



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, SEPTEMBER 12, 2006

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room T1841, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Nguyen, Pyle, Reed, Williams.

Absent: Council Members - Cortese, LeZotte, Yeager; Gonzales. (Excused)

Upon motion unanimously adopted, Council recessed at 9:34 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel with respect to anticipated litigation (1) Significant exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9 in one (1) matter to be discussed; and (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:50 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

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

Absent: Council Members - Gonzales. (Excused)

INVOCATION

San José Fire Department Choir. (District 8)

PLEDGE OF ALLEGIANCE

Vice Mayor Chavez led the Pledge of Allegiance.

ORDERS OF THE DAY

Action: Upon motion by Council Member Pyle, seconded by Council Member Reed. And unanimously carried, the Orders of the Day and the Amended Agenda were approved, with Item 3.4 to be heard and 3.6 added by a unanimous vote. (10-0-1 Absent: Gonzales).

CEREMONIAL ITEMS

- 1.1 Presentation of Energy Efficiency Program Rebate check from PG&E to the City of San José for energy saving programs at the Water Pollution Control Plant. (LeZotte/ Environmental Services)
(Deferred from 8/8/06 – Item 1.3)**

Action: PG&E presented an Energy Efficiency Program Rebate check to the City of San José for energy saving programs. Vice Mayor Chavez and Council Member LeZotte accepted the check on behalf of the City of San José.

- 1.2 Presentation of a commendation to the Council on American-Islamic Relations (CAIR) on the occasion of their 12th Annual banquet and continued commitment to peace, awareness and understanding as America's largest Islamic Civil Liberties Group. (Chavez/Campos)
(Rules Committee referral 8/30/06)**

Action: Vice Mayor Chavez and Council Members Campos, Nguyen and Chirco recognized and commended the CAIR on the occasion of their 12th Annual banquet and commitment to peace, mutual understanding and tolerance.

- 1.3 Presentation of a resolution for the "International Day of Peace". (Cortese)
(Rules Committee referral 8/30/06)**

Action: Vice Mayor Chavez and Council Member Cortese presented a resolution for the "International Day of Peace" to the Center of Spiritual Enlightenment.

- 1.4 Presentation of a proclamation to support health promotion, collaborative action in communities, development of school based policy, encouragement of work place health programs and access to recreation and physical activity for the employees and residents of San José. (LeZotte)
(Rules Committee referral 9/6/06)**

Action: Vice Mayor Chavez and Council Member LeZotte presented a proclamation to support health promotion, collaborative action in communities, development of school based policy, encouragement of work place health programs and access to recreation and physical activity for the employees and residents of San José.

CONSENT CALENDAR

Action: Upon motion by Council Member Reed, seconded by Pyle, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Gonzales.)

2.2 Final adoption of ordinances:

- (a) **ORD. NO. 27828 – Rezoning certain real property situated on the east side of De Anza Boulevard, 250 feet northerly of Sharon Drive to A(PD) Planned Development Zoning District. PDC05-027**

Documents Filed: Proof of publication of title of Ordinance No. 27828, executed August 22, 2006, submitted by the City Clerk.

Action: Ordinance No. 27828 was adopted. (10-0-1. Absent: Gonzales).

- (b) **ORD. NO. 27829 – Rezoning certain real property situated at the northeast corner of Almaden Avenue and West Alma Avenue to A(PD) Planned Development Zoning District. PDC06-021**

Documents Filed: Proof of publication of title of Ordinance No. 27829, executed August 22, 2006, submitted by the City Clerk.

Action: Ordinance No. 27829 was adopted. (10-0-1. Absent: Gonzales).

- (c) **ORD. NO. 27830 – Rezoning certain real property situated on the northeast corner of Old Tully Road and Monterey Highway to CN Commercial Neighborhood Zoning District. C05-120**

Documents Filed: Proof of publication of title of Ordinance No. 27830, executed August 22, 2006, submitted by the City Clerk.

Action: Ordinance No. 27830 was adopted. (10-0-1. Absent: Gonzales).

