



**MINUTES OF THE CITY COUNCIL**

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, APRIL 4, 2006**

The Council of the City of San José convened in regular session at 8:30 a.m. in the Mayor's Conference Room T1841, at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 8:31 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) 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. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to initiation of litigation in one (1) matter. (C) 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) San José Police Officers' Association; (2) International Association of Firefighters; (3) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 9:10 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**

Jazz slideshow in honor of Jazz Appreciation Month. (District 4)

**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 proclamation designating April as National Fair Housing Month. (Housing)**

Action: Mayor Gonzales presented Director of Housing Leslye Krutko with a plaque recognizing April 2006 as “National Fair Housing Month”.

### **1.2 Presentation to Geoff Cady for his exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor) (Rules Committee referral 3/22/06)**

Action: Mayor Gonzales and City Manager Les White recognized and commended Mr. Geoff Cady for his outstanding dedication and important contributions to the City of San José.

### **1.3 Presentation of a commendation to Bill Levy for his outstanding work representing San José as an NFL referee. (Mayor) (Rules Committee referral 3/22/06)**

Action: Mayor Gonzales recognized and commended Mr. Bill Levy, a former police officer of the City of San José, for his superior work representing San José as a National Football League referee.

### **1.4 Presentation of a commendation to the San José Public Library employees in honor of National Library Worker Day on April 4, 2006 and National Library Week for April 2-8, 2006. (Yeager) (Rules Committee referral 3/22/06)**

Action: Mayor Gonzales and Council Member Yeager recognized and commended the San José Public Library employees in honor of “National Library Worker Day” on April 4, 2006 and “National Library Week” for April 2-8, 2006.

### **1.7 Presentation of a proclamation declaring April 2006 as Child Abuse Awareness Month in San José. (Mayor/Campos/Williams) (Rules Committee referral 3/29/06)**

Action: Mayor Gonzales and Council Members Campos and Williams recognized April 2006 as “Child Abuse Awareness Month” in the City of San José.

**1.8 Presentation of a commendation to the California Line Dance Association of America (CLDAA) in recognition of the organization's community service focus and its promotion of a more active and healthy lifestyle. (Yeager)  
(Rules Committee referral 3/29/06)**

Action: Mayor Gonzales and Council Member Yeager recognized and commended the California Line Dance Association of America for their community service and promotion of an active and healthy lifestyle.

**CONSENT CALENDAR**

Upon motion by Council Member Williams, 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. 27681 – Rezoning certain real property situated at the north side of Park Avenue approximately 450 feet east of Sunol Street (777 Park Avenue) to A(PD) Planned Development Zoning District. PDC05-037**

Documents Filed: Proof of Publication of the title of Ordinance No. 27681 executed on March 28, 2005, submitted by the City Clerk.

Action: Ordinance No. 27681 was adopted.

**(b) ORD. NO. 27683 – Rezoning certain real property situated at the northwest corner of Broadacres and Skyfarm Drives (6664 Broadacres Drive) to A(PD) Planned Development Zoning District. PDC05-118/PD05-091**

Documents Filed: Proof of Publication of the title of Ordinance No. 27683 executed on March 28, 2005, submitted by the City Clerk.

Action: Ordinance No. 27683 was adopted. (11-0.)

**(c) ORD. NO. 27682 – Prezones certain real property situated on the southwest corner of Capitol Avenue and Mabury Road (781 North Capital Avenue) to A(PD) Planned Development Zoning District.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27682 executed on March 28, 2005, submitted by the City Clerk.

Action: Ordinance No. 27682 was adopted. (11-0.)

- 2.2 (d) **ORD. NO. 27684- Rezones certain real property situated at the northeast corner of Towers Lane and Lexann Drive to A(PD) Planned Development Zoning District.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27684 executed on March 28, 2005, submitted by the City Clerk.

Action: Ordinance No. 27684 was adopted. (11-0.)

- 2.3 **Report on bids and award of contract for the Forest-Rosa Sanitary Sewer Rehabilitation Phase V Project to the low bidder, Insituform Technology, Inc., in the amount of \$1,087,115, and approval of a contingency in the amount of \$109,000. CEQA: Exempt, File No. PP05-018. Council District: 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 15, 2006, recommending award of the contract.

