2006, recommending acceptance of Staff's report on improvements.

The Committee deferred this item to 11/8/06.

- (2) Proposed Work Load Assessment for the Administration of Hewlett Packard Grants. Attachment: Memorandum from Deputy City Manager Dan McFadden and LeCity Clerk Lee Price, dated October 10, 2006, recommending approval of Staff's workload assessment. (Deferred from 10/11/06).

The Committee approved Staff's work load assessment for the administration of HP Grants.

3.2 Report of the Rules Committee – October 18, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
(3) Urgency ordinance prohibiting the use of automobile/bus/truck horns in residential neighborhoods for any reason other than emergency warning of traffic hazards. Attachment: Memorandum from City Attorney Richard Doyle, dated October 13, 2006, providing analysis of urgency ordinance.

The Committee deferred the proposed urgency ordinance to 10/25/06.

- (4) Discussion and possible action regarding the City's Military Ordinance and Supplemental Pay Policy and Procedures (Campos)

The Committee placed this item on the 10/31/06 City Council Agenda.

- (h) Review of Significant Public Records Act Requests - There were none.
- (i) Review of Council Policy Updates per Sunshine Reforms
(1) Approve Policy 0-1, Council Policy Manual. Attachments: (1) Memorandum from Deputy City Manager Deanna J. Santana, dated October 11, 2006, recommending approval of Council Policy. (2) Supplemental memorandum from Deputy City Manager Deanna J. Santana, dated October 18, 2006, transmitting items from the October 18, 2006 meeting.

The Committee approved the revised Council Policy 0-1.

- (j) Open Forum

Dennis Ochoa, Breathe California, requested that Rules agendaize a discussion regarding Title 20 performance standards which was noted in a letter submitted to the City Clerk. City Clerk Lee Price reported that this letter would be placed on the Public Record for the week of October 25, 2006.

- (k) Adjournment - The meeting was adjourned at 2:53 p.m.

3.2 Report of the Rules Committee – October 11, 2006
Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
(b) City Council
(1) Review October 24, 2006 Draft City Council Agenda

The Committee recommended approval of the October 24, 2006 Draft City Council Agenda with one addition.

**3.2 Report of the Rules Committee – October 11, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

(b) City Council (Cont'd.)

(2) Add New Items to the October 17, 2006 Agenda

The Committee recommended approval of the October 17, 2006 City Council 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) Federal

No Report.

(d) Meeting Schedules

(1) Approval to schedule a Study Session on Solar and Energy Issues on January 25, 2007. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated October 4, 2006, recommending approval of study session.

(2) Approval to schedule Getting Families Back to Work Study Sessions on November 16 and 17, 2006. Attachment: Memorandum from Mayor Gonzales, dated October 6, 2006, recommending schedule change.

The Committee approved the meeting schedules.

(e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated October 5, 2006, transmitting items for Public Record and Administration for the period of September 27- October 3, 2006.

The Committee noted and filed the Public Record.

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

(g) Rules Committee Reviews, Recommendations and Approvals

(1) City Council Spending Policy. Attachment: Memorandum from Council Member Cortese, dated October 4, 2006, recommending considerations when formulating a City Council Spending Policy.

The Committee deferred to the City Attorney and the City Manager for further consideration and direction.

**3.2 Report of the Rules Committee – October 11, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
(2) Approval of the Revised Building Strong Neighborhoods Committee Work Plan. Attachments: (1) Memorandum from Mayor Gonzales and Council Member Chirco, dated October 3, 2006, recommending approval of the Workplan. (2) Memorandum from Council Member Cortese, dated September 27, 2006, recommending Staff assess the HP Grants.

The Committee approved the recommended schedule.

- (3) Request the City Manager to assess Code Enforcement-The General Code Compliant Handling Process and the Fee Based Multi Family Dwelling Program. Attachment: Memorandum from Acting Director of Planning, building and Code Enforcement Joseph Horwedel, dated October 5, 2006, recommending acceptance of Staff's report on improvements.

Deferred to October 18, 2006.