- (d) **ORD. NO. 27831 – Rezoning certain real property situated on the southeast side of Mabury Road northeast of King Road from County of Santa Clara to R-1-8 Single Family Residence Zoning District. C06-032**

Documents Filed: Proof of publication of title of Ordinance No. 27831, executed August 22, 2006, submitted by the City Clerk.

Action: Ordinance No. 27831 was adopted. (10-0-1. Absent: Gonzales).

- 2.2 (e) **ORD. NO. 27832** – Rezoning certain real property situated on the southwesterly side of Stone Creek Drive, approximately 120 feet southeasterly of Isadora Drive. C06-035

Documents Filed: Proof of publication of title of Ordinance No. 27832, executed August 22, 2006, submitted by the City Clerk.

Action: Ordinance No. 27832 was adopted. (10-0-1. Absent: Gonzales).

- (f) **ORD. NO. 27833** – Rezoning certain real property situated on both sides of Maria Way and Antonio Lane and the west side of Essex Way, extending approximately 180 feet north of Valley Forge Way to R-1-8 Single Family Residence Zoning District. C06-045

Documents Filed: Proof of publication of title of Ordinance No. 27833, executed August 22, 2006, submitted by the City Clerk.

Action: Ordinance No. 27833 was adopted. (10-0-1. Absent: Gonzales).

- (g) **ORD. NO. 27834** – Rezoning certain real property situated on the south side of Balbach Street, approximately 300 feet westerly of South Market Street to A(PD) Planned Development Zoning District. PDC05-078

Documents Filed: Proof of publication of title of Ordinance No. 27834, executed August 22, 2006, submitted by the City Clerk.

Action: Ordinance No. 27834 was adopted. (10-0-1. Absent: Gonzales).

- (h) **ORD. NO. 27838** – Amending Chapter 3.28 of Title 3 of the San José Municipal Code to establish a separate medical benefits account in the Federated City Employees Retirement Fund for medical and dental benefits, to add provisions to plan termination, to make technical amendments related to Internal Revenue code provisions for qualified governmental retirement plans.

Documents Filed: Proof of publication of title of Ordinance No. 27838, executed September 5, 2006, submitted by the City Clerk.

Action: Ordinance No. 27838 was adopted. (10-0-1. Absent: Gonzales).

- (i) **ORD. NO. 27841** – Amending Title 12 of the San José Municipal Code to add Chapter 12.19 to require an elected official to file quarterly disclosure statements reporting the time spent on, and the income earned for services rendered, that are unrelated to duties of office.

2.2 (i) (Cont'd.)

Documents Filed: (1) Memorandum from City Attorney Doyle, dated September 7, 2006, transmitting the proposed ordinance and draft disclosure statement form. (2) Proof of publication of title of Ordinance No. 27841, executed September 5, 2006, submitted by the City Clerk.

Public Comments: Stephen Hazel spoke off topic.

This item was pulled from the Consent Calendar by Council Member LeZotte. City Attorney Richard Doyle responded to brief questions. Council Member Cortese noted they would be voting in opposition.

Brief Council discussion ensued.

Action: Upon motion by Council Member Yeager, seconded by Council Member Campos, and unanimously carried, Ordinance No. 27841 was adopted. (6-4-1. Noes: Chirco, Cortese, LeZotte, Nguyen. Absent: Gonzales.) [First Reading: (7-4. Noes: Chirco, Cortese, LeZotte, Nguyen.)]

(j) **ORD. NO. 27846 – Rezoning certain real property situated on the northeast corner of Taylor and North 21st Streets to R-1-8 Single Family Residence District. C06-056**

Documents Filed: Proof of publication of title of Ordinance No. 27846, executed September 5, 2006, submitted by the City Clerk.

Action: Ordinance No. 27846 was adopted. (10-0-1. Absent: Gonzales).

(k) **ORD. NO. 27847 – Rezoning certain real property situated on the east side of South King Road, approximately 300 feet northerly of East San Antonio Street to A(PD) Planned Development Zoning District. PDC05-013**

Documents Filed: Proof of publication of title of Ordinance No. 27847, executed September 5, 2006, submitted by the City Clerk.

Action: Ordinance No. 27847 was adopted. (10-0-1. Absent: Gonzales).