Action: The contract was approved. (11-0.)

- 2.4 **Adoption of a resolution ordering the reorganization of territory designated as Sunol No. 68 which involves the annexation to the City of San José of 0.42 gross acres of land 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 Services) County Service Districts. CEQA: Mitigated Negative Declaration (File No. PDC04-095). Council District: 6. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated March 15, 2006, recommending adoption of a resolution.

Action: Resolution No. 73125, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Sunol No. 68 Subject to Liability for General Indebtedness of the City", was adopted (11-0.)

- 2.5 **Approval of nominations to the San José Silicon Valley Workforce Investment Network Youth Council Committee. (Mayor)  
(Rules Committee referral 3/29/06)**

Documents Filed: Memorandum from Mayor Gonzales, dated March 30, 2006, recommending approval of the nominations.

Action: The nominations were approved. (11-0.)

- 2.6 (a) **St. Petersburg, Florida, April 10-11, 2006 for the National League of Cities Mayors Strategy Session and Leadership Forum on Improving Public Schools. Funding Source: Mayor's Office.**
- (b) **Washington, D.C., May 1-3, 2006, for the Silicon Valley Leadership Group Advocacy Trip. Funding Source: Mayor's Office.**
- (Mayor)  
(Rules Committee referral 3/29/06)

Documents Filed: Memorandum from Mayor Gonzales, dated March 27, 2006, requesting approval of travel.

Action: Mayor Gonzales' travel 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 et al and 3/28/06 – Item 3.1(a)]**

Documents Filed: The 2005-2006 Proposed Operating Budget Study Sessions, dated May 9-18, 2006.

Action: The Study Session Reports were accepted. (11-0.)

- 3.2 **Report of the Rules Committee – March 22, 2006**  
**Vice Mayor Chavez, Chair**
- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
- (1) Review April 4, 2006 Draft City Council Agenda
- (2) Add New Items to March 28, 2006 City Council Agenda
- (3) List of Reports Outstanding
- (c) Legislative Update
- (1) State
- (2) Federal
- (a) National League of Cities Congressional Conference Summary Report
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (1) Appointments to the Deferred Compensation Advisory Committee
- (2) Advisory Commission on Rents Term Extensions

**3.2 Report of the Rules Committee – March 22, 2006 (Cont'd.)**

**Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals
- (1) Request to add reviews of high profile, complex RFP's/procurements as an ongoing assignment to the City Auditor's work plan
  - (2) Approval of an amended timeline for the Fire Department to research and develop an ordinance for Improved Fire Safety in Older Buildings
  - (3) Adoption of an opposition position on HR4437
  - (4) Approval of travel by Council Member Campos to attend the League of California Cities Transportation, Communication and Public Works Policy Committee Meeting in Los Angeles on March 30, 2006
- (h) Open Forum
- (i) Adjournment

Action: Deferred to April 11, 2006.

**3.2 Report of the Rules Committee – March 15, 2006**

**Vice Mayor Chavez, Chair**

Documents Filed: The Rules/Partial Rules Committee Report dated March 15, March 22 and March 29, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
- (1) Review March 28, 2006 Draft City Council Agenda  
  
The Committee recommended approval of the March 28, 2006 Draft City Council Agenda with four additions.
  - (2) Add New Items to March 21, 2006 City Council Agenda  
  
The Committee recommended approval of the March 21, 2006 City Council Agenda with three additions.
  - (3) List of Reports Outstanding. Attachment: Report from the City Manager dated March 14, 2006, transmitting reports outstanding for March 21, 2006.  
  
The Committee noted and filed the City Manager's Report.

**3.2 Report of the Rules Committee – March 15, 2006 (Cont'd.)  
Vice Mayor Chavez, Chair**

- (c) Legislative Update
  - (1) State
    - (a) Redevelopment Agency Legislative Update: AB2922 (Jones); SB1206 (Kehoe) and AB2197 (DeVore). Attachment: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated March 10, 2006, transmitting the report.

