



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 21, 2006

The Council of the City of San Jose convened in Regular Session at 9:32 a.m. in 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, the City Council recessed to Closed Session at 9:35 a.m. in Room T1841 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of (1) City of San José, et al. v. County of Santa Clara, et al.; (2) County of Santa Clara, et al. v. City of San José, et al.; (3) Provence v. City of San José, et al.; (4) City of San José v. JMP Gold Design Group, et al.; (B) to confer with Legal Counsel regarding anticipated litigation (a) of two matters where there is significant exposure to litigation pursuant to subsection (c) of Government Code Section 54956.9; (C) confer with real property Designated Representatives Pursuant to Government Code Section 54956.8: Properties: (1) Property: Norman Y. Mineta San José International Airport Terminal Buildings, Gates and Ramp Areas; City Negotiator: 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; Employee Organizations: (1) San José Officers' Association; (2) International Association of Firefighters; Operating Engineers, Local 3.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:45 a.m. and reconvened at 1:40 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: None.

INVOCATION (DISTRICT 3)

Imam Tahir Anwar, Director of the South Bay Islamic Association delivered words of wisdom.

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

1.2 Presentation of a commendation to David Crosson for his nine years of dedication and hard work as President and CEO of History San José. (Mayor)

Action: Mayor Gonzales presented a commendation to David Crosson for his dedication and hard work as President and CEO of History of San José.

1.6 Presentation of a commendation to the Silicon Valley Chapter of the Multiple Sclerosis Society in recognition of Multiple Sclerosis Awareness Month in March and for their extraordinary leadership to end the devastating effects of Multiple Sclerosis. (Yeager)

Action: Council Member Yeager and Mayor Gonzales presented a commendation to Michelle Compton and Lillian Acosta of the Silicon Valley Chapter of the Multiple Sclerosis Society in recognition of Multiple Sclerosis Awareness Month in March and for their leadership in the fight against Multiple Sclerosis.

1.7 Presentation of a commendation to the Lima family for its inspiration and leadership in creating Christmas in the Park, which has become an annual holiday tradition in the City of San José. (Nguyen) (Deferred from 3/14/06 – Item 1.6)

Action: Council Member Nguyen and Mayor Gonzales presented a commendation to the Lima Family for their inspiration and leadership in creating Christmas in the Park, the City's annual holiday tradition.

1.8 Presentation of a commendation to Donald and Sally Lucas in recognition of their \$10 million donation to San José State University. (Chavez) (Rules Committee referral 3/15/06)

Action: Vice Mayor Chavez and Mayor Gonzales presented a commendation to Donald and Sally Lucas recognizing their \$10 Million donation to San José State University.

CONSENT CALENDAR

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

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 27667** – Amends chapter 12.12 of Title 12 of the San José Municipal Code by adding a new section 12.12.200 entitled lobbyist fundraising activity to provide a definition of the term and amending section 12.12.420 to require additional information and disclosures.

Documents Filed: Proof of publication of title of Ordinance No. 27667, executed March 14, 2006, submitted by the City Clerk.

Action: This item was dropped from the agenda.

- (b) **ORD. NO. 27668** – Rezones certain real property situated on the north side of Villa Avenue property situated on the north side of Villa Avenue, 150 feet easterly of Myrtle Street (969 Villa Avenue) to A(PD) Planned Development Zoning District.

Documents Filed: Proof of publication of title of Ordinance No. 27668, executed March 14, 2006, submitted by the City Clerk.

Action: Ordinance No. 27668 was adopted. (11-0).

- (c) **ORD. NO. 27669** – Rezones certain real property situated on the south side of West Taylor Street approximately 230 feet northeast of Elm Street (846 West Taylor Street) to A(PD) Planned Development Zoning District. PDC05-073

Documents Filed: Proof of publication of title of Ordinance No. 27669, executed March 14, 2006, submitted by the City Clerk.

Action: Ordinance No. 27669, was adopted. (11-0).

- (d) **ORD. NO. 27670** – Rezones certain real property situated on the west side of Pomona Avenue, approximately 140 feet southerly of Alma Avenue (1425 Pomona Ave) to R-1-8 Residence Zoning District. C05-119

Documents Filed: Proof of publication of title of Ordinance No. 27670, executed March 14, 2006, submitted by the City Clerk.

