

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, FEBRUARY 27, 2007

The Council of the City of San José convened in regular session at 9:30 a.m. in the City Hall Wing, Conference Room W133, at City Hall.

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Districts 4 and 6.

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) McGuire & Hester v. City of San José, et al. (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) International Association of Firefighters, Local 230.

By unanimous consent, Council recessed from the Closed Session at 10:30 a.m. and reconvened at 1:30 p.m. in the Council Chambers

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Districts 4 and 6.

INVOCATION

Oak Grove High School Students honoring “Black History Month.” (District 2)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.8 heard before Item 3.15 and Item 3.2 deferred to 3/6/07. (9-0.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the members of the Municipal Water System CIP Team in recognition of their collective efforts in supporting the infrastructure that delivers high-quality water service to residents in Alviso, North San José, Evergreen, Edenvale and Coyote Valley. (Environmental Services)
(Rules in-Lieu referral 2/21/07)**

Action: Mayor Reed and Director of Environmental Services John Stufflebean recognized and commended the members of the Municipal Water System CIP Team for their collective efforts in supporting the infrastructure that delivers high quality water service to residents of San José.

CONSENT CALENDAR

Upon motion by Council Member Constant, seconded by Vice Mayor Cortese, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0.)

- 2.1 (a) Current Minutes**
- (1) Regular minutes of January 9, 2007**
 - (2) Regular minutes of January 23, 2007**
 - (3) Regular minutes of January 30, 2007**
- (b) Past Minutes**
- (1) Regular minutes of August 8, 2006**
 - (2) San José Finance Authority minutes of August 8, 2006**
 - (3) Regular minutes of August 15, 2006**
 - (4) Regular minutes of August 22, 2006**
 - (5) Regular minutes of August 29, 2006**
 - (6) Joint City Council/Redevelopment Agency Board/County Board of Supervisors minutes of August 31, 2006**

2.1 (Cont'd.)

Documents Filed: (1) Regular Minutes dated January 9, January 23 and January 30, 2007. (2) August 8, August 15, August 15, August 22, and August 29, 2006. (3) San José Finance Authority Minutes dated August 8, 2006. (4) Joint City Council/Redevelopment Agency Board/County Board of Supervisors Minutes dated August 31, 2006.

Action: The minutes were approved. (9-0.)

- 2.2 (a) ORD. NO. 27978 – Amending Chapter 13.28 and Chapter 13.32 of Title 13 of the San José Municipal Code to add new sections to require any person who trims, prunes, cuts, or removes or causes the same to be done to a street tree to show the permit for this activity upon request, and to require any person who removes or causes to be removed a tree from a private parcel to show the permit upon request and to post the permit.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27978 executed on February 20, 2007, submitted by the City Clerk.

Action: [Ordinance No. 27978](#) was adopted. (9-0.)

- 2.3 Acceptance of the Office of the City Auditor’s Sales Tax Audit Results for the Quarter Ended September 30, 2006. (City Auditor)
(Rules Committee referral 2/14/07)**

Documents Filed: The Sales Tax Audit Results for the Quarter Ended September 30, 2006, from the Office of the City Auditor.

Action: The report was accepted. (9-0.)

- 2.4 That the City Council extend the term of current San José Elections Commission Chair Tom Mertens for a period of up to one year to enable the Commission to complete its work. (City Clerk)
(Rules Committee referral 2/14/07)**

Documents Filed: Memorandum from City Clerk Lee Price, dated February 7, 2007, recommending extension of the term.

Action: The term extension was approved. (9-0.)

- 2.5 Acceptance of the 3Q2006 and 4Q2006 Arena Ticket Distribution Program Reports as submitted by the San José Arena Authority. CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: Memorandum from Deputy City Manager Dan McFadden, dated February 7, 2007, recommending acceptance of the reports.

Action: The reports were accepted. (9-0.)

2.6 Adoption of a resolution authorizing the City Manager to certify and submit the 2007-2008 City of San José Urban Runoff Management Work Plans to the San Francisco Bay Regional Water Quality Control Board in conformance with the City's Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System (NPDES) permit requirements. CEQA: Exempt, File No. PP06-013. (Environmental Services/General Services/Parks, Recreation and Neighborhood Services/Planning, Building and Code Enforcement/Public Works/Transportation)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, Director of General Services Peter Jensen, Director of Parks, Recreation and Neighborhood Services Albert Balagso, Director of Planning, Building and Code Enforcement Joe Horwedel, Director of Public Works Katy Allen and Director of Transportation James Helmer, dated February 7, 2007, recommending adoption of a resolution. (2) City of San José Urban Runoff Management Plan FY 07-08 Work Plans, dated February 27, 2007.

Action: [Resolution No. 73656](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Certify and Submit the 2007-2008 City of San José Urban Runoff Management Work Plan to the Regional Water Quality Control Board in Conformance with the City's Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System Permit Requirements", was adopted. (9-0.)

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

- (a) **Execute an agreement with ACS Government Systems for the purchase, installation, implementation, training, and first year of software maintenance and support of an integrated Records Management System for the Fire Department, for a total amount not to exceed \$263,652, including sales tax.**
- (b) **Execute four one-year options for ongoing maintenance and support subject to appropriation of funds.**
- (c) **Execute change orders not to exceed a 10% contingency amount of \$26,365 to cover unanticipated changes or requirements related to the design, implementation, maintenance and support of the system over a five-year period.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated February 7, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73657](#), entitled: "A Resolution of the Council of the City of San José and Execute an Agreement with ACS Government Systems for an Integrated Records Management System for the Fire Department", was adopted. (9-0.)

2.8 Reject all proposals that were received in response to RFP # 06-07-07, Traffic Signal Controller Firmware, and authorize the Director of Finance to re-solicit proposals. CEQA: Not a Project. (Finance)

2.8 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated February 7, 2007, recommending rejection of all proposals and to re-solicit.

Director of Transportation James Helmer provided an explanation for the rejection of all bids.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the rejection of all proposals and the authorization to re-solicit proposals was approved. (9-0.)