This was reported at the March 21, 2006 Redevelopment Agency Meeting, Item 8.1

- (2) Federal - There was no report.
- (d) Meeting Schedules - There were none.
- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated February 2, 2006, transmitting items for Public Record for the period of March 1-7, 2006.

The Committee directed Planning Staff to respond to the letter from the Chairperson of the Parks and Recreation Commission; directed the City Clerk to advise the Senior Citizens Commission that her request was accepted and scheduled; and noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals - There were none.
- (h) Open Forum - There were none.
- (i) Adjournment - The meeting was adjourned at 2:25 p.m. (Deferred from 3/28/06 – Item 3.2)

**3.2 Rules/Partial Rules Committee Report – March 22, 2006  
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendation and Approvals. Attachment: Memorandum from Vice Mayor Chavez, and Council Members LeZotte, Nguyen and Cortese, dated March 21, 2006, recommending adoption of a resolution opposing position on HR4437.
  - (3) Adoption of an opposition position on HR4437: Border Protection, Antiterrorism and Illegal Immigration Control Act of 2005 (Deferred from 3/28/06 – Item 3.2)

**3.2 Rules/Partial Rules Committee Report – March 22, 2006 (Cont'd.)**  
**Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendation and Approvals (Cont'd.)
  - (3) Adoption of an opposition position on HR4437  
Erik Larsen, President, Municipal Employees' Federation, AFSCME, Local No. 101 and Laressa, Policy Director for Services, Immigrant Rights and Education Network, spoke in support of the City's recommendation for a resolution in opposition to the Immigration Reform Bill. The Committee directed the City manager or his designee, to monitor the activities of the National League of Cities (NLC) "Immigration Task Force" which has been meeting since December 2005 to focus on key issues affecting cities and towns related to immigration reform, review pending legislation in Congress and identify policy gaps/policy amendments to guide NLC's lobbying as immigration reform unfolds.
  
- (b) City Council
  - (2) Add New Items to April 4, 2006 Agenda
    - (a) Mayor and Councilmember Requests
      - (1) Reconsideration of the Mayor's participation on boards and committees on which he serves as the City's representative
      - (2) Mayor's participation on boards and committees as a City of San José representative

The Rules Committee considered jointly the memorandums put forward by Council Member Yeager and Mayor Gonzales relative to the Mayor's appointments to boards and committees as the City's representative; and Council Member Cortese's request to place on the agenda a clarification and/or reconsideration of the appointments of the Mayor to Boards and Commissions. Mayor's Chief of Staff Rebecca Dishotsky noted for the record that there may have been a potential and unintentional violation of the Brown Act as a result of Staff contact on this item individually to a quorum of the Rules Committee. City Attorney Rick Doyle advised that a serial meeting may have occurred but that the Brown Act provides that disclosure is the cure. He recommended that the Committee confirm the disclosure, hear the item and make a decision in public.

**3.2 Rules/Partial Rules Committee Report – March 29, 2006 (Cont'd.)  
Vice Mayor Chavez, Chair**

- (b) City Council
  - (2) Add New Items to April 4, 2006 Agenda
    - (a) Mayor and Councilmember Requests
      - (2) Mayor's participation on boards and committees as a City of San José representative

Mayor's Chief of Staff Rebecca Dishotsky summarized the Mayor's Memorandum dated March 28, 2006 and responded to questions. City Attorney Rick Doyle noted that all positions held by the Mayor listed on Attachment C are ex-officio and clarified that none of them are appointed by the City Council. The Committee accepted the Mayor's recommendation to not place on the agenda for the April 4 Council meeting the removal of the Mayor from the Silicon Valley Rapid Transit Policy Advisory Board (BART-PAB), and further, accepted the Mayor's recommendation that Council Member Nguyen be nominated to the Valley Transportation Authority (VTA) Board to be the City of San Jose representative on the BART-PAB. The Committee further recommended that the nomination of Council Member Nguyen be forwarded to the City Council on April 4, 2006, along with copies of the Mayor's Memorandum and the VTA Bylaws.

See Item 3.10 for Council action taken.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, the Rules/Partial Rules Reports and the actions of March 15, March 22 and March 29, 2006, were accepted. (11-0.)