- (4) Proposed Work Load Assessment for the Administration of HP Grants. (City Manager's Office/City Clerk). Attachment: (1) Memorandum from Interim Deputy City Manager Dan McFadden and City Clerk Lee Price, dated October 10, 2006. (2) Memorandum from Interim Deputy City Manager Dan McFadden and City Clerk Lee Price, dated October 10, 2006, recommending approval of Staff's workload assessment.

Deferred to October 18, 2006.

- (5) Discussion and possible action regarding the City's Military Reservist Policy. (Campos)

Dropped.

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

- (i) Review of Council Policy Updates per Sunshine Reforms
(1) Approve the proposed methodology and process to review and update the Council Policy manual. Attachment: Memorandum from Deputy City Manager Deanna J. Santana, dated October 4, 2006, recommending approval.

The Committee approved the proposed methodology and process to review and update the Council Policy Manual.

- (j) Open Forum - None were presented.

**3.2 Report of the Rules Committee – October 11, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

(k) Adjournment - The meeting was adjourned at 2:32 p.m.
(Deferred from 10/24/06 – Item 3.2)

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, the Rules Committee Reports and the actions of October 18, 2006 and October 11, 2006, were accepted. (11-0.)

**3.3 Report of the Making Government Work Better Committee – October 19, 2006
Council Member Reed, Chair**

Documents Filed: The Making Government Work Better Committee Report dated October 19, 2006.

(a) An Audit of Team San José. Attachment: The 2004-05 annual Performance Audit of Team San José, Inc. Report from the Office of The City Auditor.

The Committee accepted the Staff Report.

(b) Grants Management Update. Attachment: Memorandum from Deputy City Manager Mark Linder, dated October 5, 2006, transmitting the report.

The Committee accepted the Staff Report. See Item 3.7 for Council action taken.

(c) Diversity Recruitment Progress. Attachment: Memorandum from Director of Human Resources Mark Danaj, dated October 10, 2006, transmitting the report.

The Committee accepted the Staff Report.

(d) Comprehensive Annual Financial Report for FY 2005-2006. Attachment: Memorandum from Director of Finance Scott P. Johnson, dated October 12, 2006, transmitting the report.

The Committee accepted the Staff Report.

(e) External Auditor's Report on Single Audit for FY ended June 30, 2006

Deferred to November 16, 2006.

(f) External Auditor's Report to MGWB Committee on Internal Control

Deferred to November 16, 2006.

(g) Comprehensive Annual Debt Report for FY 2005-2006

The Committee accepted the Staff Report.

**3.3 Report of the Making Government Work Better Committee – October 19, 2006
Council Member Reed, Chair (Cont'd.)**

- (h) Oral Petitions - There were none.
- (i) Adjournment - The meeting was adjourned at 3:25 p.m.

Action: Upon motion by Council Member Reed, seconded by Council Member Yeager and carried unanimously, the Making Government Work Better Committee Report and the actions of October 19, 2006, were accepted. (11-0.)

- 3.4 (a) Approval to continue to provide supplemental pay and benefits, pursuant to Resolution No. 73180, to employees who are military reservists and who are called to active duty.**
- (b) Direction to staff to continue to work to resolve the pending issues involving the military reconciliation process and implement procedures to help minimize these issues in the future.**

**CEQA: Not a Project. (Employee Relations/Finance)
(Rules Committee Referral 10/18/06)**

Action: Deferred to November 14, 2006.

- 3.5 (a) Review of two search proposals submitted by Alliance Resource Consulting and Avery Associates, the two recommended executive search firms;**
- (b) Interview the two firms;**
- (c) Select the firm to conduct the City Manager recruitment;**
- (d) Direct the Director of Human Resources to negotiate an agreement with the selected search firm for execution by the City Manager.**

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

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated October 11, 2006, recommending two executive search firms for consideration.

Director of Human Resources Mark Danaj provided introductions. The City Council interviewed representatives from Bill Avery and Associates and Alliance Resource Consulting.

Public Comment: Ross Signorino praised the Interim City Manager Les White. George Fokos suggested the Council would save money by promoting from within.

Following brief questions to staff, the Council voted.