Action: Ordinance No. 27670 was adopted. (11-0).

2.2 Final Adoption of Ordinances (Cont'd)

- (e) **ORD. NO. 27671** – Rezones certain real property situated on the west side of Flint Avenue, approximately 130 feet northerly of Peanut Brittle Drive to R-1-8 Residential Zoning District.

Documents Filed: Proof of publication of title of Ordinance No. 27671, executed March 14, 2006, submitted by the City Clerk.

Action: Ordinance No. 27671 was adopted. (11-0).

- (f) **ORD. NO. 27675** – Suspending the requirements of Chapter 14.25 of Title 14 of the San José Municipal Code for secondary units permitted under the City's Secondary Units Pilot Program retroactive to January 1, 2006 and to authorize refunds of the Park Impact Fees paid to the City of San José pursuant to Chapter 14.25 under that Pilot Program.

Documents Filed: Proof of publication of title of Ordinance No. 27675, executed March 17, 2006, submitted by the City Clerk.

Action: Ordinance No. 27675 was adopted. (11-0).

- 2.3 (a) **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #11, and authorization for the Director of Finance to execute the purchase orders.**
- (b) **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #12, and authorization for the Director of Finance to execute the purchase orders.**

CEQA: See memo for CEQA designations. (Finance)

Documents Filed: Memoranda from Director of Finance Johnson, dated March 1, 2006, recommending approval of Open Purchase Orders Reports #11 and #12.

Action: The award of open purchase orders for FY2005-2006 List Numbers 11 and 12 were approved and Director of Finance authorized to execute the purchase orders. (11-0).

- 2.4 (a) **Adoption of a resolution authorizing the Director of Housing to accept Building Equity and Growth in Neighborhoods (BEGIN) housing program grants from the California Department of Housing and Community Development (HCD) and to negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the following BEGIN grants:**
- (1) **\$420,000 grant to fund down payment assistance loans to first-time homebuyers purchasing in The Works development.**
 - (2) **\$510,000 grant to fund down payment assistance loans to first-time homebuyers purchasing in the Villa Almendra development.**

(Item continued on next page)

2.4 (Cont'd)

- (3) \$450,000 grant to fund down payment assistance loans to first-time homebuyers purchasing in the CIM/2nd and Santa Clara Street development.
- (b) Approval of the following appropriation ordinance and funding sources resolution amendments in the Multi-Source Housing Fund:
 - (1) Increase the CalHOME (BEGIN) Program appropriation in the Multi-Source Housing Fund (448) by \$1,380,000.
 - (2) Increase the estimate for Grant Revenue in the Multi-Source Housing Fund (448) by \$1,380,000.

CEQA: Not a Project. Council District: 3. SNI: Spartan/Keyes, Washington, & Delmas Park. (Housing)

Documents Filed: Memorandum from Director of Housing Krutko, dated March 1, 2006, recommending adoption of the resolution and approval of the appropriation ordinance and related funding sources resolution amendments.

Action: Ordinance No. 27680, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Multi-Source Housing Fund for the CalHOME (BEGIN) Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 73103, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Accept Building Equity and Growth in Neighborhoods (BEGIN) Housing Program Grants from the California Department of Housing and Community Development (HCD) and to Negotiate and Execute the Grant Agreements and Any Amendments or Other Documents Necessary to Implement the Programs Funded by the Following BEGIN Grants: (1) \$420,000 Grant to Fund Down Payment Assistance Loans to First-time Homebuyers Purchasing in the Works Development; (2) \$510,000 Grant to Fund Down Payment Assistance Loans to First-Time Homebuyers Purchasing in the Villa Almendra Development; and (3) \$450,000 Grant to Fund Down Payment Assistance Loans to First-Time Homebuyers Purchasing in the CIM/2nd and Santa Clara Street Development"; and Resolution No. 73104, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Multi-Source Housing Fund", were adopted. (11-0).