**3.3 Report of the Making Government Work Better Committee - March 16, 2006  
Council Member Reed, Chair**

Documents Filed: The Making Government Work Better Committee Report dated March 16, 2006.

- (a) Northside Community Center Quarterly Update. Attachment: Memoranda from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 1, 2006 and March 10, 2006, transmitting the report.

The Committee accepted the Staff recommendations to include additional recommendations from the Committee Chair and Members.  
See Item 3.7 for Council Action taken.

**3.3 Report of the Making Government Work Better Committee - March 16, 2006  
Council Member Reed, Chair (Cont'd.)**

- (b) Follow-up Discussion from May 2005 on Implementing Changes to the Public Arts Program. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated March 3, 2006, transmitting the report.

The Committee accepted the Staff Report.

- (c) Oral Petitions - Bill Chew reiterated his candidacy.

- (d) Adjournment - The meeting was adjourned at 3:26 p.m.  
(Deferred from 3/28/06 – Item 3.3)

Action: Upon motion by Council Member Reed, seconded by Council Member Cortese and carried unanimously, the Making Government Work Better Committee Report and the actions of March 16, 2006, were accepted. (11-0.)

**3.4 Acceptance of the 2005 Community Survey Report. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Les White, dated March 21, 2006, recommending acceptance of the report.

There was a Staff presentation of the 2005 San José Community Survey. A short discussion followed.

Public Comment: Ross Signorino complained about the Call Center not connecting calls to the correct area within City Hall.

Action: Upon motion by Council Member Pyle, seconded by Council Member LeZotte and carried unanimously, the report was accepted. (11-0.)

- 3.5 (a) Presentation on Charter Section 411, entitled "The Council; Interference with Administrative Matters". CEQA: Not a Project. (City Attorney)**  
**(b) Approval of the Council-Staff Interaction Policy (Council Policy 0-31), which would replace the Independent Judgment Policy (Council Policy 0-26) and the Interaction Policy (Council Policy 0-27). CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Les White, dated March 22, 2006, recommending approval of the policy.

**3.5 (Cont'd.)**

City Attorney Richard Doyle presented an outline of Charter Section 411 and summarized provisions of the draft Council policy. Council questions followed. Significant discussion ensued regarding Provision #9, relating to the disclosure of “exparte” communications that should be noted by individual members of the Council during the hearing of a quasi-judicial matter.

Action: Upon motion by Council Member Pyle, seconded by Council Member Yeager, and carried unanimously, the report was received, with Staff directed to clarify Item 9 (“quasi-judicial”) and bring back to Council on April 18, 2006. (11-0.)

**3.6 Approval of an ordinance amending Title 4 of the San José Municipal Code to add a new Chapter 4.55 to consolidate and clarify the permitted expenditures of taxes collected pursuant to Chapters 4.54 and 4.58 of Title 4 of the San José Municipal Code and to amend Chapters 4.54 and 4.58 of Title 4 of the San José Municipal Code to add Sections 4.54.105 and 4.58.238 to make conforming changes. CEQA: Resolution No. 65459. (City Attorney’s Office)  
(Deferred from 3/28/06 – Item 3.4)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated March 23, 2006, recommending approval of an ordinance.

Public Comment: Beverly Bryant, Home Builders Association, expressed opposition to the staff recommendation.

Action: Upon motion by Council Member Yeager, seconded by Council Member Williams and carried unanimously, Ordinance No. 27689, entitled: “An Ordinance of the City of San José Amending Title 4 of the San José Municipal Code to Add a New Chapter 4.55 to Consolidate and Clarify the Permitted Expenditures of Taxes Collected Pursuant to Chapters 4.54 and 4.58 and to Amend Chapters 4.54 and 4.58 of Title 4 of the San José Municipal Code to Add Sections 4.54.105 and 4.58.238 to Make Conforming Changes”, was passed for publication. (9-1-1. Noes: Chavez. Absent: Campos.)

