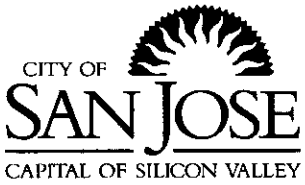

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA **TUESDAY, APRIL 18, 2006**

The Council of the City of San José convened in Regular Session at 9:32 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, the City Council recessed to Closed Session at 9:45 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 v. Sky King, Inc., et al.; (B) to confer with Legal Counsel regarding anticipated litigation in one matter where there is significant exposure to litigation pursuant to subsection (c) of Government Code Section 54956.9; and (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza; Employee Organizations: Operating Engineers, Local 3.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:45 a.m. and reconvened at 1:36 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: None.

INVOCATION (DISTRICT 4)

Abraham Chacko, from Hillview Bible Church, conducted a prayer.

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Chavez, seconded by Council Member Williams, and unanimously carried, the Order of the Day and the Amended Agenda were approved. Vote: (11-0).

CEREMONIAL ITEMS

1.1 Presentation of a commendation to American Airlines for fifteen years of nonstop service from the Norman Y. Mineta San José International Airport to Tokyo, Japan. (Airport)

Action: Mayor Gonzales presented a commendation to American Airlines for fifteen years of nonstop service from Mineta San José International Airport to Tokyo, Japan.

1.2 Presentation of a commendation to the Homicide Unit for their exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor)

Action: Mayor Gonzales and Assistant City Manager Mark Linder presented a commendation to the San José Police Department's Homicide Unit for their exemplary dedication and invaluable contributions to the community.

1.3 Presentation of commendations to Cupertino Electric, Coast Building Maintenance, Inc., Capitol Wholesale Nursery, Inc., Dickinson Cabinetry, Emerald Hills Insurance Services, Fourth Street Summit Center, Hitachi Global Storage Technologies, Inc., IBM Almaden Research Center, Santa Clara County Assessor's Office, Simply Organic Weddings, BOMA Silicon Valley and Tam Organics for achieving Green Business Certification in our community and for being committed to protecting our environment. (LeZotte)

Action: Mayor Gonzales, Council Member LeZotte and Administrative Officer of Environmental Services Kate Drayson presented commendations to Michael Antsell of Cupertino Electric, Mark Flores of Coast Building Maintenance, Inc., Capitol Wholesale Nursery, Inc., Michael Dickinson of Dickinson Cabinetry, Emerald Hills Insurance Services, Les Voorhies of Fourth Street Summit Center, Elizabeth Zimmerman and Ron Gazerman of Hitachi Global Storage Technologies, Inc., Michelle Mesner of IBM Almaden Research Center, Laura Castonga of Santa Clara County Assessor's Office, Simply Organic Weddings, Robert Jacobvich of BOMA Silicon Valley and John Pauley of Tam Organics for achieving Green Business Certification in the community and for being committed to protecting the environment.

1.8 Presentation of a commendation to "Fit for Learning" for their revolutionary vision and innovative strategies to create school environments that promote healthy nutrition and physical activity for the children of Santa Clara County. (Yeager) (Rules Committee referral 4/12/06)

Action: Council Member Yeager and Mayor Gonzales presented a commendation to Dr. Colleen Wilcox of "Fit for Learning" for revolutionary vision and innovative strategies in creating school environments that promote healthy nutrition and physical activity for the children of Santa Clara County.

1.11 Presentation of a commendation declaring April 19, 2006 as "Wear Jeans to Work Day" in an effort to raise awareness about sexual assault. (Chavez) (Orders of the Day)

Action: Vice Mayor Chavez and Mayor Gonzales presented a commendation to the YWCA declaring April 19, 2006 as "Wear Jeans to Work Day" in an effort to raise awareness about sexual assault. The YWCA invited the community of San José to participate in the "Walk a Mile in Her Shoes" event on April 20, 2005 at 5p.m. at Caesar Chavez Park.

1.12 Presentation of a commendation commemorating the 100th Anniversary of the 1906 Earthquake. (Chavez) (Orders of the Day)

Action: Vice Mayor Chavez joined Mayor Gonzales to present a commendation to Interim President and CEO of History San José Anita Grey commemorating the 100th Anniversary of the 1906 Earthquake.

CONSENT CALENDAR

Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, the Consent Calendar was approved and the below listed actions taken as indicated, with Items 2.1(b) and (e) pulled by Council Member LeZotte. (11-0).

2.1 Approval of minutes:

(a) Regular minutes of August 9, 2005
(b) Regular minutes of August 16, 2005
(c) Regular minutes of August 23, 2005
(d) Regular minutes of August 30, 2005
(e) Regular minutes of September 13, 2005
(f) Regular minutes of September 20, 2005
(g) Regular minutes of September 27, 2005

Documents Filed: (1) Regular minutes of August 9, 2005; (2) Regular minutes of August 16, 2005; (3) Regular minutes of August 23, 2005; (4) Regular minutes of August 30, 2005; and (5) Regular minutes of September 13, 2005.

2.1 (Cont'd)

Council Member LeZotte stated that because the abbreviated version of the minutes did not reflect extensive discussions which took place at two of the meetings, she did not support approval.

Action: Upon motion by Council Member Campos, seconded by Council Member Chavez, the minutes of August 9, 16, 23, and 30, and September 13, 2005, were approved, with the minutes of September 20 and 27, 2005 deferred to April 25, 2006. (10-1). Noes: LeZotte.

2.2 Final adoption of ordinances.

(a) ORD. NO. 27689 – Amends 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 Chapter 4.54 and 4.58 and to amend Chapters 4.54 and 4.58 and to amend Chapter 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.

Documents Filed: Proof of Publication of title of Ordinance No. 27689 executed on April 11, 2006, submitted by the City Clerk.

Action: Ordinance No. 27689 was adopted. (11-0).

(b) ORD. NO. 27690 – Prezones 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.

Documents Filed: Proof of Publication of title of Ordinance No. 27690 executed on April 11, 2006, submitted by the City Clerk.

Action: Ordinance No. 27690 was adopted. (11-0).

(c) ORD. NO. 27691 – Rezones certain real property situated on the west side of south Winchester Boulevard, approximately 420 feet south of Stevens Creek Boulevard (369 Winchester Boulevard) to A(PD) Planned Development Zoning District.

Documents Filed: Proof of Publication of the title of Ordinance No. 27691 executed on April 11, 2006, submitted by the City Clerk.

Action: Ordinance No. 27691 was adopted. (11-0).

(d) ORD. NO. 27692 – Rezones certain real property situated west side of McCreery Avenue approximately 230 feet southerly of Alum Rock Avenue (1884 Alum Rock Avenue) to A(PD) Planned Development Zoning District.

2.2 (d) (Cont'd)

Documents Filed: Proof of Publication of title of Ordinance No. 27692 executed on April 11, 2006, submitted by the City Clerk.

Action: Ordinance No. 27692 was adopted. (11-0).

(e) ORD. NO. 27693 – Rezones certain real property situated on the southwesterly corner of State and Essex Streets (1391 State Street) to A(PD) Planned Development Zoning District.

Documents Filed: Proof of Publication of title of Ordinance No. 27693 executed on April 11, 2006, submitted by the City Clerk.

Action: Ordinance No. 27693 was adopted. (11-0).

2.3 This item was renumbered to Item 3.6.

2.4 This item was renumbered to Item 4.3.

2.5 This item was renumbered to Item 4.4.

2.6 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #14, and authorization for the Director of Finance to execute the purchase orders. CEQA: See memo for CEQA designations. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 27, 2006, recommending approval of award of open purchase orders.