- 2.5 **Adoption of a resolution initiating proceedings and setting April 4, 2006, at 1:30 p.m. for Council consideration on the reorganization of territory designated as Sunol No. 68 which involves the annexation to the City of San José of 0.42 acres of land more or less, located at the west side of South Willard Avenue approximately 180 feet southerly of Douglas Street and adjacent to the City of San José annexation Sunol No. 13 and the detachment of the same from Sunol Sanitary, County Lighting County Service, Central Fire Protection and Area No. 01 (Library Service) County Service Districts. A map showing the affected territory is attached. CEQA: Mitigated Negative Declaration adopted January 17, 2006. CEQA: Mitigated Negative Declaration, (File No. PDC04-095). Council District: 6. (Planning, Building and Code Enforcement)**

2.5 (Cont'd)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated March 1, 2006, recommending adoption of the resolution.

Action: Resolution No. 73105, initiating proceedings for Council consideration on the reorganization of territory designated as Sunol No. 68, was adopted. (11-0).

2.6 Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the consultant agreement with CSDC Systems, Incorporated for technical consulting services related to the AMANDA permit software and other Integrated Development Tracking System (IDTS) software, extending the term from March 31, 2006 to June 30, 2007. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated March 1, 2006, recommending adoption of the resolution.

Action: Resolution No. 73106, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to an Agreement for Technical Consulting Services Related to the Permit and Development Software Systems", was adopted. (11-0).

2.7 Approval of one replacement to the Evergreen East Hills Vision Strategy Task Force. CEQA: Exempt, PP03-10-349. Council Districts: 5, 7, and 8. SNI Areas: KONA, West Evergreen, and East Valley/680. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated March 10, 2006, recommending appointment of Patrick Spillane to replace Rob Wooten on the Evergreen East Hills Vision Strategy Tasks Force.

Action: The replacement to the Evergreen East Hills Vision Strategy Tasks Force was approved. (11-0).

2.8 Adoption of a resolution summarily vacating the four-foot wide Public Service Easement lying around the perimeter of Tract 9639. CEQA: Exempt, File No. PDC03-076. Council District: 1. (Public Works)

Documents Filed: Memorandum from Director of Public Works Allen, dated March 1, 2006, recommending adoption of the resolution.

Action: Resolution No. 73107, entitled: "A Resolution of the Council of the City of San José Summarily Vacating the Public Service Easement as Shown Around the Perimeter of Lot 36 of Tract 9638", was adopted. (11-0).

- 2.9 Approval of appointments of Council Member Nancy Pyle to the San José Arena Authority and Council Member Judy Chirco to the Santa Clara County Health Benefits Coalition and direct the City Manager to appoint an appropriate Senior Administrative Officer responsible for employee health benefits to the Santa Clara County Health Benefits Coalition. (Mayor)
(Rules Committee referral 3/15/06)**

Documents Filed: Memorandum from Mayor Gonzales, dated March 16, 2006, recommending approval of the appointments.

Action: The appointments to the San José Arena Authority and to the Santa Clara County Health Benefits Coalition, and the direction to the City Manager were approved. (11-0).

- 2.10 Approval of appointment of Council Member Campos to the Treatment Plant Advisory Committee. (Mayor)**

Documents Filed: Memorandum from Mayor Gonzales, dated March 17, 2006, recommending approval of the appointment.

Action: The appointment of Council Member Campos to the Treatment Plant Advisory Committee was approved. (11-0).

STRATEGIC SUPPORT SERVICES

- 3.1 Acceptance of the Report of the Study Session:**
**(a) 2005-2006 Proposed Operating Budget Study Sessions dated May 9-18, 2005.
[Deferred from 3/7/06 and 3/14/06 – Item 3.1(a)]**

Documents Filed: None.

Action: This item was deferred to March 28, 2006.

- 3.2 Report of the Rules Committee – March 8, 2006
Vice Mayor Chavez, Chair**

Documents Filed: The Rules Committee Report, dated March 8, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review March 21, 2006 Council Agenda
 - (a) Adds to the March 21, 2006 Draft Agenda

The Committee recommended seven additions to the March 21, 2006 City Council Draft Agenda.

3.2 Report of the Rules Committee – March 8, 2006 (Cont'd)

Vice Mayor Chavez, Chair

(h) Open Forum - Bill Chew spoke about his candidacy in District 3.

(i) Adjournment - The meeting adjourned at 2:50 p.m.