(l) **ORD. NO. 27848 – Rezoning certain real property situated on the west side of Meridian Avenue, approximately 300 feet south of Fruitdale Avenue to A(PD) Planned Development Zoning District. PDC05-082**

Documents Filed: Proof of publication of title of Ordinance No. 27848, executed September 5, 2006, submitted by the City Clerk.

Action: Ordinance No. 27848 was adopted. (10-0-1. Absent: Gonzales).

- 2.2 (m) **ORD. NO. 27849 – Rezoning certain real property situated on the south side of Paul Street, approximately 160 feet easterly of Meridian Way to A(PD) Planned Development Zoning District. PDC05-106**

Documents Filed: Proof of publication of title of Ordinance No. 27849, executed September 5, 2006, submitted by the City Clerk.

Action: Ordinance No. 27849 was adopted. (10-0-1. Absent: Gonzales).

- (n) **ORD. NO. 27850 – Prezoning certain real property situated near the southeast corner of Paul Street and Meridian Way to R-1-8 Single Family Residence Zoning District. C06-036**

Documents Filed: Proof of publication of title of Ordinance No. 27850, executed September 5, 2006, submitted by the City Clerk.

Action: Ordinance No. 27850 was adopted. (10-0-1. Absent: Gonzales).

- (o) **ORD. NO. 27851 – Amending Section 20.100.500 of Part 4 of Chapter 20.100 of Title 20 of the San José Municipal Code to allow the Director of Planning to extend the term of a Development Permit for office uses in the Downtown Zoning Districts.**

Documents Filed: Proof of publication of title of Ordinance No. 27851, executed September 5, 2006, submitted by the City Clerk.

Action: Ordinance No. 27851 was adopted. (10-0-1. Absent: Gonzales).

- 2.3 **Approval of a cooperation agreement between the City of San José and the City of Santa Clara to perform street pavement maintenance on Martin Avenue from Brokaw Road to De La Cruz Boulevard in an amount not to exceed \$408,960 including construction cost in the amount of \$343,180, project administration and management in the amount of \$31,462, and a ten percent (10%) contingency in the amount of \$34,318. CEQA: Exempt, PP06-066. Council District 3. (Transportation)**

Action: Deferred to September 26, 2006.

- 2.4 **Acceptance of the Office of the City Auditor's *Report of Activities and Findings for the Period June 16, 2006 through July 15, 2006.* (City Auditor) (Rules Committee referral 8/30/06)**

Documents Filed: The Report of Activities and Findings for the Period June 16 through July 15, 2006, from the Office of the City Auditor.

Action: This item was pulled from the Consent Calendar for public comment requested but not exercised. Upon motion by Council Member Chirco, seconded by Council Member Pyle, and unanimously carried, the Report of Activities and Findings from the Office of the City Auditor was accepted. (10-0-1. Absent: Gonzales.)

- 2.5 (a) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) **Increase the estimate for Earned Revenue by \$110,000.**
 - (2) **Establish an appropriation to the Department of Transportation for the Greater Gardner Pedestrian Enhancement Project (PSM #454) in the amount of \$10,000.**
 - (3) **Increase the appropriation to the Department of Transportation for the Greater Gardner Pedestrian Enhancement Project (PSM #454, Amendment 1) in the amount of \$70,000.**
 - (4) **Increase the appropriation to the Department of Transportation for the Additional Contingency Services Project (PSM #465) in the amount of \$30,000.**
- (b) **Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with Greater Gardner Pedestrian Enhancement project as more specifically described in the memorandum from the Redevelopment Agency, dated May 30, 2006.**
- CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Lisenbee, dated August 23, 2006, recommending adoption of the ordinance and resolutions.

Action: Ordinance No. 27852, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Greater Gardner Pedestrian Enhancement Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 73388, 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 Services for Redevelopment Capital Projects Fund"; and Resolution No. 73389, entitled: "Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Greater Gardner Neighborhood of the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (10-0-1). Absent: Gonzales.

- 2.6 **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #6 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's Memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Johnson, dated August 23, 2006, recommending award of the open purchase orders.

Action: The award of open purchase orders for FY 2006-2007 List #6 was approved and the Director of Finance authorized to execute the purchase orders. (10-0-1). Absent: Gonzales.