Action: The award of open purchase orders List #14 for FY 2005-2006 was approved. (11-0).

2.7 Adoption of a resolution authorizing the Director of Finance to:

(a) Execute a one-year agreement with two one-year options with Command Security Corporation, dba/Aviation Safeguards for terminal support services at the Norman Y. Mineta San Jose International Airport, for a period from May 1, 2006 through April 30, 2007 with the first year compensation not to exceed $500,000.

(b) Execute each of the options to renew with compensation adjustments based on the Consumer Price Index without further City Council action other than the appropriation of necessary funding.

CEQA: Resolution Nos. 67380 and 71451, PP 06-027. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 27, 2006, recommending adoption of a resolution authorizing the Director of Finance to execute an agreement with Command Security Corporation dba/Aviation Safeguards for terminal support services, and execute the renewal options as described.

2.7 (Cont'd)

Action: Resolution No. 73130, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Command Security Corporation dba Aviation Safeguards for Terminal Support Services at the Norman Y. Mineta San José International Airport", was adopted. (11-0).

2.8 (a) Approval of an agreement with Coyote Valley Research Park, LLC, to fund all related activities necessary to form Community Facilities District No. 13 - North Coyote Valley Flood Control for the construction of flood control detention facilities and associated channel improvements for an area within the North Coyote Valley.

(b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax Fund:

(1) Increase the Community Facilities District 13 appropriation in the amount of $40,000.

(2) Increase the estimate for Earned Revenue by $40,000.

CEQA: Resolution No. 69957 and addenda thereto, File No. PDC99-053 and PP05-190. Council District: 2. (Public Works/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Budget Director Larry Lisenbee, dated March 27, 2006, recommending approval of agreement and adoption of appropriation ordinance and funding sources resolution.

Action: Ordinance No. 27694, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Construction Excise Tax Fund for the Community Facilities District 13 Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 73131, 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 Construction Excise Tax Fund", were adopted. (11-0).

2.9 (a) Approval of a cooperative agreement with San José State University for a contribution in the amount of $125,000 to the City of San José for the design and construction of a new traffic signal at the intersection of San Salvador Street and Seventh Street.

(b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax Fund:

(1) Establish a Traffic Signal - San Salvador and Seventh project appropriation to the Department of Transportation in the amount of $125,000.

(2) Increase the estimate for Earned Revenue in the amount by $125,000.

CEQA: Exempt, PP05-224, November 22, 2005. Council District: 3. SNI: University. (Transportation/City Manager's Office)

Documents Filed: Memorandum from Director of Transportation James Helmer and Budget Director Larry Lisenbee, dated March 27, 2006, recommending approval of said agreement and adoption of appropriation ordinance and funding sources resolution.

2.9 (Cont'd)

Action: Ordinance No. 27695, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Construction Excise Tax Fund for the Traffic Signal at San Salvador and Seventh Avenue Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 73132, 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 Construction Excise Tax Fund", were adopted. (11-0).

2.10 Approval to appoint Melissa Hippard, Director of the Sierra Club Loma Prieta Chapter, to fill a vacancy on the Coyote Valley Specific Plan Task Force. CEQA: Exempt, PP03-06-211. (Planning, Building and Code Enforcement) (Rules Committee referral 4/12/06)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 7, 2006, recommending appointment of Melissa Hippard to vacancy on Coyote Valley Specific Plan Task Force.

Action: The appointment of Melissa Hippard to fill a vacancy on the Coyote Valley Specific Plan Task Force was approved. (11-0).

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – April 5, 2006
Vice Mayor Chavez, Chair

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting
(b) City Council
  (1) Review April 18, 2006 Council Draft Agenda
    (a) Voter-Owned Campaigns. (Mayor) (Continued from March 29, 2006)
    (b) Add Council consideration of nominating a portion of the University Strong Neighborhoods Initiative Area for designation as a City Landmark Historic District. (Chavez)
  (2) Add New Items to April 11, 2006 Agenda
  (3) List of Reports Outstanding
(c) Legislative Update
  (1) State
  (2) Federal
    (a) Update on San José Federal Relations Activities
(d) Meeting Schedules
  (1) Approval of Revisions to the Budget Study Session Calendar (Mayor)
  (2) Set date for an Informational Briefing on the Preliminary Gap Analysis
(e) The Public Record
(f) Appointments to Boards, Commissions and Committees
  (1) Airport Commission
    (a) Re-Appoint 2 Commissioners

3.2 Report of the Rules Committee – April 5, 2006 (Cont'd)
Vice Mayor Chavez, Chair

(f) Appointments to Boards, Commissions and Committees (Cont'd)
- (2) Arts Commission
  - (a) Re-Appoint 2 Commissioners
- (3) Library Commission
  - (a) Re-Appoint 2 Commissioners
- (4) Early Care and Education Commission
  - (a) Re-Appoint 2 Commissioners
  - (b) Appoint 1 Commissioner to fill unexpired term.
- (5) Historic Landmarks Commission
  - (a) Re-Appoint 2 Commissioners
- (6) Parks and Recreation Commission
  - (a) Re-Appoint 2 Commissioners
- (7) Traffic Appeals Commission
  - (a) Re-Appoint 1 Commissioner

(g) Rules Committee Reviews, Recommendations and Approvals
- (1) Sunshine Reforms Motion Clarification

(h) Open Forum

(i) Adjournment

Action: This item was deferred to April 25, 2006.

3.5 (a) 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).

(b) Approval of a City Council Policy on the City Council obligation to disclose material facts.

CEQA: Not a Project. (City Manager's Office/City Attorney's Office)
[Continued from 4/4/06 – Item 3.5(b)]

Action: This item was deferred to April 25, 2006.

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Direction to Staff to initiate the nomination of a portion of the University Strong Neighborhoods Initiative Area for designation as a City Landmark Historic District, nominating a portion of the University Strong Neighborhoods Initiative Area generally bounded by E. San Salvador Street, the east side of South Eighth Street at Margaret Street, Interstate 280, and the west side of South Fifth Street, together with properties on Carrie Street and along East Reed and William Streets between South Fourth and Fifth Streets for designation as a City Landmark Historic District and direction to the Department of Planning, Building and Code Enforcement to initiate the required process and proceedings to establish the City Landmark Historic District. CEQA: Not a Project. (Vice Mayor)
(Rules Committee referral 4/5/06)
(This item was renumbered from Item 2.4)

4.3 (Cont'd)

Documents Filed: (1) Memoranda from Vice Mayor Chavez, dated March 14, 2006, recommending Staff bring forward for Council consideration, a resolution nominating a portion of the University Strong Neighborhoods Initiative (SNI) Area for designation as a City Landmark Historic District and directing Department of Planning, Building and Code Enforcement to initiate the required process and proceedings; and (2) Supplemental memorandum from Acting Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 13, 2006, summarizing the results of a follow-up meeting held by University Neighborhoods Coalition (UNC), recommending the University SNI Area be designated Reed City Landmark Historic District, and recommending Council direct Staff to initiate the process and proceedings to establish the City Landmark Historic District.

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, and unanimously carried, Council approved the direction to Staff to initiate the nomination of a portion of the University Strong Neighborhoods Initiative Area for designation as a City Landmark Historic District, and to initiate the required process and proceedings to establish the City Landmark Historic District. (11-0).

4.4 Direction to Staff to initiate a General Plan amendment to change the land use designation from Light Industrial to Medium Low Density Residential on Towers Land north of Aborn Avenue and to initiate a rezoning of properties on Towers Lane north of Aborn Avenue from R-1-2 Zoning District to R-1-8 Zoning District. (Nguyen) (This item was renumbered from Item 2.5).