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, and unanimously carried, the Rules Committee report and actions of March 8, 2006 were accepted. (11-0).

3.5 Discussion and approval of the City's procedures for distributing City Council and Council Committee packets and archiving City Council, Study Sessions, and Council Committee Meetings. [Rules Committee 3/8/06 –Item (g)(1)]

Documents Filed: Memorandum from City Manager White and City Clerk Price, dated March 6, 2006, recommending City procedures for distributing Council and Council Committee packets and archiving meetings.

Council Member LeZotte indicated she would not be supporting the recommendation in light of Sunshine Reforms proposed for Council consideration (See Item 3.4 to be heard in the evening).

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, the procedures were approved. (10-1). Noes: LeZotte.

**3.6 Acceptance of the follow-up report related to Council Appointee salary adjustments and direction to staff as appropriate. (City Manager's Office)
(Deferred from 2/28/06 – Item 3.4 et al. and 3/14/06 – Item 3.5)**

Documents Filed: (1) Memorandum from Director of Employee Services Danaj, dated March 14, 2006, recommending acceptance of the follow-up report. (2) Copies of overhead presentation on Council Appointee compensation. (3) Letter from Matt Loesch, President of AEA, commenting on Council Appointee salary adjustments. (4) Letter from David Wall, dated March 20, 2006, opposing pay increases.

Employee Services Director Mark Danaj and Employee Relations Director Alex Gurza delivered a presentation on Council Appointee Salaries and responded to Council questions.

Public Comments:

Deborah Powell (City Labor Alliance), spoke in opposition to all three proposed options and stated that pay raises should be based on comparisons with set jurisdictions, and further they should be clear, fair and equitable.

3.2 (Cont'd)

Daniel Finn (International Union of Operating Engineers-Local No. 3/City Labor Alliance); Tom Brown (President, Association of Building, Mechanical and Electrical Inspectors); Erik Larsen (President of AFSCME Local 101/MEF; Matt Loesch, Association of Engineers and Architects; and Aaron Morrow and Ross Signorino spoke in opposition to the pay raises.

Extensive Council discussion ensued.

Motion: Council Member Nguyen moved approval of Option B, seconded by Council Member Chavez.

Council Member Cortese expressed his preference for Option A, and for a permanent COLA for Council appointees.

Council Member Reed stated that because of concerns over anticipated budget shortfalls, the 1.5% increase already approved is adequate and he does not support the motion.

Action: On a call for the question, Council accepted the Report and approved Option B: Provide a base increase consistent with the performance-based pay system used for Senior and Executive Staff, with direction to Staff, as follows: (1) Return with a merit-based compensation plan and salary ranges for the Council appointees; and, (2) Include comparative information about Unit 99. (9-2). Noes: Cortese, Reed.

3.7 **Adoption of a resolution authorizing the Director of Public Works to negotiate and execute an amendment to the design-build contract with Hensel Phelps Construction Company for the Central Service Yard Phase II Project to expend up to \$757,408 of the allowance for the design and construction of a 100% emergency power generator. CEQA: Mitigated Negative Declaration, File No. PP05-136. (Public Works/ General Services)**

Documents Filed: Memorandum from Director of Public Works Allen and Director of General Services Jensen, dated March 14, 2006, recommending adoption of the resolution.

Action: Upon motion by Council Member Chavez, seconded by Council Member Reed, and unanimously carried, Resolution No. 73108, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Design-Build Agreement with Hensel Phelps Construction Co. for the Central Service Yard Phase II Project, to Expend up to \$757,408 of a \$1,000,000 Allowance for a 100% Emergency Power Generator", was adopted. (10-0-1). Absent: LeZotte.

3.8 **Adoption of a resolution in opposition of the proposed Immigration Reform Bill currently being heard in the United States Senate Judiciary Committee. (Chavez/LeZotte/Nguyen)**

3.8 (Cont'd)

Documents Filed: None.

Action: This item was dropped from the agenda.

COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Provide direction to staff to proceed with the county island annexation process, beginning with a Pilot Program of sixteen such islands, and specifically:

- (a) Direction to staff to prepare initiation of island annexations under the provision of Government Code Section 56375.3 for those parcels identified islands; and
- (b) Request that the County provide the necessary mapping, legal descriptions, Surveyor's and Assessor's Reports for the islands recommended in the staff report; and,
- (c) Direction to staff to initiate the necessary pre-zonings and complete appropriate environmental review.