2.9 Adoption of a resolution authorizing the Director of Housing to:

- (a) **Apply for and accept Workforce Housing Reward Program grants in the estimated amount of \$834,750 from the California Department of Housing and Community Development; and**
- (b) **Negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the Workforce Housing Reward Program.**

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated February 7, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73658](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to (A) Apply and Accept Workhouse Housing Reward Program Grants in the Estimated Amount of \$834,750.00 from the California Department of Housing and Community Development, and (B) Negotiate and Execute the Grant Agreements and any Amendments or other Documents Necessary to Implement the Programs Funded by the Workforce Housing Reward Program", was adopted. (9-0.)

2.10 Approval of travel by Council Member Liccardo to Seattle, WA on February 23, 2007 to observe a tunnel boring operation. Sound Transit is currently in the midst of a project involving tunnel work in a crowded urban environment, similar to District 3. Source of Funds: Valley Transportation Authority. (Liccardo)

Documents Filed: Memorandum from Council Member Liccardo, dated February 7, 2007, requesting approval of travel.

Action: The travel request was approved. (9-0.)

2.11 Approve the appointments of Charles Jones, Alphonse F. Arretz, Francine Davis, Mariel Caballero, Alex Fraser, and Elizabeth Bich-Lien Vo to the Project Diversity Screening Committee. (Mayor) (Rules Committee referral 2/14/07)

2.11 (Cont'd.)

Documents Filed: Memorandum from Mayor Reed, dated February 7, 2007, recommending approval of the appointments.

Action: The appointments to the Project Diversity Screening Committee were approved. (9-0.)

2.12 Approval of Mayor Reed's travel to Washington, D.C. on February 14, 2007 through February 16, 2007 to meet with several state delegations, committee chairs, and federal agencies for the purpose of discussing the legislative priorities for the City of San José. Source of Funds: Mayor's Office. (Mayor) (Rules Committee referral 1/31/07)

Documents Filed: Memorandum from Mayor Reed, dated January 23, 2007, requesting approval of travel.

Action: The travel request was approved. (9-0.)

2.13 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Happy Hollow Corporation to provide promotion and support for Happy Hollow Park and Zoo through events, promotions, and fundraising activities from March 1, 2007 through June 30, 2011 with the option to extend the agreement through June 30, 2013. CEQA: Not a Project. SNI: Tully/Senter. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated February 7, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73659](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment with Happy Hollow Corporation to Provide Promotion and Support for Happy Hollow Park and Zoo for the Period of March 1, 2007 through June 30, 2011", was adopted. (9-0.)

2.14 Adoption of a resolution authorizing the City Manager to negotiate and execute a joint use agreement with the Santa Clara Valley Water District and the County of Santa Clara for joint use of lands along Upper Penitencia Creek, from Alum Rock Park to Coyote Creek, for flood management, water conservation, open space, and recreational purposes. CEQA: Not a Project. Council District 4. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated February 7, 2007, recommending authorizing the City Manager to negotiate and execute a joint use agreement with the Santa Clara Valley Water District and the County of Santa Clara.

2.14 (Cont'd.)

Action: [Resolution No. 73660](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Santa Clara Valley Water District and the County of Santa Clara for Joint Use of Lands Along Upper Penitencia Creek, for Flood Management, Water Conservation, Open Space and Recreational Uses", was adopted. (9-0.)

- 2.15 (a) Approval of a Turnkey Parkland Agreement with ROEM Development Corporation, for Planned Development Permit No. PD06-062, associated with Tentative Map No. PT05-113. CEQA: Resolution No. 72877. Council District 7. (Parks, Recreation and Neighborhood Services)**
- (b) As recommended by the Parks and Recreation Commission, name a new park at the intersection of Goble Lane and Monterey Highway as "Montecito Vista Park". (City Clerk)**

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated February 7, 2007, recommending approval of the agreement. (2) Memorandum from City Clerk Lee Price, dated February 6, 2007, recommending the name for the park as Montecito Vista Park.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Turnkey Parkland Agreement with ROEM Development Corporation was approved and the name of the new park was referred to the Parks and Recreation Commission. (9-0.)

- 2.16 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with San Jose Arena Management for the operation and maintenance of the Carousel, Children's Play Areas and Restrooms in the Arena Green area of the Guadalupe River Park and Gardens for a term of two years from July 1, 2006 to June 30, 2008, and authorizing the City Manager to exercise an option for a one additional year extension, at a cost to the City not to exceed \$136,022 per year. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated February 7, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73661](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment with San José Arena Management for the Operation and Maintenance of the Carousel, Children's Play Areas and Restrooms in the Area Green Area in an Amount Not To Exceed \$136,022 Per Year", was adopted. (9-0.)

- 2.17 Approval of an ordinance establishing a 104-foot-long by 27-foot-wide piece of City-owned property on the southern portion of Selma Olinder Park to accommodate the development of an emergency vehicle access route and a pedestrian/bicycle cross connection between the future Five Wounds Trail to the Coyote Creek Trail as a public way. CEQA: Negative Declaration, File No. PP07-013. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services, Public Works)**

Action: Deferred to March 13, 2007, as recommended by Administration.

- 2.18 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with CSDC System, Incorporated for technical consulting services for the Integrated Development Tracking System programming in the amount of \$159,000 for the term March 1, 2007 to March 31, 2008. CEQA: Not a Project. (Planning, Building and Code Enforcement)**

Action: Deferred to March 20, 2007, as recommended by Administration.

- 2.19 Adoption of a resolution initiating proceedings and setting March 13, 2007 at 1:30 p.m. for Council consideration on the reorganization of the territory designated as McKee No. 133 which involves the annexation to the City of San José of 0.81 acres more or less of land located at the southwest corner of McKee Road and Delia Street, and generally bounded by City of San José Annexations McKee Nos. 7,2, and 49, and the detachment of the same from the appropriate special districts including County Lighting County Service, Central Fire Protection, County Sanitation District 2-3 and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459, File No. C06-073. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 7, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73662](#), entitled: “A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as McKee No. 133 Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted.

- 2.20 Adoption of a resolution authorizing the City Attorney to execute the second amendment to the legal services agreement with Nossaman, Guthner, Knox & Elliott, LLP to increase the compensation by \$500,000 for a total not to exceed \$1,000,000 and a term of thru June 30, 2008. CEQA: Not a Project. (Police and Fire Department Retirement Board)**

Documents Filed: Memorandum from Federated City Employees’ Retirement System Secretary Edward Overton, dated February 7, 2007, recommending adoption of a resolution.