Documents Filed: Memorandum from Councilmember Nguyen, dated March 30, 2006, recommending Council direct Staff to initiate a General Plan amendment to change the land use designation from Light Industrial to Medium Low Density Residential (8 dwelling unit/acre) on Towers Lane north of Aborn Avenue and to initiate a rezoning of properties on Towers Land north of Aborn Avenue from R-1-2 Zoning District to R-1-8 Zoning District.

Public Comment: Mayor Gonzales opened the Public Hearing. Manuel Alvarez, resident of Towers Lane, spoke in support of the proposed changes to the General Plan. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Chavez, Council approved the direction to Staff to initiate the General Plan amendment on Towers Lane from Light Industrial to Medium Low Density Residential. (11-0).

4.5 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, et al and 4/11/06 – Item 4.4)

Action: This item was deferred to April 25, 2006.

NEIGHBORHOOD SERVICES

5.2 Approval of actions, related to the County Island Annexation Process, to:

(a) Allocate unspent funds ($9.089 Million) to projects that meet the nexus requirement in each Council District. These allocations will be incorporated into the 2006-2007 Proposed Capital Budget. (Attachment A)

(b) Base the set-aside of administrative fees on actual and projected needs.

(c) Establish a reserve in the amount of $500,000 as an administrative set-aside in order to offset possible future revenue fluctuations as part of the FY 2006-07 Parks Capital Budget Process.

(d) Submit, as part of the FY 2006-2007 Parks Capital Budget process, recommendations for the re-allocation of excess administrative set-aside ($3.2 Million). These funds are recommended to be distributed back to the Council Districts based on the percentage of all fees collected since 1995-96 through 2004-05.

(e) Adoption o f the following appropriation ordinance amendments in the Park Trust Fund:

(1) Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services 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 the Department of Parks, Recreation and Neighborhood Services 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.

(Item continued on next page)

5.2 Approval of actions, related to the County Island Annexation Process, to: (Cont'd)

(f) Submit, as part of the FY 2006-2007 Proposed Parks Capital Budget, recommended allocations in the amount of $406,000, from funds that were not allocated within the five year window, to project(s) that benefit all City residents.

(g) 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.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/ Finance/City Manager's Office)
(Deferred from 3/21/06 – Item 5.2)

Action: This item was deferred to May 2, 2006, to be heard in the evening.

TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee – April 3, 2006
Council Member Campos, Chair

Documents Filed: The Building Better Transportation Committee Report, dated April 3, 2006.

(a) Expansion and Improvement of Transit and Transportation Services – No report.

(b) Traffic Relief/Safe Streets

(1) Update on School Traffic Safety Program. Attachment: Memorandum from Department of Transportation Director James Helmer and Chief of Police Robert Davis, dated March 24, 2006, transmitting a report on School Traffic Safety Programs.

The Committee accepted the report.

(c) Supporting Smart Growth – No report

(d) Regional Relationships/Funding/Policy

(1) Update on City Transportation Funding Needs and Potential City Transportation Bond Measure. Attachment: Memorandum from Department of Transportation Director James Helmer, dated March 24, 2006, recommending acceptance of report and staff direction to initiate in 2006-2007 a Master Plan on City Transportation Conditions and Funding Needs.

The Committee accepted the report, and directed Staff to verify if the one-time cost of rehabilitation and capital improvements includes street improvements.

6.1 Report of the Building Better Transportation Committee – April 3, 2006 (Cont'd) Council Member Campos, Chair

(e) Oral Petitions – None.

(f) Adjournment – The Committee adjourned at 2:33 p.m.

Action: The Building Better Transportation Committee report and actions of April 3, 2006 were accepted. (11-0)

6.2 Approval of a continuation agreement and first amendment to the Scheduled Airline Operating Agreement and License between the City of San José and Skywest Airlines, Inc., to extend the agreement from May 31, 2003 through November 30, 2007, and to amend the agreement to include provisions regarding compliance with the City's Airport Curfew Ordinance, with continuing annual revenue to the City of approximately $360,000. CEQA: Resolution No. 67380, PP 03-02-065. (Airport) (Deferred from 4/11/06 – Item 6.3)

Documents Filed: (1) Memorandum from Director of Aviation William Sherry, dated April 5, 2006, recommending approval of the continuation agreement and first amendment to the Scheduled Airline Operating Agreement and License between the City of San José and Skywest Airlines, Inc., and (2) Supplemental memorandum from Director of Aviation William Sherry, dated April 7, 2006, providing additional information about lease provisions regarding compliance with the Airport Curfew Ordinance and staff discussions with Skywest on terms of proposed Mutual Agreement Regarding Curfew Compliance.

Action: This item was dropped from the agenda.

OPEN FORUM

(1) Bill Chew discussed his candidacy for District 3.
(2) George Fokos discussed the upcoming Presidential visit to San José.
(3) Robert Apgar shared personal observations about the Garden City Card Room.
(4) Mark Trout stated religious viewpoints.
(5) Edna Elkins expressed concerns about the maintenance of sidewalks.

RECESS/RECONVENE

The City Council recessed at 2:50 p.m. and reconvened at 7.05 p.m., in Council Chambers, City Hall, for the Evening Session.

Present:	Council Members -	Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.
Absent:	Council Members -	None.

RECESS/RECONVENE (Cont'd)

The City Clerk Lee Price, read the requests for continuances of applications and other actions as recommended. Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the below noted continuances were granted, with Item 11.6 deferred to May 2, 2006, at the request of Council Member Campos. (11-0).

1.4 Presentation of a commendation to the Evergreen Visioning Project Task Force for their exemplary dedication and invaluable contributions to the San José economy. (Cortese/Mayor)
HEARD IN THE EVENING

Action: This item was deferred to May 16, 2006.

1.5 Presentation of a commendation to the Almaden Valley Women's Club for their exemplary dedication and invaluable contributions to the San José community. (Pyle/Mayor)
HEARD IN THE EVENING

Action: Mayor Gonzales and Council Member Nancy Pyle presented a commendation to the Almaden Valley Women's Club for exemplary dedication and invaluable contributions to the San José community.

1.6 Presentation of a commendation to Judge Len Edwards for his dedication to helping children and families in San José. (Mayor/Campos/Williams)
HEARD IN THE EVENING

Action: Mayor Gonzales, Council Member Campos , and Council Member Williams presented a commendation to Judge Len Edwards for his dedication to helping children and families in San José.

1.7 Presentation of commendations to Ginny Pyle and the Eden Neighborhood Association for collecting over 2500 pounds of fresh fruit and donating the neighborhood grown produce to local charities. (LeZotte)
HEARD IN THE EVENING

Action: Council Member LeZotte joined Mayor Gonzales to present a commendation to Ginny Pyle and the Eden Neighborhood Association for collecting over 2500 pounds of fresh fruit and donating the neighborhood grown produce to local charities.

1.9 Presentation of donation checks by Capitol Honda to five San José School Districts as part of the "United Auto for Kids" public school donation program. (Mayor) (Rules Committee referral 4/12/06)
HEARD IN THE EVENING

Action: Mayor Gonzales presented donation checks from Capitol Honda to five San José School Districts as part of the "United Auto for Kids" public school donation program.

1.10 Presentation of a commendation in honor of the "Month of the Young Child Outstanding Contributor Awards". (Chirco)
(Orders of the Day)
HEARD IN THE EVENING

Action: Council Member Chirco joined Mayor Gonzales to present a commendation in honor of the "Month of the Young Child Outstanding Contributor Awards" to Leslie Shelton, Lisa Geo, Audrey Munoz, Gina Fee, Yadira Gomez, Irma Quinka, and Sue Campbell.