CEQA: Resolution No. 65459 (Planning, Building and Code Enforcement)

Documents Filed: None.

Action: This item was deferred to March 28, 2006.

NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee – March 9, 2006 Council Member Yeager, Chair

Documents Filed: The All Children Achieve Committee Report, dated March 9, 2006.

- (a) Early Care and Education Update – Discussion on Staffing. Attachment: Memorandum from Library Director Light, dated February 23, 2006, recommending acceptance of the report on Early Care & Education funding for staff positions.

The Committee accepted the report.

- (b) Update on Family Learning Centers and Family Literacy Program. Attachment: Memorandum from Library Director Light, dated February 23, 2006, recommending acceptance of the report on Family Literacy Programs and Family Learning Centers.

The Committee accepted the report.

5.2 (Cont'd)

- (1) Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services (PRNS) in the amount not to exceed \$360,000 for the refund of unallocated PDO/PIO fees and interest to known property owners.
 - (2) Establish an appropriation to PRNS in the amount of \$40,000 to support the hiring of a pool Analyst in PRNS for the remainder of the fiscal year to continue timely administration of the fund (\$30,000) and a review of the revised administrative policies and procedures for the administration of the Park Trust Fund by the City's external auditor Macias, Gini & Co. LLP (\$10,000).
 - (3) Decrease the appropriation for the Future PDO/PIO Reserve by \$400,000.
- (g) Submit, as part of the FY 2006-2007 Parks Capital Budget, recommended allocations in the amount of \$406,000, from funds that were not allocated within the five year window, to projects that benefit all City residents.
- (h) Referral of the addition of a 1.0 FTE Analyst position to maintain the reconciliation of the Park Trust Fund to the FY 2006-07 budget process.
(Parks, Recreation and Neighborhood Services/City Manager's Office/Finance)

Documents Filed: None.

Action: This item was deferred to April 18, 2006.

TRANSPORTATION & AVIATION SERVICES

**6.1 Report of the Building Better Transportation Committee – March 6, 2006
Council Member Campos, Chair**

Documents Filed: The Building Better Transportation Committee Report, dated March 6, 2006.

- (a) Expansion and Improvement of Transit and Transportation Services
- (1) Report on Bay Area Regional Rail Plan and High Speed Rail Alignment.
Attachment: Memorandum from Director of Transportation Helmer, dated February 23, 2006, presenting an update on the MTC Regional Rail Plan and High Speed Rail.

The Committee accepted the report.

- (b) Traffic Relief/Safe Streets - No items.
- (c) Supporting Smart Growth - No items.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

Tract	Location	Council		Lots/Units	Type
		District	Developer		
9798	20 S. Second Street	3	CIM Group Inc.	1 Lot	Condo
9780	N. Ninth Street at Jackson Street	3	Standard Pacific of Northern California	20 Units	SFD

OPEN FORUM

- (1) Mark Trout read Bible scriptures.
- (2) Robert Apgar shared personal observations.
- (3) Ross Signorino expressed the importance of having a new supermarket in Downtown San Jose.

RECESS/RECONVENE

The Council of the City of San José recessed at 3:53 p.m. and reconvened at 3:54 p.m. to hear Item 8.1 in a joint session with the Redevelopment Agency Board.

JOINT REDEVELOPMENT AGENCY/CITY COUNCIL

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

Absent: Council Members: None.

8.1 Recommend the following positions be taken by the City Council and Redevelopment Agency Board:

- (a) **Oppose AB 2922 (Jones); Redevelopment.**
- (b) **Oppose SB 1206 (Kehoe); Low and Moderate Income Housing Fund Set Aside.**
- (c) **Oppose AB 2197 (DeVore); Redevelopment.**
(Rules Committee referral 3/15/16)

Documents Filed: Memorandum from Redevelopment Executive Director Mavrogenes, dated March 21, 2006, recommending City and Agency positions on State legislation related to redevelopment issues.

Action: Upon motion by Council Member Campos, seconded by Council Member Chavez, and unanimously carried, the recommended positions on legislative measures were approved. (11-0).