Action: Alliance Resource Consulting was selected to conduct the City Manager recruitment on a 6 to 5 vote.

- 3.6 (a) **Acceptance of the staff report regarding various departmental approaches to Window Washing Services.**
- (b) **Acceptance of the deployment plan to rotate the use of the Reachmaster High Reach Maintenance Lift.**
- CEQA: Not a Project. (General Services)**

Documents Filed: Memorandum from Director of General Services Peter Jensen, dated October 11, 2006, recommending acceptance of the report and approval of the deployment plan.

Public Comment: Linda Dittes (AFSCME Labor Union 101) spoke in support of the Staff recommendation.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chavez and carried unanimously, the report and deployment plan was accepted, with Staff asked to consider establishing a schedule of criteria for more frequent window cleaning as opposed to upon request. (11-0.)

- 3.7 (a) (1) **Develop a Procedures Manual to formally document City policies and procedures regarding grant oversight.**
- (2) **Develop a citywide grants database to provide comprehensive grant information, facilitate better grant awarding decisions and grantee monitoring, and help ensure grantee compliance with grant requirements.**
- (3) **Establish a City Manager’s Office Grant Oversight Working Group to:**
- (a) **Establish citywide consistent policies and procedures;**
- (b) **Establish specific training requirements for staff involved in grants management and monitoring;**
- (c) **Establish criteria when audited financial statements are obtained and reviewed;**
- (d) **Establish risk-based criteria for determining when more detailed audits, reviews or monitoring are required;**
- (e) **Adopt consistent and reasonable grant agreement requirements related to grantee reporting.**
- (City Manager’s Office)**
[Making Government Work Better Committee 10/19/06 – Item 3.3(b)]
- (b) **Acceptance of status report from the City Manager on the issuance of HNMF Grants. (City Manager’s Office).**
- (c) **Response from City Attorney on Exhibit (f) of the grants procedure background and fingerprinting requirements. (City Attorney’s Office)**

3.7 (Cont'd.)

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated October 27, 2006, transmitting analysis of HNMF contract agreements. (2) Memorandum from Assistant to the City Manager Nadine Nader, dated October 26, 2006, transmitting the Grants Management Reports. (3) Supplemental memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated October 27, 2006, transmitting additional information from a Staff presentation heard at the Making Government Work Better Committee on October 19, 2006, regarding the City's grant management efforts, including steps being taken to streamline the process.

Deputy City Manager Mark Linder outlined the Grants Management Report.

Council questions and comments followed.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, development of a Procedures Manual, Citywide Grants Database and City Manager's Office Grant Oversight Working Group, status report were accepted with the City Attorney's Office was directed to research and report back on expanding TB requirements to include volunteers and further asked Staff to explore with nonprofit options to share additional costs associated with new background check requirements. (9-0-2. Absent: LeZotte, Nguyen.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – October 16, 2006 Council Member Chirco, Chair

Documents Filed: The Building Strong Neighborhoods Committee Report dated October 16, 2006.

- (a) Building Strong Neighborhoods of Update/Status Report (including a discussion of SNI/Framework outside of non-designated areas). Attachments: Memorandum from Deputy City Manager Mark Linder, dated October 16, 2006, recommending approval of the report.

The Committee accepted the Staff Report with Staff directed to return in November with a report on the next steps.

- (b) Airport Neighborhood Services Group Report Update. Attachment: Memorandum from Director of Aviation William F. Sherry, dated October 2, 2006, recommending approval of the report.

The Committee accepted the Staff Report.

**4.1 Report of the Building Strong Neighborhoods Committee – October 16, 2006
Council Member Chirco, Chair (Cont'd.)**

- (c) Discussion of Street Tree Maintenance and New Tree Planting. Attachments: Memorandum from Director of Transportation James R. Helmer, dated October 4, 2006, recommending acceptance of the report

The Committee accepted the Staff Report, with Staff directed to return with an updated report that includes an outreach plan for San José's citizens, a comparison of other City's practices, information on the possible availability of CAP grants for tree pruning and other options for low income residents of San José.