1.13 Presentation of a commendation to the Digitally Abled Producers Program for their demonstrated leadership in promoting volunteerism, civic engagement and their commitment to serve their community on this occasion of "National Youth Service Day" and "National Volunteer Week". (Yeager)
(Orders of the Day)
HEARD IN THE EVENING

Action: Mayor Gonzales and Council Member Yeager presented a commendation to Anita McFarland and Warren Haig of the Digitally Abled Producers Program for their demonstrated leadership in promoting volunteerism, civic engagement and their commitment to serve their community on this occasion of "National Youth Service Day" and "National Volunteer Week".

3.4 Approval of the following actions related to the Sunshine Reform Task Force: Approval of recommended framework for the formation of a Sunshine Reforms Task Force to review proposals forwarded by the City Council at its March 21, 2006 meeting, as well as any additional proposals that the Task Force deems worthy of consideration, and make recommendations to the City Council regarding their adoption and implementation. (City Manager's Office)
HEARD IN THE EVENING

Documents Filed: (1) Memorandum from Interim City Manager Les White, dated April 5, 2006, transmitting recommended framework for the formation of the Sunshine Reforms Task Force per direction of Council at its March 21, 2006 meeting, as well as any additional proposals that the Task Force deems worthy of consideration, and make recommendations to the City Council regarding their adoption and implementation; (2) Memorandum from Council Member Campos, dated April 17, 2006, recommending City Council approve the framework for Sunshine Reform Task Force with the following changes: (a) Direct Staff to re-design the Sunshine Reform Task Force composition in way that ensures the membership reflects the cultural diversity of San José; (b) replace technology seat on Task Force with an additional seat for a member of a San José Board and Commission; technology expert should be a staff or consultant position; and (c) replace one of the two business interest seats on the Task Force with seat for one of San José's Community Based Organization/Non Profit partners; and (3) Memorandum from Mayor Gonzales, dated April 17, 2006, recommending Council approve staff recommendations for structure and selection process with the following changes: (a) that the Mayor's appointment of a former mayor be dropped; (b) the Mayor, as a member of

3.4 (Cont'd)

Documents Filed: (Cont'd)

the City Council, shall participate in submitting names to the City Clerk in the categories where Council Members are to make nominations; and (c) that all members of this Sunshine Task Force must be San José registered voters.

Public Education & Community Outreach Manager Tom Manheim presented an overview presentation of three sections that leads to recommendations approval from original recommendations of the Sunshine Reform Task Force.

Discussion: Mayor Gonzales referenced his memorandum of April 17, 2006, asking that the recommendation in the City Manager's memorandum for the Mayor to appoint a former mayor to the seat reserved for this position, which he requested be dropped.

Extensive Council discussion ensued.

Public Comments:

James Chadwick, San José Mercury News, expressed support.
Ed Rast, UNSCC, spoke in support of the task force.
William Garbett expressed the importance of having San José voters represented.
George Fokos spoke in opposition.

Motion: Council Member Chavez, seconded by Council Member Pyle, moved approval of the framework recommended in the City Manager's memorandum dated April 5, 2006, amended to include ten additional recommendations which she presented to the Council.

Considerable Council discussion ensued.

Assistant City Manager Mark Linder requested Council include a provision allowing for the Academic position to be recruited from outside as well as inside the City of San Jose. Vice Mayor Chavez accepted the friendly amendment. Council Member Pyle approved.

Council Member LeZotte made another request for a friendly amendment that an individual have only one chance to be selected, regardless of more than one nomination. The amendment was accepted by the motion maker and second.

Council Member Chavez added to the motion three methods to encourage the Task Force to work with the community on issues the community considers important (as outlined in the "action" below), and Council Member Pyle accepted the amendment.

Action: On a call for the question, the motion carried, the Staff recommendation dated April 5, 2006, was approved, with the amendments added by Council, as follows: (1) The goals listed in the memo for reforms should be a framework for the Task Force's workplan to which they can add or remove items; (2) Include within the workplan, a clear

3.4 (Cont'd)

identification of "what is the problem"; (3) Include in the workplan a mechanism for enforcement; (4) Acknowledge that "actively working on a campaign" means "paid staff"; (5) Members of the Task Force shall be residents, but not be required to be registered to vote; (6) The Task Force should be comprised of 15 members; (7) Eliminate the technical member of the task force and direct staff to bring in a consultant to advise on technical issues; (8) Add a representative from a Community-Based organization; (9) The Task Force should have the option of seeking legal expertise, if needed; (10) Replace the former mayor seat with a neighborhood leader; (11) The academic member does not have to be a resident; (12) Council members should be prepared to provide the City Clerk with alternative nominees, if there are duplicates in the names provided; (13) Encourage the task force to work with the community on issues that the community feels are important by complying with the Brown Act communicating to a wide distribution; (14) Building a workplan that invites people to testify on issues, and (15) Using the Blue Ribbon Task Force model to invite public participation. (11-0).

3.6 Approval of direction to the San José Elections Commission to:

(a) Take public testimony, seek expert input, and explore the creation of a fully public-funded Voter-owned Campaign Ordinance for San José that would take effect in time to apply to the municipal primary elections in June 2008.

(b) Provide the Council by August 2006 with an outline of specific recommendations to be included in a Voter-Owned Campaign Ordinance if the Commission recommends that such an ordinance is desirable, or with a report and rationale it if does not recommend such an ordinance.

(c) Return to the Council with a specific budget request if the Commission determines that it needs additional resources to accomplish this task on schedule.

(Mayor) (Rules Committee referral 4/5/06)
(This item was renumbered from Item 2.3)
HEARD IN THE EVENING

Documents Filed: Memorandum from Mayor Gonzales, dated March 23, 2006, recommending Council take the specified action as detailed therein.

Mayor Gonzales summarized his memorandum and recommendations. Council questions followed.

Tom Mertens, Chair of the San José Elections Commission, responded to an inquiry from Council Member Campos about the Commission's current workload. Chair Mertens expressed some concern about the proposed timeline but indicated a willingness to take up with the Commission the issue. He noted the Commission could come up with a Work Plan and timeline, and report back to Council.

Council Member Campos emphasized the need to gain public input on the concept by a socio-economic diverse group of citizens.

Mayor's Budget and Policy Director Joe Guerra, responded to additional questions.

Public Comments:

Paul Turner (Greenlining Institute); Alicia Lanier, (Santa Clara County Democratic Club); Brian Carr; Rob Means; Aurelia Sanchez; Craig Dunkerley (California Clean Money Campaign); Aurelia Sanchez, and Ed Rast spoke in support of considering the proposed concept in San José.

Daniel McCall spoke off topic. William Garbett expressed opposition, stating San José already subsidizes candidates by paying all costs for printing candidate statements in the Voters' Sample Ballots.

Motion: Council Member Chavez moved approval of Mayor Gonzales' memorandum dated March 23, 2006, with amendments pertaining to the San José Elections Commission timelines, an inclusive strategy, procedures used by other cities; and projected staffing needs. Council Member Campos seconded the motion.

Council Member Yeager suggested the motion include review of the need to expand the commission, considering sub-committee work, and consider any appropriate restrictions pertaining to financing negative campaigns.

Council Member Campos suggested that all research data should be shared with the San José Elections Commission.