- 2.7 Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with Willis Insurance Services of California Inc. (“Willis”), for Citywide insurance broker services, to set a cap on commissions paid to Willis by insurance carriers for placement of the City’s policies in an amount not to exceed \$241,000. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Johnson, dated August 23, 2006 recommending adoption of the resolution.

Action: Resolution No. 73390, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with Willis Insurance Services of California, Inc. for Citywide Insurance Broker Services, to Set a Cap of \$241,000 on Commissions Paid to Willis by Insurance Carriers for the Period of July 1, 2006 Through June 30, 2007”, was adopted. (10-0-1). Absent: Gonzales.

- 2.8 Adoption of a resolution approving a change in the affordability mix from 30% of Area Median Income to 50% of Area Median Income to conform to HUD requirements for the Edenvale Special Needs Apartments, a 15-unit rental housing development to be constructed at 5340 Monterey Road and restricted to extremely low-income individuals with developmental disabilities. CEQA: Mitigated Negative Declaration, File No. PDC03-02. Council District 2. SNI: Edenvale/Great Oaks. Housing)**

Documents Filed: Memorandum from Director of Housing Krutko, dated August 23, 2006, recommending adoption of the resolution.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, Resolution No. 73391, entitled: “A Resolution of the Council of the City of San José Approving a Change in the Affordability Mix from 30% of Area Median Income to 50% of Area Median Income to Conform to HUD Requirements, for the Edenvale Special Needs Apartments, a 15-Unit Rental Housing Development to be Constructed at 5340 Monterey Road and to be Restricted to Extremely Low-Income Individuals with Developmental Disabilities”, was adopted. (9-0-2). Absent: LeZotte; Gonzales.

- 2.9 Approval to accept the continuation of the Internet Crimes Against Children Grant.**
- (a) Adoption of a resolution authorizing the City Manager to accept the Internet Crimes Against Children Grant continuation award from the Office of Criminal Justice Planning in the amount of \$400,000, and to execute all related documents.**
 - (b) Adoption of the following 2006-2007 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
 - (1) Establish a City-Wide appropriation to the Police Department for the Internet Crimes Against Children Grant in the amount of \$400,000;**
 - (2) Increase the estimate for Revenue from Federal Government by \$400,000.**

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

2.9 (Cont'd.)

Documents Filed: Memorandum from Chief of Police Davis and Budget Director Lisenbee, dated August 23, 2006, recommending adoption of the resolutions and ordinance.

Public Comment: Ross Signorino spoke in support of the proposed budget actions.

Action: This item pulled from Consent Calendar for discussion. Upon motion by Council Member Campos, seconded by Council Member Cortese, and unanimously carried, Resolution No. 73392, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept a Grant from the U.S. Department of Justice Office of Criminal Justice Planning for the Internet Crimes Against Children Task Force in an Amount Not To Exceed \$400,000, and to Execute All Related Documents"; Ordinance No. 27853, entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the General Fund for the Internet Crimes Against Children Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 73393, 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 General Fund", were adopted; and Staff was directed to provide contract information to the Council offices. (9-0-2). Absent: LeZotte; Gonzales.

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – August 23, 2006 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Reports dated August 23, and August 30, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review September 5, 2006 Draft City Council Agenda

Meeting was canceled.

- (2) Add New Items to August 29, 2006 City Council Agenda
 - (a) Mayor and Councilmember Requests
 - (b) Council Appointee Requests

The Committee approved the August 29, 2006 City Council Agenda with seven additions.

- (3) List of Reports Outstanding

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

**3.2 Report of the Rules Committee – August 23, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

(c) Legislative Update

- (1) State. Attachments: (1) Memorandum from Director of Transportation Helmer and Director of Intergovernmental Relations Shotwell, dated August 16, 2006, recommending support for Proposition 1A and Proposition 1B. (2) Memorandum from Director of Housing Krutko and Director of Intergovernmental Relations Shotwell, dated August 16, 2006, recommending support for Proposition 1C. (3) Two memoranda from Director of Intergovernmental Relations Shotwell, dated August 17, 2006, recommending support for Proposition 1D and Proposition 1E and recommending approval of the recommended City positions for four resolutions to be considered at the Annual League of California Cities Conference.
- (a) Proposition 1A – Transportation Funding Protection
Proposition 1B – Highway Safety, Traffic Reduction, Air Quality, Port Security Bond Act of 2006
 - (b) Proposition 1C – Housing and Emergency Shelter Trust Fund Act of 2006
 - (c) Proposition 1D – Kindergarten – University Public Education Facilities Bond Act of 2006
 - (d) Proposition 1E - Disaster Preparedness and Flood Prevention Bond Act of 2006
 - (e) 2006 League of California Cities Resolution