- (d) Discussion of City Outreach for Capital Projects. Attachment: Memorandum from Deputy City Manager Ed Shikada, dated October 6, 2006, acceptance of the report.
(Deferred from September 2006)

The Committee accepted the Staff Report.

- (e) Oral Petitions - None were presented.
(f) Adjournment - The meeting was adjourned at 2:45 p.m.

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Chavez and carried unanimously, the Building Strong Neighborhoods Committee Report and the actions of October 16, 2006, were accepted. (9-0-2. Absent: LeZotte, Nguyen.)

4.3 (a) Approval to consider the recommendation in (b-c) below pursuant to the Early Distribution Process Rules (2/3 vote required).

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Vice Mayor Chavez and carried unanimously the consideration of the recommendation was approved. (8-0-1-2. Disqualified: Reed. Absent: LeZotte, Nguyen.)

(b) Approval of a \$1 million revolving line of credit for the American Musical Theatre of San José (AMTSJ) under the following conditions:

- (1) **AMTSJ complies with all of the terms and conditions of the loan agreement contained in Appendix A of the report; and**
(2) **If approved, adopt a resolution authorizing the City Manager to negotiate and execute a loan agreement with AMTSJ in an amount not to exceed \$1 million.**

(c) If action is taken to approve the line-of-credit for AMTSJ authorize the utilization of the newly-created Arts Stabilization Fund.

**CEQA: Not a Project. (City Manager's Office)
(Deferred from 10/24/06 – Item 5.2)**

4.3 (Cont'd.)

Documents Filed: (1) Memorandum from Council Members Williams, Pyle, and Yeager, dated October 30, 2006, recommending approval of the staff recommendation. (2) Replacement memorandum from Chief Deputy City Manager Kay Winer, dated October 13, 2006, recommending approval of the staff recommendation and transmitting additional information. (3) Memorandum from City Auditor Gerald A. Silva, dated October 26, 2006, transmitting the Auditor's report.

Chief Deputy City Manager Kay Winer outlined the actions related to the American Musical Theatre of San José. City Auditor Gerald Silva presented a brief overview of the audit of the American Musical Theatre.

Council questions and comments followed.

Public Comment: Speaking in support of the Staff recommendation were Ross Signorino, Michael Miller, Eddie Owen, Rasha Hasaneen (AMTSJ), Edward Church (IATSE Local 134) and Kari Yancy.

Council Member Reed noted that he had season tickets to the American Musical Theatre of San José and would be abstaining.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried unanimously, [Resolution No. 73477](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Loan Agreement with the American Musical Theater of San José in an Amount Not To Exceed \$1 Million", was adopted, with City Manager directed to look at the appropriateness of the size of the loan as related to best practices in other large cities across the country and as part of the analysis, consider criteria that reflects the shifting by the Federal government to local government the burden of taxpayer contributions to the Arts. Arts Commission requested to recommend the criteria and process for the disbursement of the newly established Arts Stabilization Fund. (8-0-1-2. Disqualified: Reed. Absent: LeZotte, Nguyen.)

NEIGHBORHOOD SERVICES

5.2 Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with the Viet Heritage Society (VHS) for the development, maintenance and operations of the Vietnamese Heritage Garden (VHG) to:

- (a) Increase the City's contribution toward the project by \$330,000, from \$1,080,000 to \$1,410,000.
- (b) Add provisions describing the proposed terms of the use of the funds, if the City decides to add an additional contribution of \$170,000 in fiscal year 2007-2008, contingent upon the appropriation of funds by City Council and authorization for the City Manager to negotiate.

CEQA: Resolution No. 66098 and addenda thereto, File No. PP04-228. Council District 7. SNI: Tully/Senter. (Parks, Recreation and Neighborhood Services)

5.2 (Cont'd.)

Documents Filed: (1) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated October 11, 2006, recommending adoption of a resolution. (2) Supplemental memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated October 26, 2006, clarifying the specific terms of distribution of \$330,000 and potential additional future funds in the amount of \$170,000.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Williams and carried unanimously, [Resolution No. 73478](#), “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Agreement with the Viet Heritage Society for the Development, Maintenance and Operation of the Vietnamese Heritage Garden, Increasing the City’s Contribution by \$330,000 to a Total Amount Not To Exceed \$1,410,000, and Adding Provisions Regarding a Possible Additional Contribution in 2007-2008, Contingent Upon Appropriation of Funds”, was adopted. (11-0.)