2.20 (Cont'd.)

Action: [Resolution No. 73663](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Execute the Second Amendment to the Agreement with Nossaman Guthner Knox & Elliott LLP for Legal Services in Connection with the Real Estate Portfolio of the Police and Fire Department Retirement Boards", was adopted. (9-0.)

2.21 Approval of a two-year lease with Legacy Partners I SJ North Second, LLC for 3,109 rentable square feet of office space for the Department of Transportation's Signal Central Traffic Management Center, on the 10th floor of 4 North Second Street in San José, at a cost of \$5,440.75 per month for the two year term of the lease. CEQA: Not a Project. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 7, 2007, recommending approval of the lease.

Action: The lease was approved. (9-0.)

2.22 Request for an excused absence for Council Member Constant from the Executive Session on March 12, 2007 due to authorized City Business: CALAPRS General Assembly in Monterey, California on March 12, 2007. (Constant) (Rules in-Lieu referral 2/21/07)

Documents Filed: Memorandum from Council Member Constant, dated February 15, 2007, requesting excused absence from the Executive Session.

Action: The excused absence was approved. (9-0.)

2.23 Request for excused absences for Council Member Campos:

- (a) **Excused absence from the Council Priority Setting Planning Retreat on February 20, 2007 due to illness.**
- (b) **Excused absence from the Regular City Council Meeting of March 13, 2007 and the Council Executive Session due to authorized City Business: National League of Cities Legislative Conference in Washington D.C. from March 9 – March 14, 2007.**

(Campos)

(Rules in-Lieu referral 2/21/07)

Documents Filed: Memoranda from Council Member Campos, dated February 13, 2007 and February 20, 2007, requesting excused absences.

Action: The excused absences were approved. (9-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – January 31, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to February 6, 2007 Agenda
 - (2) Review February 13, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (2) Federal
- (d) Meeting Schedules
 - (1) Cancel the Regular Rules Meeting and approve a Rules in-Lieu on February 21, 2007. (City Manager's Office)
 - (2) Approve (4) Council Orientation Sessions.
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Discussion on Council Expenditure and Reimbursement Policy. (City Attorney/City Clerk)
Deferred from January 24, 2007
 - (2) Discussion of Employee Values Project. (Human Resources)
 - (3) Accept (1) Staff's report on Reed Reforms; (2) Provide clarification to staff on Reed Reforms #1, #5, #8 and #26; (3) Provide direction regarding exceptions outlined in the memo for Reed Reform #5; and (4) Request this report be considered by the City Council on February 6, 2007. (City Manager/City Attorney/City Clerk)
 - (4) Approve the following proposed Committee Work Plans:
 - (a) Transportation and Environment Committee
 - (b) Community and Economic Development Committee
 - (c) Public Safety, Finance and Strategic Support Committee
 - (d) Neighborhood Services & Education Committee
 - (e) Rules & Open Government Committee
(Mayor/Williams/Pyle/Nguyen/Chirco)
 - (5) Approve Mayor's Travel to Washington, D.C. on February 14-16, 2007.
(Mayor)
- (h) Public Records Act Requests
 - (1) Review of Significant Public Records Act Requests
 - (2) Receive Public Concerns
- (i) Review of Council Policy Updates per Sunshine Reforms
- (j) Open Forum
- (k) Adjournment

Action: Deferred to March 6, 2007 per Mayor Reed.

3.2 Report of the Rules and Open Government Committee – February 7, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to February 13, 2007 Agenda
 - (2) Review February 20, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Overview of the City's Legislative Process for Determination of Official City positions on State and Federal Issues. (City Manager's Office)
 - (2) Federal
- (d) Meeting Schedules
 - (1) Set a Hearing for Spring 2007 for General Plan Amendments and Initiating the Re-establishment of a fall Annual Review of the General Plan. (Planning, Building and Code Enforcement)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Appointment to the Project Diversity Screening Committee. (Vice Mayor Cortese)
Deferred to February 14, 2007.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Recommend acceptance to the Redevelopment Agency's Horizon Report for the first half of 2007. (Redevelopment Agency)
 - (2) Addition to the City Auditor's Work Plan to Review Resources for Families and Communities' Financial information. (City Attorney)
- (h) Public Records Act Requests
 - (1) Review of Significant Public Records Act Requests
 - (2) Receive Public Concerns
- (i) Review of Council Policy Updates per Sunshine Reforms
- (j) Open Forum
- (k) Adjournment

Action: Deferred to March 6, 2007 per Mayor Reed.

3.3 Report of the Public Safety, Finance & Strategic Support Committee - February 15, 2007

Council Member Nguyen, Chair

Documents Filed: The Public Safety, Finance & Strategic Support Committee Report dated February 15, 2007.

- (a) Consent Calendar
 - (1) Legislative Update. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated February 2, 2007, recommending acceptance of report.

The Committee accepted the Consent Calendar.

**3.3 Report of the Public Safety, Finance & Strategic Support Committee – February 15, 2007
Council Member Nguyen, Chair (Cont'd.)**

- (a) Consent Calendar (Cont'd.)
 - (2) Update of Council Directives - Deferred.
- (b) Review of Performance Measures Specified in the Annual Budget - Deferred.
- (c) Public Safety Quarterly Operating Report (Police and Fire)
 - (1) Police Department. Attachment: Memorandum from Police Chief Robert Davis, dated February 6, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (2) Fire Department. Attachment: Memorandum from Interim Fire Chief Darryl Von Raesfeld, dated February 6, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (d) Update on Implementation of GASB 45 (Government Accounting Standards Board Statement Related to Unfunded Post Employment Health and Dental Benefits). Attachment: Memorandum from Director of Finance Scott Johnson and Federated City Employees' Retirement System Secretary Edward Overton, dated February 7, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (e) FY 2006-2007 Second Quarter Investment Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated February 1, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (f) FY 2006-2007 Second Quarter Debt Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated February 1, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (g) Oral Petitions - No Oral Petitions.

- (h) Adjournment - Meeting adjourned at 3:30 p.m.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Liccardo, and carried unanimously, the Public Safety, Finance and Strategic Support Committee Report and actions of February 15, 2007 were accepted. (9-0.)