**3.7 (a) Provide direction to staff regarding the operations and services by the City and Filipino-American Social Opportunities Development Council (Fil-Am SODC) at the Center for the remainder of FY 2005-2006, including steps to ensure the orderly transition of the Center’s operations in July 2006 to an operator selected through the pending Request for Proposal (RFP) process.**

*(Item continued on the next page)*

- 3.7 (b) **Adoption of a resolution:**
- (1) **Authorizing the City Manager to negotiate and execute a reimbursement agreement with Fil-Am SODC in an amount not to exceed \$110,000 in Healthy Neighborhoods Venture Funds (HNVF) for eligible services provided at the Jacinto “Tony” Sequig Northside Community Center (Center) for the period July 1, 2005 through June 30, 2006, provided that the City has received requested information and materials no later than 12:00 pm (noon) on March 30, 2006, and that such information is acceptable to the City Manager.**
  - (2) **Authorizing the City Manager to extend offers of employment to key Fil-Am SODC employees involved in providing direct services at the Center as Temporary Unclassified employees with the City in the event that the March 30, 2006 deadline is not met or the information is unacceptable as submitted.**

**CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)  
(Deferred from 3/28/06 – Item 3.8)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 28, 2006, recommending direction to Staff and adoption of a resolution.

A short discussion followed.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed and carried unanimously, Resolution No. 73126, entitled: “A Resolution of the Council of the City of San José (a) Authorizing the City Manager to Negotiate and Execute a Reimbursement Agreement with Filipino American Senior Opportunities Development Council, Inc. (Fil-Am) in an Amount Not to Exceed \$110,000 of Healthy Neighborhood Venture Funds for Eligible Services Provided at the Jacinto “Tony” Sequig Northside Community Center (Center) from July 1, 2005 through June 30, 2006, Provided the City has Received Requested Supporting Information No later than Noon, March 30, 2006 and Such Information is Acceptable to the City Manager; and (b) Authorizing the City Manager to Offer Key Fil-Am SODC Staff Involved in Providing Direct Services at the Center the Opportunity to Become Temporary Unclassified Employees with the City in the Event that the Noon, March 30, 2006 Deadline is not Met or the Information is Unacceptable as Submitted”, was adopted, with Staff directed to return with a plan and timeline for collecting money owed to the City (11-0.)

- 3.9 Direct the City Attorney's Office to work with the appropriate Departments and return to the City Council by May 16th with the following information:**
- (a) Alternative methods to regulate parking of vehicles displayed for sale on city roadways pursuant to San José Municipal Code Section 11.36.100 (1);**
  - (b) Information and analysis of on-street "Used Cars for Sale" vehicle counts, streets affected by "de facto used car lots," as well as any studies, anecdotal evidence, or legislative findings regarding the impacts of cars displayed for sale on public rights-of-way.**

**(Campos/Mayor)**

**(Rules Committee referral 3/29/06)**

Documents Filed: Memorandum from Mayor Gonzales and Council Member Campos, dated March 29, 2006, recommending as stated above.

Action: Upon motion by Council Member Campos, seconded by Council Member Pyle and carried unanimously, Staff to return to the City Council with the above information, was approved. (11-0.)

- 3.10 As recommended, by the Rules Committee on March 30, 2006, nominate Council Member Madison P. Nguyen to the VTA Board to be the City of San José representative on the Silicon Valley Rapid Transit Policy Advisory Board (BART-PAB). (City Clerk)**

Documents Filed: Memorandum from City Clerk Lee Price, dated March 30, 2006, recommending the nomination of Council Member Nguyen to the BART-PAB.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed and carried unanimously, the nomination of Council Member Nguyen was approved. (11-0.)

## **COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.1 Report of the Building Strong Neighborhoods Committee – March 20, 2006  
Council Member Chirco, Chair**

Documents Filed: The Building Strong Neighborhoods Committee Report dated March 20, 2006.

- (a) Airport Neighborhood Services Group Report Update. Attachment: Memorandum from Director of Aviation William Sherry, dated March 10, 2006, transmitting the report.**

The Committee accepted the Staff Report.

**4.1 Report of the Building Strong Neighborhoods Committee – March 20, 2006  
Council Member Chirco, Chair**

(b) Animal Care and Services Update

Deferred to May 2006

(c) Strong Neighborhoods Initiative Report on new, non-Redevelopment Strong Neighborhood Areas and Action Agenda

Deferred to April 2006

(d) Discussion and Implementation on Facility Reuse. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 10, 2006, transmitting the report.