RECESS/RECONVENE

The City Council recessed at 3:55 p.m. and reconvened at 7:03 p.m. in Council Chambers, City Hall, to conduct the evening session.

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

Absent: Council Members: None.

The City Clerk Lee Price read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Chavez, seconded by Council Member Pyle, and unanimously carried, the below noted continuances were granted. (11-0).

- 1.1 Swearing in ceremony for District 10 Youth Commissioner Pardis Khosravi. (City Clerk)
(Deferred from 3/7/06 – Item 1.3)
HEARD IN THE EVENING**

Action: Mayor Gonzales and Council Member Nancy Pyle introduced the District 10 Youth Commissioner Pardis Khosravi and City Clerk Lee Price administered the Oath of Office.

- 1.3 Presentation of a commendation to the Southside Senior and Community Center Nutritional staff for their exemplary dedication and invaluable contributions to the San José community. (Williams/Mayor)
HEARD IN THE EVENING**

Action: Mayor Gonzales and Council Member Williams presented a commendation to Greg Feliz, Barbara Hynaman, and Brian Enos of the Southside Senior and Community Center for their exemplary dedication and invaluable contributions to the City of San Jose.

- 1.4 Presentation of a commendation to the West Evergreen Neighborhood Association for their exemplary dedication and invaluable contributions to the San José community. (Nguyen/Mayor)
HEARD IN THE EVENING**

Action: Mayor Gonzales and Council Member Nguyen presented a commendation to the West Evergreen Neighborhood Association for their dedication and invaluable contributions to the City of San José.

- 1.5 Presentation of a commendation to Josemaria Paterno, Emiley Chang, Mike Mancuso, Joe Peraza and Shila Ravi for launching and helping to chapter Senate Bill 798, which now allows California counties to operate prescription drug recycling programs that both reduce the cost of prescription drugs and prevents unused drugs from entering California's waterways. (LeZotte)
HEARD IN THE EVENING**

1.5 (Cont'd)

Action: Council Member LeZotte and Mayor Gonzales presented a commendation to Josemaria Paterno, Emiley Chang, Mike Mancuso, Joe Peraza and Shila Ravi for their help in launching Senate Bill 798.

- 4.3 (a) **Approval of recommended community engagement framework for the San José Medical Center site.**
- (b) **Approval of the recommended composition of the Stakeholder Advisory Committee.**
- (c) **Direction to the Administration to invite individuals from each of the named organizations to participate in the Stakeholder Advisory Committee.**
- (d) **Direction to the Administration to convene the initial meeting of the Stakeholder Advisory Committee within 30 days.**
- (e) **Direction to the Administration to begin implementation of the Council approved four phase work plan.**
- (f) **Direction to the San José Redevelopment Agency, in coordination with the Department of Planning, Building and Code Enforcement, to assume responsibility for implementing the recommended community engagement framework.**

CEQA: Not a Project. SNI: 13th Street. Council District: 3. (Planning, Building and Code Enforcement)

(Deferred from 2/7/06 – Item 4.3, et al., and 3/7/06 – Item 4.4)

HEARD IN THE EVENING

Documents Filed: None.

Action: This item was deferred to April 4, 2006 to be heard in the evening.

- 11.2 **Consideration of an ordinance rezoning the real property located on the west side of McCreery Avenue approximately 230 feet southerly of Alum Rock Avenue (1884 Alum Rock Avenue) (Dry Heron Development LLC, Owner) from A(PD) Planned Development to A(PD) Planned Development to increase the allowed number of single-family attached residences from 75 to 78 and modify development standards on a 1.44 gross acre site. CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommended approval (5-0-2) with modifications to remove 0.27-acre park and allow up to 15 additional units for a total of up to 93 residential units.**

PDC04-088 - District 5

(Continued from 3/7/06 – Item 11.5)

Documents Filed: None.

Action: This item was continued to April 4, 2006.