3.4 Approval of an ordinance amending Chapters 4.04, 4.12, and repealing Chapters 4.06 and 4.13 of Title 4 of the San José Municipal Code to increase administrative contract authority for purchase of supplies, materials, equipment to \$1,000,000 and services to \$250,000, to enact a protest procedure for purchases, and to amend, reorganize and consolidate various purchasing procedures. CEQA: Not a Project. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated February 14, 2007, recommending approval of the ordinance.

City Attorney Richard Doyle summarized the Procurement Reform Ordinance and responded to Council questions.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Williams and carried unanimously, [Ordinance No. 27980](#), entitled: "An Ordinance of the City of San José Amending Chapters 4.04, 4.12 and Repealing Chapters 4.06 and 4.13 of Title 4 of the San José Municipal Code to Increase Administrative Contract Authority for Purchase of Supplies, Materials, Equipment to \$1,000,000 and Services to \$250,000, To Enact a Protest Procedure for Purchases and to Amend, Reorganize and Consolidate Various Purchasing Procedures", was passed for publication, with Staff directed to provide Council a copy of all bid rejection notices. (9-0.)

**3.8 (a) Approval of the draft ideal candidate profile.
(b) Approval of the implementation of the remaining phases of the search.
(Mayor)**

Documents Filed: Memorandum from Mayor Reed, dated February 14, 2007, recommending approval of the draft ideal candidate profile and implementation of the remaining phases of the work.

Director of Human Resources Mark Danaj summarized the City Manager Executive Search and responded to Council questions. A brief discussion followed.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, the draft ideal candidate profile and implementation of the remaining phases of the work were approved, as amended: (1) Add to Education and Experience, "or major organizations". (2) Change the word "active" (in the community) to "engaged" in the candidate profile, Page 7. (3) Enhance the description of San José to reflect the City's leadership in technology, culture and tourism. (4) Consider including a video link or other visuals on the website about how to apply for the position that demonstrates all that is going on in San José. (5) Ensure that all web links listed are current/accurate. (9-0.)

3.5 Acceptance of the report on the City's Nepotism Policy. CEQA: Not a Project. (City Manager's Office)

Documents Filed: Memorandum from City Manager Les White, dated February 8, 2007, recommending acceptance of the report.

3.5 (Cont'd.)

City Manager Les White provided background on the City's Nepotism Policy. Extensive Council discussion followed.

Extensive discussion followed. Council Member Williams voiced objections to the policy because it would limit promotional opportunities.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried, the report was accepted, with a request to the City Manager to modify the policy in order to give the City Manager more discretion/flexibility; including direction to the City Attorney to provide an information memorandum about how to apply the policy to the Council. (8-1. Noes: Williams.)

3.6 (a) Adoption of a resolution:

- (1) **Authorizing the Director of Finance to negotiate and execute an agreement with Public Resources Advisory Group ("PRAG") to serve as the City General Financial Advisor for the term of February 27, 2007 to June 30, 2010 in an amount not to exceed \$150,000, with two (2) one-year options for extension through June 30, 2012, subject to annual appropriation of funds for fiscal year 2007-08 through fiscal year 2011-12.**
- (2) **Authorizing the Director of Finance to negotiate and execute an agreement with Fullerton & Friar, Inc. and PRAG to jointly serve as the Airport General Financial Advisor to the Norman Y. Mineta San José International Airport ("Airport") for the term of February 27, 2007 to June 30, 2010 in an amount not to exceed \$500,000, with two (2) one-year options for extension through June 30, 2012, subject to annual appropriation of funds for fiscal year 2007-08 through fiscal year 2011-12.**
- (3) **Authorizing the Director of Finance to negotiate and execute an agreement with Ross Financial to serve as an Affordable Housing Program General Financial Advisor for the term of February 27, 2007 to June 30, 2010 in an amount not to exceed \$165,000, with two (2) one-year options for extension through June 30, 2012, subject to annual appropriation of funds for fiscal year 2007-08 through fiscal year 2011-12.**
- (4) **Authorizing the Director of Finance to negotiate and execute an agreement with CSG Advisors to serve as an Affordable Housing Program General Financial Advisor for the term of February 27, 2007 to June 30, 2010 in an amount not to exceed \$165,000, with two (2) one-year options for extension through June 30, 2012, subject to annual appropriation of funds for fiscal year 2007-08 through fiscal year 2011-12.**

(Item continued on the next page)

- 3.6 (b) **Acceptance of this report identifying the pools of eligible financial advisors for general obligation and lease revenue financings, affordable housing financings, and land-secured financings to be used for the selection of financial advisors for a variety of bond financing projects for the period from February 27, 2007 to June 30, 2012.**

CEQA: Resolution Nos. 67380 and 71451, File No. PP07-022. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated February 7, 2007, recommending adoption of a resolution and acceptance of the report.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, [Resolution No. 73664](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute Financial Advisory Services Agreements", was adopted and the report was accepted. (9-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 **Approval of the following actions to continue funding for the completion of the Evergreen*East Hills Vision Strategy, Evergreen Area Development Policy update, and related documents:**

- (a) **Approval of a continuation to the funding agreement with Yerba Buena Opco, Inc. to extend the funding agreement from January 1, 2007 through June 30, 2007 for the work associated with completing the Evergreen*East Hills Vision Strategy which encompasses an update to the Evergreen Area Development Policy and related documents; and**
- (b) **Adoption of a resolution authorizing the Director of Planning, Building and Code Enforcement to negotiate and execute minor amendments to the funding agreement to account for increases in funding received from Yerba Buena Opco, Inc. and minor schedule or task changes that remain consistent with the information contained in and the goals identified in the memorandum.**

CEQA: Exempt, PP03-10-349. Council Districts 5, 7, and 8. SNI: West Evergreen, K.O.N.A and East Valley/680. (Planning, Building and Code Enforcement)
(Deferred from 1/30/07 – Item 4.2 and 2/6/07 – Item 4.4)

Action: Deferred to 3/6/07, as recommended by Administration.