5.3 **Adoption of a resolution approving the Penitencia Creek Trail Reach 1 Master Plan and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, File No. PP06-111 Council District 4. (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1)Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated October 11, 2006, recommending adoption of a resolution. (2)Supplemental memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated October 26, 2006, transmitting the Mitigated Negative Declaration and the associated Council Resolution for the Penitencia Creek Trail Reach 1 Master Plan that were inadvertently left off the original memorandum

Action: Upon motion by Council Member Reed, seconded by Council Member Williams and carried unanimously, [Resolution No. 73479](#), entitled: “A Resolution of the Council of the City of San José Approving the Penitencia Creek Trail Reach 1 Master Plan Project, for Which an Initial Study/Mitigated Negative Declaration was Prepared in Accordance with the California Environmental Quality Act and Adopting a Mitigation Monitoring and Reporting Program”, was adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

6.2 Approval of a consultant agreement with Alta Planning + Design, Inc., to update the City’s Americans with Disabilities Act (ADA) Sidewalk Transition Plan and the City’s Pedestrian Master Plan, in an amount not to exceed \$180,000. CEQA: Exempt, File No. PP06-122. (Transportation)

6.2 (Cont'd.)

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated October 12, 2006, recommending approval of the agreement.

Public Comment: Ross Signorino spoke in favor of the Staff recommendation.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, the agreement with Alta Planning + Design, Inc., was approved. (11-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 5:13 p.m. to consider Item 9.1 in a Joint Session.

9.1 (a) Adoption of a resolution by the City Council:

- (1) Approving the Purchase and Sale Agreement in an amount not to exceed \$1,300,000 with Reza Banikazemi and Mehrdad John Soltani, for the purchase of properties located at 487 and 499 Clifton Avenue, San José, California (APN Nos. 277-12-051, 059 and 060), to include a Right of Entry to conduct a Phase II investigation at the sole expense of the City and with any necessary remediation expenses at the sole expense of the property owners; and**
- (2) Authorizing the Director of Public Works to execute all other documents necessary to complete the transaction; and**
- (3) Making certain determinations regarding the expenditure of Redevelopment Agency Funds for the acquisition of property that will be publicly owned.**

- (b) Adoption of a resolution by the Agency Board authorizing the Executive Director to deposit \$1,330,000 into escrow after City's inspections and City's final determination that the condition of the site is appropriate for a park use.**

CEQA: Exempt, File No. PP05-226. Council District 6. SNI: Burbank/Del Monte. (City Manager's Office/San José Redevelopment Agency)

Documents Filed: Memorandum from City Manager Les White and Executive Director Harry S. Mavrogenes, dated October 11, 2006, recommending adoption of resolutions.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73480](#), entitled: "A Resolution of the Council of the City of San José Approving a Purchase and Sale Agreement with Reza Banikazemi and Mehrdad John Soltani for Properties at 487 and 499 Clifton Street in an Amount Not To Exceed \$1,300,000 and an Estimated \$30,000 in Closing Costs" and Redevelopment Agency Resolution No. 5719 were adopted. (11-0.)

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9713	WS of Masonic Dr., 520’ S of Canoas Garden Ave.	6	Vitiol-Scottish LLC	1 Lot/ 172 Units	SFAR	Approve

OPEN FORUM

- (1) Robert Apgar presented personal observations.
- (2) George Fokos asked the Council to consider fewer codes and policies; and said more community swimming pools are needed.
- (3) Mark Trout voiced religious views.
- (4) Ross Signorino congratulated the City Council for remaining the “Safest Big City in America”.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:22 p.m. in honor of Engine Captain Mark Loutzenhiser, Engine Operator Jess McLean, Assistant Engine Operator Jason McKay and Firefighter Daniel Hoover-Najera, who lost their lives battling the Esperanza Fire in the San Jacinto Mountains in Southern California.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/10-31-06MIN

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