- 11.3 **Consideration of an ordinance rezoning the real property located on the southeast corner of New Jersey Avenue and Harris Avenue (2412 New Jersey Avenue) (Zaknich, Anthony J. Trustee, & et al., Owner: The Cullen Group, Developer) from R-1-8 Residence District to the A(PD) Planned Development Zoning District to allow six single-family detached residences on a 0.74 gross acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). CEQA: Mitigated Negative Declaration.**
PDC05-093 - District 9
(Continued from 3/7/06 – Item 11.10)

Documents Filed: (1) Memorandum from Planning Commission Secretary Horwedel, dated February 3, 2006, transmitting the Planning Commission recommendation of the subject property. (2) Proof of publication of Notice of Public Hearing, executed January 13, 2006, submitted by the City Clerk.

Public Comments:

Robert Cullen, applicant, presented a PowerPoint presentation in support of the proposed rezoning.

Barbara Wilson, Michael Fielden, Rich Walkup, and Vern McGeorge spoke in opposition of the proposed rezoning.

Applicant Robert Cullen addressed concerns expressed by speakers opposing the rezoning.

Motion: Council Member Chirco moved to deny the request for rezoning due to the privacy concerns of neighbor's resultant from the size of the proposed homes being disproportionate to the small lot sizes. Council Member Chavez seconded the motion.

Action: On a call for the question, the motion carried and Council denied the planned development rezoning requested by the applicant. (11-0).

- 11.4 **Consideration of an ordinance rezoning the real property located on the north side of Park Avenue approximately 450 feet east of Sunol Street (777 Park Avenue) (Marilyn L. and Glenn L, Frizzell et al, Owners; San José Lofts, LLC, Developer). SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration.**
- (a) **PDC05-037 – Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to construct 122 attached live/work lofts and 2,500 square feet of retail on a 1.89 gross acre site.**
 - (b) **Street Vacation – Request to vacate 2,400 square feet of public street along Park Avenue frontage. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

District 6

11.7 (Cont'd)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File Nos. PDCO5-118 and PD05-091, dated February 27, 2006, recommending approval of the subject properties; (2) Proof of publication of Notice of Public Hearing, executed February 24, 2006, submitted by the City Clerk.

Public Comment:

Songmee Connolly, representing adjacent property owners, Mr. and Mrs. Choi, spoke in opposition to the development proposal because of grading and height concerns. The applicant's representative responded to concerns raised and mentioned he was working with the neighbors to alleviate those concerns.

Action: Upon motion by Council Member Pyle, seconded by Council Member Cortese, and unanimously carried, Ordinance No. 27683, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwest Corner of Broadacres and Skyfarm Drives (6664 Broadacres Drive) to A(PD) Planned Development Zoning District", was passed for publication, and Resolution No. 73111, entitled: "A Resolution of the City Council of the City of San José, Granting, Subject to Conditions, a Planned Development Permit to Use Certain Real Property Described Herein to Allow the Development of Five (5) Single Family Detached Residences on Five (5) Existing Lots in the Vicinity of 6664 Broadacres Drive, San José, California", was adopted. (11-0).

11.8 **Consideration of an ordinance amending Title 20 of the San José Municipal Code, the Zoning Code, to further define and differentiate types of office uses, to set minimum sizes for industrial and commercial condominiums and to make other clarifying changes, including changes to Section 20.40.100 of Chapter 20.40, Section 20.50.100 of Chapter 20.50, Section 20.70.100 of Chapter 20.70 and Chapters 20.175 and 20.200 of the Zoning Code; and to make non-substantive clarifying changes to Section 20.30.100 of Chapter 20.30 of the Zoning Code.**

PP06-012 - Citywide
(Deferred from 3/7/06 – Item 11.12)

Documents Filed: None.

Action: This item was continued to April 4, 2006.

11.9 **Consideration of an ordinance rezoning the real property located at the northeast corner of Towers Lane and Lexann Drive (Green Valley Corp., dba Barry Swenson Construction, Owner/Developer) from A(PD) Planned Development Zoning District to A(PD) Planned Development District to allow general office as a permitted use in addition to medical office uses in an up to 50,000 square foot building on a 1.5 gross acre site. SNI: West Evergreen. CEQA: Mitigated Negative Declaration, File No. PDC04-008. No Planning Commission action required.**

PDC05-117 – District 7

11.9 (Cont'd)

Documents Filed: (1) Report of the Staff of the Department of PD05-091, dated March 1, 2006, recommending approval of the subject property; (2) Proof of publication of Notice of Public Hearing, executed March 10, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Reed, and unanimously carried, Ordinance No. 27684, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of Towers Lane and Lexann Drive", was passed for publication. (11-0).