- 4.3 **Approval to amend the Consolidated Plan to allow for adjustments to previously approved projects and the creation of new projects under the Community Development Block Grant (CDBG) program as follows:**

- (a) **Scott and Clifton: two-year extension to June 30, 2008, to allow for completion of a project to develop a 0.4-acre park at the corner of Scott Street and Clifton Avenue with no cost increase.**

(Item continued on the next page)

- 4.3 (b) **Alma Community Center: 18-month extension from December 31, 2006 to June 30, 2008 to complete parking improvements at the Alma Community Center located at 136 West Alma Avenue with no cost increase.**
- (c) **Japantown Streetscape: change in scope to allow for installation of 15 History Markers adjacent to seating elements with no cost increase.**
- (d) **11th and William Street Park Acquisition: de-obligation of \$650,000 project that could not go forward.**
- (e) **Therapeutic Wellness Study: de-obligation of \$100,030 because final cost of project was under-budget.**
- (f) **Resources for Families and Communities: de-obligation of \$93,158 as a result of closure of facility.**
- (g) **Kidango: de-obligation of \$193,287 due to cancellation of project.**
- (h) **Boys and Girls Club: acquisition and transfer of title of full service sports field, developed with a \$750,000 CDBG conditional grant.**
- (i) **Sarasota House: conversion of single-family home from use as community center back to residential use as a result of the cessation of operations by Resources for Families and Children.**

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated February 7, 2007, recommending approval of the amendments to the CDBG Program.

Director of Housing Leslye Krutko clarified that a recommendation included in the Staff report (but not referenced on the agenda) regarding a revolving loan fund administered by the Office of Economic Development will require additional noticing. She also explained the recommendation (h) relative to the Boys and Girls Club requires additional public outreach. She reported that both matters will come back to the Council in the near future.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, Items (a) through (g) and (i) of the Staff recommendation, were approved, with Item (h) dropped. (9-0.)

- 4.4 **Request to retain the appointed City Council Member to the Housing and Community Development Advisory Commission as a Council Liaison rather than as a nonvoting member. CEQA: Not a Project. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated February 7, 2007, recommending approval of the request as indicated above.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the appointed City Council Member to the Housing Community Development Advisory Commission to remain as a Council Liaison rather than as a nonvoting member, was approved. (9-0.)

4.5 Hold a public hearing and adoption of a resolution:

- (a) **Approving a Disposition and Development Agreement between the City of San José and InnVision The Way Home, or an affiliated entity, for the transfer of the City-owned underlying fee title to InnVision for the Julian Street Inn Homeless Shelter, located at the southeast corner of Montgomery and Julian Streets for the amount of \$860,000 in the form of a conditional loan secured by the fee; and**
- (b) **Converting a \$140,000 City loan that is secured by a leasehold interest on said property to be included in the \$860,000 conditional loan.**

CEQA: Exempt, File No. PP07-024. Council District 3. (Housing)

Documents Filed: (1) Memorandum from Director of Housing Leslye Krutko, dated February 7, 2007, recommending holding a public hearing and adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on February 12, and February 19, 2007, submitted by the City Clerk.

Public Comment: Christine Burroughs (InnVision) spoke in favor of the staff recommendation.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Cortese and carried unanimously, [Resolution No. 73665](#), entitled: “A Resolution of the Council of the City of San José (A) Approving a Disposition and Development Agreement Between the City of San José and InnVision the Way Home, or an Affiliated Entity, for the Transfer of the City Owned Underlying Fee Title to InnVision for the Julian Street Inn Homeless Shelter, Located at the Southeast Corner of Montgomery and Julian Streets for the Amount of \$860,000 in the Form of a Conditional Loan Secured by the Fee; (B) Including an Existing \$140,000.00 City Loan that is Secured by a Leasehold Interest on Said Property in the \$860,000 Conditional Loan to be Secured by the Fee Interest in the Property”, was adopted. (9-0.)

4.6 Adoption of a resolution in opposition to the proposal to convert Agnews Development Center to a state prison. (Mayor)

Documents Filed: (1) Memorandum from Mayor Reed, dated February 7, 2007, recommending adoption of a resolution in opposition. (2) Supplemental memorandum from Mayor Reed, dated February 16, 2007, recommending direction to the City Attorney to draft a resolution in opposition.

Action: Upon motion by Council Member Constant, seconded by Council Member Campos and carried unanimously, [Resolution No. 73666](#), entitled: “A Resolution of the Council of the City of San José to Oppose a Proposal to Convert the Agnews Development Center in North San José into a Prison Facility or Prison Medical Facility”, was adopted; Council requested copies of the fully-executed resolution. (9-0.)

- 4.7 (a) **Acceptance of the Coyote Valley Specific Plan Water Supply Evaluation as the draft master plan for supplying potable and non-potable water for the future development and build out of the Coyote Valley Specific Plan (CVSP).**
- (b) **Direction to staff to include the Water Supply Evaluation in the CVSP DEIR for appropriate environmental analysis and review. CEQA: Exempt, File No. PP07-025. Council District 2. (Planning, Building and Code Enforcement).**

Action: Deferred to March 13, 2007, as recommended by Administration.

- 4.8 **Adoption of a resolution on the reorganization/ annexation to the City of San José of territory designated as Evergreen No. 199 on an approximately 0.39 gross acre of land located on the East side of Ruby Avenue, across from Rio Bravo Drive, and adjacent to the City of San José annexations Evergreen Nos. 186 and 189, and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 8. (Planning, Building and Code Enforcement)**
(Initiated on 2/13/07 – Item 2.12)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 7, 2007, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 73667](#), entitled: “A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Evergreen No. 199, Subject to Liability for General Indebtedness to the City”, was adopted. (9-0.)

- 4.9 **Consideration of an ordinance rezoning the real property located on the terminus of Duckett Way, approximately 420 feet east of S. De Anza Boulevard from R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 19 new single family attached residential units and one single family residence on an 1.83 gross acre site (1566 Duckett Way) (P. Lenahan and M. Barshow, Owners; Barry Swenson Builders, Developer). CEQA: Mitigated Negative Declaration. The Director of Planning, Building and Code Enforcement and Planning Commission recommends to not adopt the rezoning ordinance (4-1-2).**
PDC06-062 - District 1
(Continued from 12/5/06 – Item 11.4, 12/12/06 – Item 11.7, 1/23/07 – Item 11.4 and 2/6/07 – Item 11.2)

Action: Deferred to 3/6/07, as recommended by Administration.