Action: On a call for the question, the motion carried unanimously, Mayor Gonzales' memorandum dated March 23, 2006, was approved, with the following additions. (1) Direction to the Elections Commission to report back in May to Council with a timeline and a more inclusive process; (2) Direction to the Elections Commission to exam how other cities/regents have put Voter-Owned Campaigns to a vote; (3) Staff directed to report back to Council as to what staffing needs are necessary; (4) Elections Commission requested to review possibilities for expanding the Commission for this purpose and/or consider sub-committee work. The Commission was also asked to review any stipulations that would prevent negative campaigning by those who use public funds for their campaigns; (5) Staff and Council Members agreed to share all research with the Elections Commission. (11-0).

GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

Mayor Gonzales stated motions made by the City Council during tonight's meeting, regarding amendments to the General Plan, are tentative, and will be confirmed at the end of the General Plan portion, provided there are no requests for reconsideration of any of the tentative votes made this evening.

Documents Filed: Proof of publication of Notice of Public Hearings on the San José 2020 General Plan on April 18, 2006, dated February 21, 2006, submitted by the City Clerk.

10.1 Tentative approval of General Plan Consent Calendar items.

(a) Tentative approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Medium High Density Residential (12-25 DU/AC) to High Density Residential (25-50 DU/AC) on a 0.69-acre site located on the south side of Balbach Street approximately 150 feet easterly of Almaden Avenue (150-180 Balbach Street). (Greg Gray, Owner; Anthony Ho/Patrick Sargent, Applicant). CEQA: Mitigated Negative Declaration. SNI: Market/Almaden. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval to change the existing General Plan Land Use/Transportation Diagram designation from Medium High Density Residential (12-25 DU/AC) to High Density Residential (25-50 DU/AC) on a 0.69-acre site located on the south side of Balbach Street approximately 150 feet easterly of Almaden Avenue (150-180 Balbach Street). (7-0-0).
GP05-03-03 – District 3

(b) Tentative approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Medium High Density Residential (12-25 DU/AC) to High Density Residential (25-50 DU/AC) on a 0.81-acre site located on the south side of Balbach Street approximately 300 feet easterly of Almaden Avenue (110-120 Balbach Street). (Des Nolan, Owner/Applicant). CEQA: Mitigated Negative Declaration. SNI: Market/Almaden. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval to change the existing General Plan Land Use/Transportation Diagram designation from Medium High Density Residential (12-25 DU/AC) to High Density Residential (25-50 DU/AC) on a 0.81-acre site located on the south side of Balbach Street approximately 300 feet easterly of Almaden Avenue (110-120 Balbach Street). (7-0-0).
GP05-03-04 – District 3

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Joseph Horwedel, dated March 29, 2006, forwarding the Planning Commission's recommendation for approval of the proposed General Plan Amendment request for subject properties; and (2) Planning Staff Report on Project GP05-03-03 and GP05-03-04, dated March 14, 2006, recommending High Density Residential (25-50 DU/AC) on two sites totaling 1.5 acres.

Public Comment: Vice Mayor Chavez opened the Public Hearing. There was no discussion from the floor. Vice Mayor Chavez closed the Public Hearing.

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, and unanimously carried, the recommendations of the Staff and the Planning Commission for approval of the General Plan Amendment request to change the Land Use/Transportation Diagram designation to High Density Residential (25-50 DU/AC) on a 0.69 acre parcel (150-180 Balbach Street) and on a 0.81 acre parcel (110-120 Balbach Street), totaling 1.5 acres, was tentatively approved. (10-0-1). Absent: Gonzales.

END OF CONSENT CALENDAR

10.2 Amendments and Conforming Rezoning for property at 155 Ciro Avenue:
The items being considered are for property located on the west side of Ciro Avenue, approximately 400 feet south of Forest Avenue (155 Ciro Avenue) on a 0.24-acre site. (Barry Swenson Builder, Applicant/Juan & Maritza Santos, Owner).

(a) Tentative approval of General Plan Text Amendment request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Office on a 0.24-acre site. SNI: None. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval to change the existing General Plan Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Office on a 0.24-acre site are located on the west side of Ciro Avenue, approximately 400 feet south of Forest Avenue (155 Ciro Avenue). (7-0-0).
GP05-06-05 – District 6

(b) Conforming Prezoning from County to CO Commercial Zoning District to allow commercial uses on a 0.24 gross-acre site.
C05-121 – District 6
CEQA: Mitigated Negative Declaration.

THIS ITEM HEARD CONCURRENTLY WITH ITEM 11.7

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Joseph Horwedel, dated March 23, 2006, forwarding the Planning Commission's recommendation for approval of the proposed General Plan Text Amendment and Conforming Prezoning request for subject property; and (2) Planning Staff Report on Project GP05-06-05 and C05-121, dated March 15, 2006, recommending Office General Plan Land Use/Transportation diagram designation and CO Commercial Office Zoning District.

Public Comment: Vice Mayor Chavez opened the Public Hearing. Erik Schoennauer, representing the applicant, provided an overview of the proposed amendment. Vice Mayor Chavez closed the Public Hearing.

Action: Upon motion by Council Member Yeager, seconded by Council Member Campos, the recommendation of the Staff and Planning Commission for a General Plan Text Amendment request to change the Land Use/Transportation Diagram designation to Office on a 0.24-acre site, was tentatively approved; the Conforming Prezoning to CO Commercial Zoning District on the 0.24 gross-acre site, was approved and Ordinance No. 27696, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the West Side of Ciro Avenue Approximately 400 Feet South of Forest Avenue (155 Ciro Avenue) to CO Commercial Office Zoning District", was passed for publication. (10-0-1). Absent: Gonzales.

10.3 Amendments for property located at State Route 85 and South De Anza Boulevard: Tentative approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from General Commercial to Medium High Density Residential (12-25 DU/AC) on an approximately 3.2-acre site located at 20585 Cleo Avenue, 1181 South De Anza Boulevard, et. al. at the northwesterly quadrant of State Route 85 and South De Anza Boulevard, and southerly of Kentwood Avenue. (Groner Family Trust, Owners, Braddock and Logan Group/Sue Dillon, Applicant). Council District: 1. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval to change the Land Use/Transportation Diagram designation from General Commercial to Medium High Density Residential (12-25 DU/AC) on an approximately 3.2-acre site located at 20585 Cleo Avenue, 1181 South De Anza Boulevard, et al. at the northwesterly quadrant of State Route 85 and South De Anza Boulevard, and southerly of Kentwood Avenue. (5-0-1; Platten absent).
GP05-01-01 – District 1

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 4, 2006, transmitting the Staff Report recommending approval of the General Plan Amendment request for subject property; and (2) Memorandum from Secretary of the Planning Commission Joseph Horwedel, dated April 14, 2006, forwarding the Planning Commission's recommendation for approval of the proposed General Plan Amendment request for subject property.

Public Comment: Mayor Gonzales opened the Public Hearing. Jim Sullivan, the Applicant, provided an overview of the proposed General Plan amendment. Mayor Gonzales closed the Public Hearing.

Motion: Council Member LeZotte moved approval of the recommended General Plan amendment, with the understanding that the section being used with the remaining parcel is not included; Council Member Chavez seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the recommendation of the Staff and Planning Commission for approval of the General Plan Amendment request to change the Land Use/Transportation Diagram designation to Medium High Density Residential (12-25 DU/AC) on the approximately 3.2-acre site was tentatively approved. (11-0).

10.4 The projects being considered are located on an approximately 74-acre site in an area generally bounded by Monterey Highway to the northeast, State Route 85 to the south, and Manassas Road to the northwest, otherwise known as the iStar property. (Jerry DeYoung, Applicant/ iStar San Jose, LLC, owner). CEQA: Resolution to be adopted.