The Committee approved the recommendations to support and requested that these propositions be presented to Council on 8/29/06. Heard by the Council on 8/29/06.

- (2) Federal - There were none.

(d) Meeting Schedules

- (1) Approve Council Assistants Sessions on August 30, 2006 and September 7, 2006, 12:00 Noon – 1:00 p.m. in Room T1150. Attachment: Memorandum from Interim Chief Information Officer Murphy, dated August 17, 2006, recommending approval of the two sessions.

The Committee approved the schedule.

- (e) The Public Record. Attachment: Memorandum from City Clerk Price, dated August 17, 2006, transmitting items for the public record and administration for the period of August 2-15, 2006.

The Committee noted and filed the Public Record.

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

3.2 Report of the Rules Committee – August 23, 2006
Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals - There were none.
- (h) Review of Significant Public Records Act Requests - There were none.
- (i) Review of Council Policy Updates per Sunshine Reforms - There were none.
- (j) Open Forum - None.
- (k) Adjournment - The meeting was adjourned at 2:26 p.m.

3.2 Report of the Rules Committee – August 30, 2006
Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review September 12, 2006 Draft City Council Agenda
 - (a) Adds to the September 12, 2006 Draft City Council Agenda

The Committee recommended approval of the Agenda with four additions.

- (2) Add New Items to September 5, 2006 Draft Agenda - Meeting canceled.
- (3) List of Reports Outstanding - There were none.
- (c) Legislative Update
 - (1) State
Director of Intergovernmental Relations Betsy Shotwell presented a brief update on Bills: AB2223, SB2681, AB2987, AB1873 and SB1206.
 - (2) Federal - No Report.
- (d) Meeting Schedules - There were none.
- (e) The Public Record. Attachment: Memorandum from City Clerk Price, dated August 24, 2006, transmitting items for the public record and administration for the period August 16-22, 2006.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees
 - (1) Approve one to three temporary reappointments to the CDBG Steering Committee

This item was deferred to September 6, 2006, Rules Committee meeting.

**3.2 Report of the Rules Committee – August 30, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approve Council Committee Work Plan
 - (a) Making Government Work Better Committee. Attachment: Memorandum from Mayor Gonzales and Council Member Reed, dated August 23, 2006, recommending approval of the Making Government Work Better Committee work plan.

The Committee approved the amended work plan.

- (2) Revisit discussion on the process for placing commendations on the Council Agenda
(Referred from June 14, 2006)

Deferred to September 6, 2006 Rules Committee.

- (3) Approval of the City Auditor's 2006-2007 Audit Work Plan. Attachment: Letter from City Auditor Silva, dated August 22, 2006, recommending the proposed 2006-07 Audit Work plan.

The Committee approved the work plan.

- (4) Approval of travel for Council Member Chirco to attend the League of California Cities Annual Conference on September 6-9, 2006 in San Diego, California. Attachment: (1) Memorandum from Council Member Chirco, dated August 18, 2006, requesting authorization to travel. (2) Memorandum from City Clerk Price, dated August 25, 2006, summarizing the use of the Travel Fund to date.

The Committee approved the travel request.

- (h) Review of Significant Public Records Act Requests - There were none.
- (i) Review of Council Policy Updates per Sunshine Reforms - There were none.
- (j) Open Forum - None.
- (k) Adjournment - The meeting was adjourned at 2:28 p.m.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, the Rules Committee Reports and the Actions of August 23, 2006 and August 30, 2006, were accepted. (9-0-2). Absent: LeZotte; Gonzales.