NOTE: Item 5.2 was heard last in the evening.

TRANSPORTATION & AVIATION SERVICES

- 6.2 Adoption of a resolution authorizing the City Manager to negotiate and execute a consultant agreement with Apex Strategies to develop a Transportation Maintenance Master Plan in an amount not to exceed \$155,000 and for a term through October 31, 2007. CEQA: Not a Project. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated February 7, 2007, recommending adoption of a resolution.

Director of Transportation James Helmer presented a brief summary of the proposed Transportation Maintenance Master Plan and responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, [Resolution No. 73668](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Consultant Agreement with Apex Strategies to Develop a Transportation Maintenance Master Plan in an Amount Not To Exceed \$155,000", was adopted. (8-0-1. Absent: Cortese.)

PUBLIC SAFETY SERVICES

- 8.1 Report on bids and award the purchase of 25 unmarked Public Safety vehicles to the low bidder, Maita Chevrolet, for a total amount not to exceed \$499,547 including taxes and fees and authorize the Director of Finance to:**
- (a) Execute the purchase order;**
 - (b) Amend the initial purchase order to purchase additional quantities of unmarked Public Safety vehicles on an as-required basis at the same unit subject to the appropriation of funding; and**
 - (c) Execute purchase orders to acquire additional quantities for two additional years subject to the appropriation of funds.**
- CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated February 7, 2007, recommending award of the purchase.

Action: Upon motion by Council Member Constant, seconded by Council Member Chirco and carried unanimously, the purchase of the 25 unmarked Public Safety vehicles to Maita Chevrolet, was approved. (8-0-1. Absent: Cortese.)

- 8.2 (a) **Approval of the 2006-08 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund.**
- (b) **Approval of the revised 2005-07 Spending Plan for the SLES Grant, reallocating funding from the previously established Project #2 Digital Storage Solution for \$185,617, Project #4 Case Management and Crime Tracking for \$153,000, and \$23,423 interest earned into the following established projects within the same grant:**
- (1) **Project #7, Computer Infrastructure - \$253,000**
 - (2) **Project #6, Electronic Citation Solution Expansion - \$50,000**
 - (3) **Project #8, BTS Infrastructure Enhancements - \$35,617**
 - (4) **Project #10 Digital Cameras - \$23,423**
- (c) **Adoption of the following 2006-2007 Appropriation Ordinance and Funding Sources Resolution amendments in the Supplemental Law Enforcement Services Fund (Fund 414):**
- (1) **Establish a SLES Grant 2006-08 appropriation for the Police Department in the amount of \$ 1,856,211;**
 - (2) **Increase SLES Grant 2005-2007 appropriation for the Police Department in the amount of \$ 23,423;**
 - (3) **Increase the Earned Revenue by \$ 1,856,211; and**
 - (4) **Decrease the Ending Fund Balance in the amount of \$ 23,423.**

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

Documents Filed: Memorandum from Police Chief Robert Davis and Acting Budget Director Jennifer Maguire, dated February 8, 2007, recommending approval of the staff recommendation as listed previously.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, the 2006-08 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund and the revised 2005-07 Spending Plan for the SLES Grant were approved and [Ordinance No. 27981](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Supplemental Law Enforcement Services (SLES) Fund for the SLES Grant 2005-2007 and the SLES Grant 2006-2008; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73669](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Supplemental Law Enforcement Services (SLES) Fund", were adopted. (9-0.)

- 8.3 **Acceptance of the report related to the impact of card room gambling on crime in the City of San José for the period July 1, 2005 to June 30, 2006. CEQA: Not a Project. (Police)**

Documents Filed: (1) Memorandum from Police Chief Robert Davis, dated February 7, 2007, recommending acceptance of the report. (2) Charts on the impact of crime relating to the Garden City card room activity, dated February 27, 2007, from Frederick Wyle, Trustee to the Garden City Club.

8.3 (Cont'd.)

Police Chief Robert Davis provided an update on the impact of Card Room Gambling on Crime in the City of San José.

Public Comment: Frederick Wyle, Trustee to the Garden City Club, submitted charts for the record on the impact of crime relating to Garden City card room activity.

Action: Upon motion by Council Member Constant, seconded by Council Member Campos and carried unanimously, the report of Card Room Gambling on Crime in the City of San José, was accepted. (9-0.)

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9856	Southeast Corner of New Jersey Avenue and Harris Avenue	9	The Cullen Group	5 Lots / 5 Units	SFD	Approve

OPEN FORUM

- (1) Robert Apgar voiced personal viewpoints.
- (2) Stephen Hazel voiced political viewpoints.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 4:38 p.m.

RECESS/RECONVENE

The City Council recessed at 4:38 p.m. from the afternoon Council Session and reconvened at 7:03 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Council Districts 4 & 6.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Vice Mayor Cortese, seconded by Council Member Williams, and carried unanimously, the below noted continuances and actions were taken as indicated. (9-0.)

STRATEGIC SUPPORT SERVICES

3.7 Approve and direct staff to implement the following Reed Reforms:

- (a) **Amend the municipal code to require elected officials to disclose all meetings previously held with a project's lobbyist and/or representative when the project is heard before the Council.**
- (b) **Amend the municipal code to require lobbyists to disclose to any city officials what their success fees are for a project during meetings to discuss the project. Also, require lobbyists to disclose success fees on their quarterly reports.**
- (c) **Direct staff to implement a policy for reviewing industrial conversion amendments once a year. The review will be held in October and November with hearings by the Planning Commission and City Council respectively. There will be a one-time exception this year in May for hearing of general plan amendments for industrial land conversions that were submitted prior to January 1, 2007; and schedule a study session on industrial conversion in March of this year and annually thereafter. At that review it is recommended that topics to be discussed include the history of conversions over the last 25 years, the inventory of industrial land, a staff initiated preliminary review of potential conversions and General Plan Amendments submitted before January 1, 2007. This discussion will enable the City Council to forward appropriate project sites to the May or Fall hearing.**

(Mayor)

(Rules Committee referral 1/24/07)

Documents Filed: (1) Memorandum from Mayor Reed, dated January 25, 2007, recommending approval and direction to Staff to implement the Reed Reforms. (2) Supplemental memorandum from Mayor Reed, dated February 27, 2007, transmitting additional information.