The Committee accepted the Staff Report.

(e) Oral Petitions

(1) Bill Chew mentioned his website and the fact he is running for office of Council Member for District 3.

(2) Cary Hamilton spoke on the importance of bring PDO/PIO fees to 100%.

(f) Adjournment - The meeting was adjourned at 2:40 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos and carried unanimously, the Building Strong Neighborhoods Report and the actions of May 20, 2006, were accepted. (11-0.)

**4.3 Acceptance of the annual report on the status of implementation of the Small Business Opportunity Program. CEQA: Not a Project. (City Manager's Office) [Driving a Strong Economy Committee, 1/30/06 - Item 4.2(e)]**

Documents Filed: Memorandum from Agenda Services Manager for City Manager's Office Nadine Nader, dated March 16, 2006, transmitting the report for acceptance.

Economic Development Officer Dhez Woodworth summarized the status report and responded to Council questions and comments.

Council Member Williams moved acceptance of the annual report. Vice Mayor Chavez seconded the motion.

#### 4.3 (Cont'd)

Vice Mayor Chavez requested to add to the motion direction to Staff to obtain feedback from the Chamber of Commerce about what prevents small businesses in San José from participating in the City's building process. Council Member Williams accepted the friendly amendment.

Public Comment: Kenn Poyntur stated he moved his business to Santa Clara because he did not qualify to enter the San José Jet Center, but added that he appreciates the City's efforts. Spencer Horowitz, Small Business Commission, summarized the Commission's goals of ensuring preferences go to the right companies. In response to an inquiry from Council Member Cortese, Mr. Horowitz explained that the Commission is still considering surety bond issues as a mechanism to help small businesses. Ross Signorino and George Fokos spoke in favor of supporting small local businesses.

Action: On a call for the question, the motion carried unanimously and the annual report was accepted, with Staff directed to obtain feedback from the Chamber of Commerce about what prevents small businesses in San José from participating in the City's building process. (9-0-2. Absent: LeZotte, Nguyen.)

#### 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)  
(Deferred from 3/21/06 – Item 4.4 and 3/28/06 – Item 4.4)**

Action: Deferred to April 11, 2006.

### **PUBLIC SAFETY SERVICES**

- 8.1 **Acceptance of the 2005 Annex A update on the roles of elected officials during declared disasters as part of the City's Emergency Operations Plan. CEQA: Not a Project. (Emergency Services)  
(Deferred from 1/10/06 – Item 8.1 et al and 3/21/06 – Item 8.1)**

**8.1 (Cont'd)**

Documents Filed: Memorandum from Acting Director of Office of Emergency Services Michael Miceli, dated Mary 21, 2006, recommending approval of the report.

Public Comment: Mark Trout declared that elected officials have a leadership role in times of disaster. Ross Signorino spoke off topic.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, the report was accepted, with Staff directed to include in the report, the ten Council Office alternative locations within each district to be used as a temporary sites to conduct business needs, as soon as possible. (10-0-1. Absent: LeZotte.)

**NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS**

On October 25, 2005, City Council approved a one year pilot program that delegated authority to the Director of Public Works to award or reject bids on construction projects where the base contract amount is below \$1,000,000. In accordance with this policy, the following is a list of projects that were awarded or rejected by the Director of Public Works in March 2006:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Street Lights SNI Gateway East and Burbank/Del Monte Project	3, 5, 6	San José Signal Electric Construction, Inc.	\$182,165	3/1/06
Traffic Signal Modifications at Hillsdale Avenue and Ross Avenue	9	Beltramo Electric, Inc.	\$261,910	3/14/06
Wenlock Drive Pedestrian Corridor Project	5	Suarez and Munoz Construction	\$296,579	3/27/06

## OPEN FORUM

- (1) Marc Boyd complained about the 500 units added to Taylor Towers, including decisions made behind closed doors.
- (2) George Fokos expressed his interest in running for Mayor.
- (3) Robert Apgar expressed personal observations.
- (4) Mark Trout voiced his own religious viewpoints.
- (5) William Garbett spoke regarding small businesses and performance bonds.
- (6) Ross Signorino encouraged the Council to designate the current site of the San José Medical Center for a future Medical Center.