3.4 **Discussion and direction regarding proposed Sunshine Reform that will improve access to public information, increase neighborhood participation and foster greater governmental accountability. (Chavez/LeZotte/Chirco/Pyle)** **HEARD IN THE EVENING**

Documents Filed: (1) Memorandum from Vice Mayor Chavez, and Council Members LeZotte, Chirco, and Pyle, dated March 8, 2006, recommending that Council discuss and receive public comment on the Sunshine Reforms, and direct staff to develop a work plan for implementing the Sunshine Reforms and report back to Council with specific recommendations as soon as possible. (2) Memorandum from Council Member Reed, dated March 13, 2006, recommending staff bring back an ordinance implementing nineteen Sunshine reforms and recommending staff implement an additional sixteen reforms. (3) E-mail from Dale Osborn, President of the Berryessa Citizens Advisory Council, dated March 21, 2006, supporting implementation of the sunshine reforms outlined in the San José Mercury News.

Motion: Vice Mayor Chavez moved approval of the joint memorandum she co-authored with Council Members LeZotte, Chirco, and Pyle, dated March 8, 2006, with staff direction contained therein. The motion was seconded by Council Member LeZotte.

Council reviewed the memorandum by section and asked clarifying questions.

Public Comments:

Timothy Fitzgerald, Armin Quiring, Dan Pulcrano (Executive Director of Metro), Kerrie Hamilton, Don Gagliardi, Kathy Sutherland, Lisa Jensen, Tiralisa Capwell (Co-Founder of United Neighborhoods), Sharon Sweeney, Bobbi Fischler (League of Women Voters of San José/Santa Clara), Harvey Darnell (North Willow Glen Neighborhood), Beverly Bryant (Homebuilders Association of Northern California), and David Fadness spoke in support of the Sunshine Reforms.

Steve Wright, Mercury News Editor, spoke in support and suggested the proposed reforms be moved to a task force.

3.4 (Cont'd)

George Fokos said he does not support more restrictions. expressed concerns regarding the City's legislation.

End of public comments.

Vice Mayor Chavez spoke in favor of greater public participation and proposed that the City Manager be tasked with coming back in two weeks with a method to include the public in this process.

Motion: Council Member Reed moved to amend the motion on the floor to include the reforms referred to in his memorandum dated March 13, 2006.

Council Member Cortese seconded the motion and made four friendly amendments, accepted by Council Member Reed: (1) Establish civil/criminal penalties for violating the Charter; (2) Work with the City Attorney to create the authority to discipline or terminate any employee who violates the Charter; (3) Develop a process to refer violations of the Charter or the Ethics Ordinance to the Civil Grant Jury for removal from office, and (4) Require lobbyists to file in "real time" written reports within 48 hours.

Considerable Council discussion ensued, and on a call for the question to amend the motion, the motion by Council Member Reed failed. (3-8). Noes: Campos, Chavez, Chirco, Pyle, Williams, LeZotte, Nguyen; Gonzales.

Action: On a call for the question on the original motion, Council approved the memorandum from Vice Mayor Chavez and Council Members LeZotte, Chirco, and Pyle, dated March 8, 2006, recommending Council direct staff to develop a work plan for implementing the Sunshine Reforms and report back to the City Council during the budget process with a workplan including specific recommendations as soon as possible, with additional direction to staff to return in two weeks with a recommendation on how to engage the public in the process, i.e., task force, working group, or other. (10-1). Noes: Gonzales.

OPEN FORUM

- (1) Kerri Hamilton expressed the importance of having more health-oriented grocery stores in San José.
- (2) George Fokos shared what he feels needs to be the City's priorities.
- (3) Bill Chew shared information regarding his candidacy for District 3.
- (4) Robert Apgar shared personal observations.

ADJOURNMENT

The Council of the City of San José adjourned at 10:44 p.m. in memory of Stan Ochs, a dedicated friend of the City of San José and an environmental advocate.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, M.M.C, CITY CLERK

EW/3-21-06 Min.

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