3.7 (Cont'd.)

Motion: Vice Mayor Cortese moved approval of the memoranda from Mayor Reed dated January 25, 2007 and February 27, 2007. Council Member Constant seconded the motion.

Extensive Council discussion followed.

Vice Mayor Cortese moved to amend his motion, recommending deferral of Item (2) of the memorandum from Mayor Reed, dated January 25, 2007, until the City Attorney reports out to the Rules & Open Government Committee. Council Member Constant accepted the amendment.

Action: On a call for the question, the motion carried unanimously, an amendment to the municipal code was approved; direction to Staff to implement a policy for reviewing industrial conversion amendments once per year, as revised at the request to require elected officials to disclose all meetings previously held with a project's lobbyist and/or representative when the project is heard before the Council was approved, as revised at the request of the Mayor: development projects submitted prior to January 1, 2007 will be at the March Planning Commission meeting and considered by the Council at an April hearing, and direction to Staff to implement a policy for reviewing industrial conversion amendments once a year. Item 3.7(b) was deferred, until the City Attorney reports back from the Rules and Open Government Committee. (9-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Campos, and carried unanimously, the Public Hearings on Consent Calendar was approved and the below listed actions were taken as indicated. (9-0.)

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the east side of Boynton Avenue, approximately 350 feet northerly of Williams Road (962 Boynton Ave) from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 4 single-family attached residences on a 0.26 gross acre site (Ettfagh Farajollah Et Al, Owner). SNI: Blackford. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (5-0-1). PDC06-087 – District 1**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 7, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-087, dated February 5, 2007, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated February 13, 2007, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notices of Public Hearings, executed on January 12, 2007, February 2, 2007 and February 10, 2007, submitted by the City Clerk.

11.1 (a) (Cont'd.)

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

Action: The public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27982](#) entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the East Side of Boynton Avenue, Approximately 350 Feet of Williams Road (962 Boynton Avenue) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0.)

- (b) **Consideration of an ordinance rezoning the real property located on the northeast side of Stockton Avenue, approximately 300 feet north of West Santa Clara Street from HI Heavy Industrial Zoning district to CG Commercial General Zoning District to allow commercial uses on an approximately 1.7 gross acre site (Hudson Daniel E Et Al, Owner; Moraga Rheem LLC Mr. Daniel Hudson, Developer). CEQA: Negative Declaration and Addendum thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C05-126 – District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-126, dated February 7, 2007, recommending approval on the subject property. (2) Proofs of Publications of Notices of Public Hearings, executed on January 12, 2007, and February 16, 2007, submitted by the City Clerk.

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

Action: The public hearing was closed, the recommendation of the Planning Director was approved, and [Ordinance No. 27983](#) entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Easterly Side of Stockton Avenue, Approximately 300 Feet North of West Santa Clara Street to CG Commercial General Zoning District”, was passed for publication. (9-0.)

- (c) **Consideration of an ordinance rezoning the real property located on the southwest corner of The Alameda and Taylor Street from R-1-8 Single-Family Residence and A(PD) Planned Development Zoning Districts to A(PD) Planned Development Zoning District to legalize an existing parking lot for commercial and medical office uses on a 0.893 gross acre site (1691 The Alameda) (Planned Parenthood Mar Monte Inc, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-0).**

PDC06-090 – District 6

11.1 (c) (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-090, dated January 11, 2007, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated February 5, 2007, transmitting the Planning Commission recommendation. (3) Proofs of Publications of Notices of Public Hearings, executed on January 5, 2007 and January 12, 2007, submitted by the City Clerk.

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

Action: The public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27984](#) entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of The Alameda and Taylor Street (1691 The Alameda) to A(PD) Planned Development Zoning District", was passed for publication. (9-0.)

- (d) **Consideration of an ordinance rezoning the real property located at 1151 Tully road from CP commercial Pedestrian to CN Commercial Neighborhood to allow a gas station and car wash use at an existing service station located on a 0.91 gross acre site (northwest corner of McLaughlin Avenue and Tully Road) (Chevron USA Inc., Owner). SNI: Tully/Senter. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C06-133 – District 7

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-133, dated February 7, 2007, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on February 16, 2007, submitted by the City Clerk.

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

Action: The public hearing was closed, the recommendation of the Planning Director was approved, and [Ordinance No. 27985](#) entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of The Alameda and Taylor Street (1691 The Alameda) to A(PD) Planned Development Zoning District", was passed for publication. (9-0.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of an ordinance rezoning the real property located on the east side of Market Street approximately 223 feet north of east San Carlos Street from CG(PD) Planned Development Zoning District to the DC Downtown Primary Commercial Zoning District to allow multiple dwelling residential, office and commercial uses on 0.53 gross acre site (Urban West Michael Kriozere, Owner/Developer). CEQA: Addendum to EIR. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C06-115 – District 3

[Continued from 1/23/07 – Item 11.1 (b)]

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-115, dated February 7, 2007, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on January 12, 2007, submitted by the City Clerk.

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

Action: Upon motion by Council Member Liccardo seconded by Council Member Nguyen and carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, and [Ordinance No. 27986](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Market Street Approximately 223 Feet North of West San Carlos Street to DC Downtown Primary Commercial Zoning District”, was passed for publication. (9-0.)

- 11.3 (a) Public Hearing and adoption of a resolution on the reorganization/annexation of territory designated as Penitencia No. 74 which involves the annexation to the City of San José of 3.3 gross acres of land consisting of 4 parcels located on the east side of Noble Lane, approximately 200 feet north of Noble Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Chase, Katheryn and Steven; Medeiros, José; Viswanathan, Tenkasis and Vij; Mancias, Paul; Owners). CEQA: Resolution No. 65459. Council District 4. (Planning, Building and Code Enforcement) (Initiated on 1/23/07 – Item 4.9(a))**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 7, 2007, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on February 27, 2007, submitted by the City Clerk.

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

11.3 (a) (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the public hearing was closed, and [Resolution No. 73670](#), entitled: “A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Penitencia No. 74, Subject to Liability for General Indebtedness of the City”, was adopted. (9-0.)