## ADJOURNMENT

The Afternoon Council Session was adjourned at 4:27 p.m.

## RECESS/RECONVENE

The City Council recessed at 4:27 p.m. from the afternoon Council Session and reconvened at 7:04 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Nguyen. (Excused)

- 1.5 Presentation of a commendation to the Megan's Law Task Force for their exemplary dedication and invaluable contributions to the San José community. (Chavez/Mayor)  
(Rules Committee referral 3/22/06)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized and commended the Megan's Law Task Force for their outstanding dedication and important contributions to the City of San José.

- 1.6 Presentation of a commendation to Louis Urbina for his exemplary dedication and invaluable contributions to the San José community. (Chirco/Mayor)  
(Rules Committee referral 3/22/06)**

Action: Mayor Gonzales and Council Member Chirco recognized and commended Mr. Louis Urbina for his excellent dedication and outstanding contributions to the City of San José.

- 1.9 Presentation of a commendation to Brittany Welby for her service and efforts to protect fellow citizens of San José from health risks associated with nail salon services. (Pyle)  
(Rules Committee referral 3/29/06)**

Action: Mayor Gonzales and Council Member Pyle recognized and commended Ms. Brittany Welby for her service and efforts to protect the citizens of the City of San José from health risks associated with nail salon services.

## **PUBLIC HEARINGS ON CONSENT CALENDAR**

Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, the Public Hearings on Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2. Absent: Nguyen, Yeager.)

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the east side of Ruby Avenue, approximately 400 feet southerly of Holderman Drive (APN: 652-14-013, -014) (2363 Ruby Avenue) (Benson Chu, Owner; Legacy Holdings LLC, Developer) from County to R-1-RR Residence District to allow up to two single family residences on a 2.5 gross acre site. No Planning Commission action required.  
C05-066 - District 8**

Documents Filed: Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-066, dated March 7, 2006, recommending approval on the subject property

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: The recommendation of the Planning Director was approved, and Ordinance No. 27690, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated East side of Ruby Avenue, Approximately 400 Feet South of Holderman Drive (2363 Ruby Avenue) to R-1-RR Residence Zoning District", was passed for publication. (9-0-2. Absent: Nguyen, Yeager.)

## **END OF CONSENT CALENDAR**

## PUBLIC HEARINGS

- 11.2 Consideration of an ordinance rezoning the real property located at/on the west side of South Winchester Boulevard, approximately 550 feet southerly of Stevens Creek Boulevard (369 Winchester Boulevard) (Dennee Glenford V Jr., Trustee, Owner; John Mackay, Developer) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 4,681 square feet for retail commercial uses and a public eating establishment with drive-thru uses on a 0.64 gross acre site. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

**PDC05-077 - District 1**

**(Continued from 2/7/06 – Item 11.4 and 3/7/06 – Item 11.2)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-077, dated February 28, 2006, recommending approval on the subject property. (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel dated April 4, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publications of Notices of Public Hearings, executed on December 30, 2005, January 8, 2006, January 24, 2006, February 24, 2006, and March 5, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27691, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of South Winchester Boulevard, Approximately 420 Feet South of Stevens Creek Boulevard, Approximately 420 Feet South of Stevens Creek Boulevard (369 Winchester Boulevard) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Nguyen.)

- 11.3 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. Director of Planning, Building and Code Enforcement recommends approval with the following modifications for Area A: Minor changes to the side setbacks as proposed by the applicant, and a maximum height limit of 40 feet within 35 feet of the eastern property line and within 45 feet of the southern property line and a height limit of 55 feet for the remainder. Planning Commission recommends approval (5-0-2).**

**PDC04-088 - District 5**

**(Continued from 3/7/06 – Item 11.5 and 3/21/06 – Item 11.2)**

Documents Filed: Supplemental memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel dated March 30, 2006, transmitting the Planning Commission recommendation of the subject property.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, the recommendation of the Planning Commission was approved, and Ordinance No. 27692, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of McCreery Avenue Approximately 230 Feet Southerly of Alum Rock Avenue (1884 Alum Rock Avenue) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Nguyen.)