(a) Tentative approval of General Plan Amendment Request to change the Land Use/Transportation Diagram designation from Industrial Park to Mixed Use with No Underlying Designation.
GP03-02-05 - District 2

(b) Tentative approval of General Plan Amendment Request to update the General Plan Mixed Use Inventory Appendix F, and a Text Amendment to increase the building height limit from 50 feet to 120 feet.
GPT03-02-05 – District 2

(c) Approval of the Edenvale Area Development Policy Modification to provide for inclusion of the site and development of up to one million square feet of industrial uses and up to 460,000 square feet of commercial uses on the iStar site.

(d) Rezoning from the A (PD) Planned Development Zoning District to A (PD) Planned Development Zoning District to allow a commercial and mixed-use project consisting of up to one million square feet of industrial park land uses and up to 450,000 square feet of commercial land uses on an approximately 74-acre site.
PDC04-100 – District 2
HEARD CONCURRENTLY WITH ITEM 11.9

Documents Filed: Proof of publication of Notice of Public Hearing, executed April 9, 2006, submitted by the City Clerk.

Action: This item was continued to Spring 2006 General Plan Hearing.

10.5 Amendment for property located north of Hedding Street between Seventh and Tenth Streets:
Tentative denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to High Density Residential (25-50 DU/AC) on an approximately 23-acre site located on several parcels on the westerly side of North 10th Street, and the easterly side of North 7th Street between Commercial and Hedding Streets approximately 900 feet northwesterly of Hedding Street (922 and 1080 North 7th Street and 999 and 1045 North 10th Street) the west side of Tenth Street, approximately 900 feet northwesterly of Hedding Street (1080 N Seventh Street) (Goodwill Industries, Owner/Ray R. Bold, Applicant). CEQA: Incomplete.
GP05-03-05 – District 3

Action: This item was dropped, to be re-noticed.

10.6 Hearing on Negative Declaration protest and amendment for property located at 2080 Oakland Road:

(a) Uphold the Mitigated Negative Declaration for a General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Heavy Industrial with Mixed Industrial Overlay on a 2.66-acre site located on the east side of Oakland Road, approximately 400 feet North of Rock Avenue (2080 Oakland Road).

(b) Tentative denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Heavy Industrial to Heavy Industrial with Mixed Industrial Overlay on a 2.66-acre site. (Cilker William H Et Al, Owner/Bible Way Christian Center, Applicant).

CEQA: Incomplete; Requires action on Item 10.6(a).

Action: The Mitigated Negative Declaration protest was dropped from the agenda, and the General Plan Amendment Request was continued to Spring 2006 General Plan Hearing.

10.7 Amendment and Prezoning of the property located at 680 and 700 North Capitol Avenue, for property located on an approximately two-acre site located on the northeast corner of North Capitol Avenue and Grandview Drive (680 & 700 N. Capitol Avenue). (Capitol Grandview, LLC., Owners; John Moniz, Pinn Brothers Construction, Inc., Applicant).

(a) Tentative approval of General Plan Amendment request to change the Land Use/Transportation Diagram from Medium Low Density Residential (8 Dwelling Units/Acre) to Transit Corridor Residential (20+ Dwelling Units/Acre) Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval to change the existing General Plan Land Use/Transportation Diagram from Medium Low Density Residential (8 Dwelling Units/Acre) to Transit Corridor Residential (20+ Dwelling Units/Acre) on an approximately two-acre site located on the northeast corner of North Capitol Avenue and Grandview Drive (680 & 700 N. Capitol Avenue). (7-0-0).
GP05-04-05 – District 4

(b) Planned Development Prezoning request from unincorporated County to A (PD) Planned Development Zoning District to allow up to 46 multi-family attached residences on an approximately two gross-acre site.
PDC05-064 –District 4

CEQA: Mitigated Negative Declaration.
THIS ITEM HEARD CONCURRENTLY WITH ITEM 11.11

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Joseph Horwedel, dated March 28, 2006, forwarding the Planning Commission's recommendation for approval of the proposed General Plan Amendment request for subject property; and (2) Planning Staff Report dated March 17, 2006 recommending approval of Project File #GP05-04-05 and PDC05-064. (3) Proof of publication of Notice of Public Hearing, dated February 24, 2006, submitted by the City Clerk.

10.7 (Cont'd)

Public Comment: Mayor Gonzales opened the Public Hearing. Al Garza, representing the home owners, spoke in opposition to the General Plan amendment request. Mayor Gonzales closed the Public Hearing.

Action: The recommendation of the Staff and Planning Commission for approval of the General Plan Amendment request to change the Land Use/Transportation Diagram to Transit Corridor Residential (20+ Dwelling Units/Acre) on an approximately two-acre site was tentatively approval, and the Planned Development Prezoning request to A(PD) Planning Development Zoning District was approved, and Ordinance No. 27697, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the Northeast Corner of North Capitol Avenue and Grandview Drive (680 and 700 North Capitol Avenue) to A(PD) Planned Development Zoning District", was passed for publication. (11-0).

10.8 Amendment for property located at 1040 Rock Avenue:
Tentative approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Medium Density Residential (8-16 DU/AC) on an approximately 4.08-acre site located on the south side of Rock Avenue, approximately 800 feet westerly of Oakland Avenue (1040 Rock Avenue) (Aldo Scoffone, Owner/Lucy Armentrout, Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission action deemed a negative recommendation pursuant to SJMC 18.08.100.
GP05-04-06 – District 4

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Joseph Horwedel, dated March 27, 2006, reporting the Planning Commission's 3-2-1-1 vote for denial of the General Plan Amendment request is deemed a negative recommendation because a quorum was not reached; and (2) Planning Staff Report, dated March 17, 2006, recommending approval of Medium Density Residential (8-16 DU/AC).

Public Comment: Mayor Gonzales opened the Public Hearing. Eric Schoennauer, representing the applicant, spoke to the merits of the amendment. John McMann, Super Micro Computer, Inc. spoke in opposition because of public safety concerns. Mayor Gonzales closed the Public Hearing.

Council discussion followed.

Action: Upon motion by Council Member Reed, seconded by Council Member Williams, and carried, the General Plan Amendment to Medium Density Residential (8-16 DU/AC) on the approximately 4.08-acre site was tentatively approved. (10-1). Noes: LeZotte.

10.9 Tentative denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to Medium High Density Residential (12-25 DU/AC) on an approximately 2.82-acre site located on the west side of Oakland Road, approximately 550 feet north of Rock Avenue (2135 Oakland Road) (Dollinger Rock Assoc., Owner/Lucy Armentrout, Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends denial. Planning Commission action deemed a negative recommendation pursuant to SJMC 18.08.100.
GP05-04-07 – District 4

Public Comment: Mayor Gonzales opened the Public Hearing. Eric Schoennauer, representing the applicant, spoke to the merits of the amendment. Mayor Gonzales closed the Public Hearing.

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Joseph Horwedel, dated March 27, 2006, reporting the Planning Commission's 3-2-1-1 vote for denial of the General Plan Amendment request is deemed a negative recommendation because a quorum was not reached, and (2) Planning Staff Report, dated March 17, 2006, recommending No Change to the existing designation of Industrial Park with Mixed Industrial Overlay.

Action: Upon motion by Council Member Reed, seconded by Council Chavez, and carried, General Plan Amendment request was tentatively denied. (10-1). Noes: LeZotte.