- (b) Public Hearing and adoption of a resolution on the reorganization/annexation of territory designated as Story No. 60 which involves the annexation to the City of San José of 3.4 gross acres of land consisting of 3 parcels located on the northwest side of Watters Drive, approximately 60 feet northerly of Story Road, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Vaughn, Charles; McMullen, Keith and Beverly; Pfeil, Robert; Owners). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement) (Initiated on 1/23/07 – Item 4.9(b))**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 7, 2007, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on February 27, 2007, submitted by the City Clerk.

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

Action: Upon motion by Council Member Chirco, seconded by Council Member Constant and carried unanimously, the public hearing was closed, and [Resolution No. 73671](#), entitled: “A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Story No. 60, Subject to Liability for General Indebtedness of the City”, was adopted. (9-0.)

- (c) Public Hearing and adoption of a resolution on the reorganization/annexation of territory designated as Story No. 63 which involves the annexation to the City of San José of 4.3 gross acres of land consisting of 3 parcels located on the southeast side of Story Lane, approximately 870 feet northeasterly of Clayton Road, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Nagashima, Ben and Alice Trustee; Nagashima, Janet; Nguyen, Phuong Mai; Owners). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement) (Initiated on 1/23/07 – Item 4.9(d))**

11.3 (c) (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 7, 2007, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on February 27, 2007, submitted by the City Clerk.

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

Action: Upon motion by Council Member Campos, seconded by Council Member Constant and carried unanimously, the public hearing was closed, and [Resolution No. 73672](#), entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Story No. 63, Subject to Liability for General Indebtedness of the City", was adopted. (9-0.)

**11.4 Consideration of an ordinance rezoning the real property located on the southwesterly side of Campbell Avenue 950 feet northwesterly of Newhall St (1179 Campbell Ave) from LI-Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 40 single-family detached residences on a 2.67 gross acre site (Cobalt Associates, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-0).
PDC06-071 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-071, dated January 23, 2007, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated February 1, 2007, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on January 28, 2007, submitted by the City Clerk.

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

Action: Upon motion by Council Member Pyle seconded by Council Member Campos and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27987](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwesterly Side of Campbell Avenue 950 Feet Northwesterly of Newhall Street (1179 Campbell Avenue) to A(PD) Planned Development Zoning District", passed for publication. (9-0.)

- 11.5 Consideration of ordinance rezoning the real property located on the southeast corner of Almaden Expressway and Almaden Road (18951 Almaden Road) from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow removal of the Feed and Fuel building for construction of up to 13 single-family detached residences on a 1.24 gross acre site (Carson Jon D and R Jennifer, Owner). CEQA: Mitigated Negative Declaration Protest. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-0). PDC05-109 – District 10**

Action: Continued to March 6, 2007, per District 10

NEIGHBORHOOD SERVICES

- 5.2 (a) Approval of the following actions related 2007 Summer Aquatics Program:**
- (1) Approval to operate four additional school-leased pool sites for the 2007 Summer Aquatics Program.**
 - (2) Approval to redirect existing funds in the Parks, Recreation and Neighborhood Services Department to fund the additional school-leased sites.**
- (b) Approval of the following actions related to the Citywide Aquatics Master Plan:**
- (1) Acceptance of the status report on the Citywide Aquatics Master Plan.**
 - (2) Discussion and action on policy options regarding the future development of the City's Aquatics Program including funding strategies to be referred to the FY2007-2008 budget.**
 - (3) Approval of the first amendment to the consultant agreement for design services with Counsilman Hunsaker & Associates, Inc., for the Citywide Aquatics Master plan to increase the compensation by \$16,000 from \$225,825 for a total agreement amount not to exceed \$241,825.**

CEQA: Exempt, File No. PP07-028. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memoranda from Director of Parks, Recreation and Neighborhood Services Albert Balagso, both dated February 13, 2007, recommending approval of items as listed above (Item 5.2(a)(b)). (2) Staff presentation of Citywide Aquatics, dated February 27, 2007. (3) Three letters of correspondence from the public, dated February 27, 2007, in support of the Staff recommendation.

Director of Parks, Recreation and Neighborhood Services Albert Balagso presented an overview of the Citywide Aquatics Program and responded to Council questions.

5.2 (Cont'd.)

Public Comments: Speaking in support of the Citywide Aquatics Program and in favor of preserving Ryland Park were: Helen Chapman (Parks Recreation Commission), Richard Wells, Darwin Takaki, Lura Wilhelm (West Coast Aquatics), Bob Carlson (St. James Place Homeowners Association), Nancy DeMattei, Brad Montano, Tina Morrill, Caroline Bressler (Vendome Neighborhood Association), Wade Hall, Dee Vista (Gardner Pool), Michael La Rocca (Sherman Oaks Neighborhood Association), Don Gallardi (13th Street NAC), Brian Bolster (Osprey Aquatics), Brad Montano, Loraine Wallace Rowe (Friends of Ryland), David Perkins, Erik Schoennauer, Jacob Palomares-Mason, Reymundo Amadiz, Harvey Darnell (Gardner Community), Rudy Martinez (Gardner Advisory Counsel), William Garbett, David Peterson, Charles Taylor, Jamil Brownwood, Joseph Fota, Ed Rast (Willow Glen Neighborhood Association), and Lenora Porcella (Hensley Historic District).

Council discussion followed.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Cortese and carried unanimously, the 2007 Summer Aquatics Program and the Citywide Aquatics Master Plan were approved, as amended, including: to redirect current savings to lease four additional sites in Summer 2007; to incorporate into the Staff recommendation, input from the Parks & Recreation Commission to repair; operate all four pools as soon as possible, and to encourage Staff to work with local groups to partner on Ryland and other pools. (9-0).

ADJOURNMENT

The Council of the City of San José adjourned at 9:59 p.m. in memory of Rosalinda Rivas who served the City of San José for many years as a Custodian at City Hall. Rosalinda always worked with a smile on her face and exemplified the City's commitment to providing great customer service. She was a binding force here at City Hall and will be remembered for her infectious smile; warm, welcoming heart, and kind, encouraging words for anyone she encountered. The void that she has left will not be easily filled.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/2/27-07MIN

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