- 11.4 Consideration of an ordinance rezoning the real property located on the east side of San Felipe Road, approximately 700 feet northerly of Silver Creek Road (Pan Clair General Partnership, Owner; Dal Properties LLC, Developer) from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 22 single-family detached residences on a 17.98 acre site. CEQA: Mitigated Negative Declaration.**

**PDC05-035 - District 8**

**(Continued from 3/21/06 –Item 11.5)**

Action: Continued to April 18, 2006.

- 11.5 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**

**(Continued from 3/7/06 – Item 11.12 and 3/21/06 – Item 11.8)**

Action: Continued to April 18, 2006.

- 11.6 Consideration of an ordinance rezoning the real property located on the southwesterly corner of State and Essex Streets (1391 State Street) (Victor J. Martina, Owner) from R-M Residential District to A(PD) Planned Development Zoning District to allow the demolition of an existing single-family residence and the construction of three single-family detached residential units on a 0.33 gross acre site. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

**PDC05-002 - District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-002, dated February 27, 2006, recommending approval on the subject property. (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel dated March 9, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publications of Notices of Public Hearings, executed on February 24, 2006, and March 5, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27693, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwesterly Corner of State and Essex Streets (1391 State Street) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Nguyen.)

- 11.7 Consideration of an ordinance rezoning the real property located on the southeast corner of Hostetter Road and Sierra Creek Way (1495 Stone Creek Drive) (John R. Mattos, II, Trustee, Owner) from R-1-8 Residential Zoning District to A(PD) Planned Development Zoning District to allow 6 single-family detached residences on a 0.83 gross acre site. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0).  
PDC05-086 - District 4**

Documents Filed: Proof of publication of Public Hearing Notice, executed February 24, 2006, submitted by the City Clerk.

Action: Continued to April 18, 2006.

- 11.8 Consideration of an ordinance rezoning the real property located on the west side of South 34<sup>th</sup> Street, across from Los Suenos Avenue (321 S. 34<sup>th</sup> St) (Innovative Housing Solutions, LLC, Owner) from A(PD) Residential Zoning District to the A(PD) Residential Zoning District to allow 11 single-family detached residential units on a 1.38 gross acre site. SNI: Gateway East. CEQA: Mitigated Negative Declaration (File No. PDC04-033) and Addendum thereto (File No. PDC05-098). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0)  
PDC05-098 - District 5**

Documents Filed: Proof of publication of Public Hearing Notice, executed March 10, 2006, submitted by the City Clerk.

Action: Continued to April 18, 2006.

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency portion of the meeting was convened to consider Item 9.1 in a Joint Session at 7:25 p.m.

- 9.1
- (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: 13<sup>th</sup> Street. Council District: 3. (Planning, Building and Code Enforcement)**

**(Deferred from 2/7/06 – Item 4.3, et al and 3/21/06 – Item 4.3)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated March 20, 2006, recommending approval of the above recommendations.

Council Member Williams moved approval of the staff recommendation. Council Member Cortese seconded the motion.

Vice Mayor Chavez requested to amend the motion with additions as indicated in “Action”. Council Member Williams and Council Member Cortese accepted the amendment.

Public Comment: Rosylin Dean, Peter Furman, Paula Velsey and Candy Russell spoke in support of the staff recommendation.

Action: On a call for the question, the motion carried unanimously, and the recommendations were approved, with Staff directed to: (1) Add to the categories of committees, Healthcare Workers and the Silicon Valley Chamber of Commerce. (2) Add flexibility in the planning process. (3) Create a format for public testimony, similar to the process used by the Blue Ribbon Task Force for the other stakeholder groups. (10-0-1. Absent: Nguyen.)

**OPEN FORUM**

- (1) Bill Chew spoke about his candidacy for District 3.

**ADJOURNMENT**

The Council of the City of San José adjourned at 7:39 p.m.

**RON GONZALES, MAYOR**

**ATTEST:**

**LEE PRICE, MMC, CITY CLERK**

smd/4-4-06MIN

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