10.10 Amendment for property located at 1633 Oakland Road:
Tentative denial of General Plan Amendment request to change the Land Use designation on an approximately 27.4-acre site from Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 DU/AC) on 21.4 acres located on the southwest corner of East Brokaw Road and Old Oakland Road (1633 Old Oakland Road) (Markovits and Fox Inc., Owner/ Kendall Riding and The Riding Group, Applicant). Council District: 4. CEQA: Incomplete.
GP06-04-02 – District 4

Action: This item was dropped, to be re-noticed

10.11 Tentative approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Administrative Office/Research and Development to Medium-Low Density Residential (8 DU/AC) on a 15.85-acre site located on the west side of Guadalupe Mines Road, approximately 1,800 feet southerly of Camden Avenue (6411 Guadalupe Mines Road) (SDC 941 and Brokaw Interests, Owner/Tim Steele and Sobrato Development, Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval to change the Land Use/Transportation Diagram designation from Administrative Office/Research and Development to Medium-Low Density Residential (8 DU/AC) on a 15.85-acre site located on the west side of Guadalupe Mines Road, approximately 1,800 feet southerly of Camden Avenue (6411 Guadalupe Mines Road). (5-0-1; Platten absent). GP05-10-01 - District 10.

Documents Filed: (1) Memoranda from Acting Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 23, 2006 and April 7, 2006, transmitting Planning Staff Report, recommending Medium Low Density Residential (8 DU/AC); and (2) Memorandum from Secretary of the Planning Commission Joseph Horwedel, dated April 14, 2006, forwarding the Planning Commission's recommendation for approval of General Plan Amendment request.

Public Comment: Mayor Gonzales opened the Public Hearing. There was no discussion from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Cortese, and unanimously carried, the General Plan Amendment request to change the Land Use/Transportation Diagram designation to Medium-Low Density Residential (8 DU/AC) on a 15.85-acre site was tentatively approved. (11-0).

10.12 Adoption of a resolution approving all General Plan amendment actions taken on April 18, 2006 and adoption of any related CEQA resolutions. (Planning, Building and Code Enforcement)

Action: Upon motion by Council Member Chavez, seconded by Council Member Campis, and unanimously carried, Resolution No. 73133, entitled: "A Resolution of the Council of the City of San José Specifying the Council's Determinations on Proposed Amendments to the San José 2020 General Plan Pursuant to Title 18 of the San José Municipal Code". (11-0).

PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

(a) Consideration of ordinances rezoning the real property located on the South side of Fleming Avenue, approximately 1,032 feet southeast of Alum Rock Avenue (139 and 145 Fleming Avenue) (San José The Lord's Baptist Church and Parmer Inderjit S. and Kathy L., Owners), as follows:

(1) PDC05-061 – Planned Development Prezoning from Unincorporated County to the A (PD) Planned Development Zoning District to allow single-family detached residences on a 2.66 gross acres site.

(2) C05-079 – Staff Initiated Prezoning from County to R-1-5 Residence Zoning District to allow single-family detached residential use on a 0.22 gross acres site.

Director of Planning, Building and Code Enforcement recommended approval. Planning Commission recommended deferral for 90 days (7-0-0). CEQA: Mitigated Negative Declaration.
PDC05-061/C05-079 - District 5
[Continued from 12/13/05 – Item 11.1(a) and 1/24/06 – Item 11.1(a)]

Documents Filed: Proof of publication of Notice of Public Hearing, dated April 9, 2006, submitted by the City Clerk.

Action: This item was continued to May 16, 2006.

(b) Consideration of an ordinance rezoning the real property located at the southwest corner of Fortran Drive and Nortech Parkway (4435 Fortran Drive) (Carlyle Fortran Trust, A Real Estate Inv. Tru., Owner) from A(PD) Planned Development Zoning District to IP Industrial Park Zoning District on a 4.76 gross acre site. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-006 - District 4

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report on Project File No. C06-006, dated March 30, 2006, recommending approval on the rezoning of subject property. (2) Proof of publication of Notice of Public Hearing, dated March 6, 2006 submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the Public Hearing. There was no discussion from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Reed, seconded by Council Member Williams, and unanimously carried, the rezoning of said property was approved, and Ordinance No. 27698, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwesterly Corner of Nortech Parkway and Fortran Drive (4435 Fortran Drive) to IP Industrial Park Zoning District", was passed for publication. (11-0).

11.1 Public Hearings on Consent Calendar (Cont'd).

(c) Consideration of an ordinance rezoning the real property located at the easterly terminus of Quinn Avenue, approximately 340 feet northerly of Tully Road (690 Quinn Avenue) (Juan Figueroa Trust, Owner) from A(PD) Planned Development Zoning District to LI Light Industrial Zoning District to allow industrial uses on a 1.49 gross acre site. SNI: Tully/Senter. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-008 - District 7

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report on Project File No. C06-008, dated March 29, 2006, recommending approval on the rezoning of subject property; and (2) Proof of publication of Notice of Public Hearing, executed on April 7, 2006 submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the Public Hearing. There was no discussion from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, the rezoning of said property was approved, and Ordinance No. 27699, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East End of Quinn Avenue, Approximately 340 Feet Northerly of Tully Road (690 Quinn Avenue) to LI Light Industrial Zoning District", was passed for publication. (11-0).

(d) Consideration of an ordinance rezoning the real property located on the northwest corner of Hemlock Avenue and Clover Avenue (2865 Hemlock Avenue) (Wu Windsor and Su Jenny, Owner/Developer), from R-2 Two-Family Residence District to CN Commercial Neighborhood Zoning District to allow conversion of a residential duplex to commercial office use on a 0.47 gross acre site. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-017 - District 6

Public Comment: Mayor Gonzales opened the Public Hearing. Jim Toal spoke in opposition. Mayor Gonzales closed the Public Hearing.

Documents Filed: (1) Planning Staff report dated March 30, 2006 recommending approval of subject property rezoning; (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 17, 2006, transmitting additional exhibits for subject property; and (3) Proof of publication of Notice of Public Hearing, dated April 7, 2006 submitted by the City Clerk.

11.1 Public Hearings on Consent Calendar (Cont'd)

(d) (Cont'd)

Action: Upon motion by Council Member Yeager, seconded by Council Member Williams, and carried, the rezoning of subject property was approved, and Ordinance No. 27700, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Hemlock Avenue and Clover Avenue (2865 Hemlock Avenue) to CN Commercial Neighborhood Zoning District", was passed for publication. (10-1). Noes: Chavez

END OF CONSENT CALENDAR

11.2 Rezoning of the real property located on the east side of San Felipe Road, approximately 700 feet northerly of Silver Creek Road.

(a) Uphold the Mitigated Negative Declaration adopted for a Planned Development Rezoning 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.

(b) Consideration of an ordinance rezoning the real property 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 (Pan Clair General Partnership, Owner; Dal Properties LLC, Developer). CEQA: Incomplete; Requires action on 11.2(a).

PDC05-035 - District 8
(Continued from 3/21/06 – Item 11.5 and 4/4/06 – Item 11.4)

Documents Filed: Proof of publication of Notice of Public Hearing, dated April 9, 2006, submitted by the City Clerk.

Action: This item was continued to May 2, 2006.

11.3 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. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (4-0-2). CEQA: Exempt.
PP06-012 - Citywide
(Continued from 3/7/06 – Item 11.12, et al., and 4/4/06 – Item 11.5)

11.3 (Cont'd)

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Joseph Horwedel, dated April 13, 2006, transmitting the Planning Commission recommendation to adopt the proposed ordinance; and (2) Proofs of publication of Notice of Public Hearing, executed on February 10, 2006 and April 9, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the Public Hearing. There was no discussion from the floor. Mayor Gonzales closed the Public Hearing.

Brief Council discussion ensued.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, and carried, the ordinance amending Title 20 of the San José Municipal Code was approved, and Ordinance No. 27701, entitled: "An Ordinance of the City of San José Amending Section 20.40.100 of Chapter 20.40, Sections 20.50.100 and 20.50.100 of Chapter 20.50, and Section 20.70.100 of Chapter 20.70, All of Title 20 of the San José Municipal Code, to Set Forth Regulations Pertaining to Office Uses in Commercial, Industrial and Downtown Zoning Districts, Amending Chapter 20.175 of Title 20 of the San José Municipal Code to Add New Sections Pertaining to Non-Residential Condominium Sizes, Amending Chapter 20.200 of Title 20 of the San José Municipal Code to Add Definitions of Various Office Uses, and Making Other Related Clarifying Changes", was passed for publication. (10-1). Noes: Cortese.

11.4 Consideration of an ordinance rezoning the real property located at the southeast corner of Southwest Expressway and Fruitdale Avenue (John T. Vidovich, et al., Owner) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to increase the number of attached residential units from 500 to 502, to eliminate 250,000 square feet of commercial (office and retail) to reduce the maximum amount of retail from 30,000 square feet to 29,225 square feet and to modify the development standards for a 12.7 acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0). CEQA: Resolution No. 69886 and Addendum thereto.
PDC05-095 - District 6
(Continued from 4/4/06 – Item 11.7)

Action: This item was continued to May 2, 2006.

11.5 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
(Continued from 4/4/06 – Item 11.7)

11.5 (Cont'd)

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report on Project File No. PDC05-086, dated February 28, 2006, recommending approval on the rezoning of subject property; (2) Memorandum from Secretary of the Planning Commission Joseph Horwedel, dated March 9, 2006, transmitting the Planning Commission recommendation to approve the proposed rezoning of subject property as proposed by staff; (3) Memorandum from Acting Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 16, 2006, transmitting a supplemental memorandum recommending approval of proposed rezoning in consideration of revised Draft Development Standards; (4) Memorandum from Acting Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 18, 2006, transmitting additional exhibits for subject property; (5) Correspondence from Hobart L. and Roberta M. Curtis, dated March 9, 2006, expressing concern for the decision of the Planning Commission at their March 8, 2006 meeting on this rezoning issue and providing signatures of similarly concerned neighbors; and (6) Proof of publication of Notice of Public Hearing, dated January 6, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the Public Hearing. Bonnie Mamburg, representing the applicant, spoke in favor of the rezoning request. Yih Chuang, Kathy Lin, Edward Lin, and Kim Dam objected to the rezoning with concerns about traffic, density and income-potability. Kerri Hamilton spoke in support, stating that it was a good quality design and that the applicant had conducted good public outreach. The applicant's representative, in rebuttal, responded to questions from Council Member Reed. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, the rezoning was approved, and Ordinance No. 27702, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of Hostetter Road and Sierra Creek Way (495 Stone Creek Drive) to A(PD) Planned Development Zoning District", was passed for publication. (11-0).

11.6 Consideration of an ordinance rezoning the real property located on the west side of South 34th Street, across from Los Suenos Avenue (321 S. 34th 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 recommended approval with the following conditions: (1) the private drive should be commonly-owned parcel maintained by a Homeowner's Association, and (2) the interior side setback of the proposed lots should be increased to five feet on one side of the units and Planning Commission recommended approval (7-0-0).
PDC05-098 - District 5
(Continued from 4/4/06 – Item 11.8)

Action: This item was continued to May 2, 2006.

11.7 Consideration of an ordinance prezoning the real property located on the west side of Ciro Avenue (155 Ciro Ave), approximately 400 feet south of Forest Avenue from Unincorporated County to CO Commercial Office Zoning District to allow commercial/office uses on a 0.24 gross acre site. SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval. (7-0-0)
C05-121 - District 6
THIS ITEM HEARD CONCURRENTLY WITH GENERAL PLAN ITEM 10.2

Documents Filed: See Item 10.2 for documents filed for this item.

Action: See Item 10.2 for Council action taken and title of Ordinance No. 27696, passed for publication. (11-0).

11.8 Consideration of an ordinance rezoning the real property located 900 feet northerly of Story Road, approximately 2,300 feet westerly of McLaughlin Avenue (765 Story Road) (The American G.I Forum, Owner) from A(PD) Planned Development to A(PD) Planned Development to allow entertainment uses at an existing assembly hall (G.I. Forum) on a 3.4 gross acre site. CEQA: Addendum to a Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval.
PDC00-030 - District 7

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 6, 2006, transmitting Staff recommendation for approval of proposed rezoning of subject property; and (2) Proof of publication of Notice of Public Hearing, executed on April 7, 2006 submitted by the City Clerk.

Council questions to Staff ensued.

Public Comment: Mayor Gonzales opened the Public Hearing. Applicant Abel A. Cota and Sid Flores, American GI Forum, spoke in support of the requested rezoning. John Nguyen (Kennedy Neighborhood Association), Robert Sandoval (West Evergreen Neighborhood Association), and Carlos De Silva spoke in opposition to the rezoning, citing concerns regarding traffic congestion in the adjacent neighborhood and crime associated with a night club. Mayor Gonzales closed the Public Hearing.

Considerable Council discussion continued.

Action: Council Member Nguyen moved, seconded by Council Member LeZotte, to deny the request. The requested rezoning of the subject real property to allow entertainment uses at an existing assembly hall was denied. (6-5). Noes: Campos, Chavez, Cortese, Reed, Yeager.

11.9 Consideration of an ordinance rezoning the real property from A (PD) Planned Development Zoning District to A (PD) Planned Development Zoning District to allow a commercial and mixed-use project consisting of up to one million square feet of industrial park land uses and up to 450,000 square feet of commercial land uses on an approximately 74-acre site. CEQA: Resolution to be adopted.
PDC04-100 – District 2
THIS ITEM HEARD CONCURRENTLY WITH GENERAL PLAN ITEM 10.4(c)

Documents Filed: See Item 10.4 for documents filed.

Action: This item was continued to Spring 2006 General Plan Hearing.

11.10 Consideration of an ordinance rezoning the real property located at the northwest corner of Lucretia Avenue and Phelan Avenue (1785 Lucretia Avenue) (Phi Truong & Hung Trieu, Owners; Myha Trieu, Lucretia Development LLC, Developer) from R-1-8 Residential District to A(PD) Planned Development Zoning District to allow up to 23 single family detached residences on a 1.8 gross acre site. SNI: Tully/Senter. CEQA: Mitigated Negative Declaration.
PDC05-063 – District 7

Action: This item was continued to May 2, 2006.

11.11 Consideration of an ordinance rezoning the real property located on the northeast corner of North Capitol Avenue and Grandview Drive (680 and 700 North Capitol Avenue) (Joel Traina, Owner) from unincorporated County to A(PD) Planned Development Zoning District to allow up to 46 multi family attached residences on a 2.0 gross acre site. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval. (6-0-1)
PDC05-064 - District 4
THIS ITEM HEARD CONCURRENTLY WITH GENERAL PLAN ITEM 10.7(b)

Documents Filed: See Item 10.7(b) for documents filed.

Action: See Item 10.7(b) for Council action taken and title of Ordinance No. 27697, passed for publication. (11-0).

OPEN FORUM

(1) Bill Chew discussed his candidacy for District 3.
(2) William Garbett discussed issues of the City of San Jose not abiding by the Brown Act.
(3) Mark Trout expressed personal religious views.
(4) Robert Apgar shared personal observations.

ADJOURNMENT

The Council of the City of San José adjourned at 12:06 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, M.M.C, CITY CLERK

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