- 3.4 Approval of a Cooperation Agreement related to the Old Civic Center Area.**
- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a Cooperation Agreement between City of San José and the County of Santa Clara related to real property issues within the Old Civic Center area.**
 - (b) Adoption of a resolution by the City requesting designation by the federal government of a local redevelopment authority for the Pvt. George L. Richey United States Army Reserve Center (155 West Hedding Street).**
 - (c) Adoption of a resolution by the City establishing an advisory board for the redevelopment plan for the Pvt. George L. Richey United States Richey Army Reserve Center, located in the Old Civic Center Area, and a joint land use advisory committee for the former City Hall site.**

CEQA: Not a Project. (City Manager's Office)
(Deferred from 8/29/06 – Item 3.6)

Documents Filed: Memorandum from Deputy City Manager McFadden, dated August 16, 2006, recommending adoption of the resolutions.

Action: Upon motion by Council Member Yeager, seconded by Council Member Pyle, and unanimously carried, the actions related to the Old Civic Center Area were approved and Resolution No. 73394, entitled: A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Cooperation Agreement Between the City of San José and the County of Santa Clara Related to Real Property Issues Within the Old Civic Center Area”; Resolution No. 73395, entitled: A Resolution of the Council of the City of San José Requesting that the Department of Defense of the United States of America Recognize and Designate a Local Redevelopment Authority for the Pvt. George L. Richey United States Army Reserve Center, Located at 155 West Hedding Street, Under Applicable Federal Base Realignment and Closure Regulations”; and Resolution No. 73396, entitled: A Resolution of the Council of the City of San José Establishing an Advisory Board for the Redevelopment Plan for the Pvt. George L. Richey United States Army Reserve Center Located at 155 West Hedding and a Joint Land Use Advisory Committee for the Former City Hall Site Located at 801 North First Street”, were adopted. (10-0-1). Absent: Gonzales.

3.5 Approval to rebudget various funds to complete Fiscal Year 2006-2007 Projects.

- (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Building and Structure Tax Fund:**
 - (1) Increase the Beginning Fund Balance by \$940,063.**
 - (2) Establish an Oakland Road: Wayne Avenue/UPRR appropriation to the Public Works Department by \$71,000.**
 - (3) Establish a Route 87: Caltrans Design and Construction Support appropriation to the Department of Transportation by \$14,607.**
 - (4) Establish an Oakland Road: Route 101 to Montague appropriation to the Public Works Department by \$854,456.**

- 3.5 (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Services for Redevelopment Capital Projects Fund:**
- (1) Increase the Beginning Fund Balance by \$142,732.**
 - (2) Increase the 13th Street SNI Pedestrian Street Light Improvement Project appropriation to the Public Works Department by \$1,572.**
 - (3) Increase the McLaughlin Avenue Improvement appropriation to the Public Works Department by \$16,305.**
 - (4) Increase the William Street and McLaughlin Avenue Improvement appropriation to the Public Works Department by \$9,641.**
 - (5) Establish a Fourth & Santa Clara Sidewalks Improvement Project appropriation to the Department of Transportation by \$56,000.**
 - (6) Establish a Backesto Park Perimeter Pedestrian Street Lighting appropriation to the Public Works Department by \$59,214.**
- (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Parks Council District 4 Construction and Conveyance Tax Fund:**
- (1) Increase the Beginning Fund Balance by \$146,000.**
 - (2) Increase the trail: Bay Trail Reach 9B appropriation to the Parks, Recreation and Neighborhood Services Department by \$126,000.**
 - (3) Increase the trail: Lower Guadalupe River Interim Improvements appropriation to the Parks, Recreation and Neighborhood Services Department by \$20,000.**
- (d) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Parks Council District 10 Construction and Conveyance Tax Fund:**
- (1) Increase the Beginning Fund Balance by \$75,000.**
 - (2) Increase the trail: Guadalupe Creek-Meridian Avenue to Singletree appropriation to the Parks, Recreation and Neighborhood Services Department by \$50,000.**
 - (3) Increase the trail: Guadalupe Creek Trail Reach 6a (Interim) appropriation to the Parks, Recreation and Neighborhood Services Department by \$25,000.**
- (e) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Parks Citywide Construction and Conveyance Tax Fund:**
- (1) Increase the Beginning Fund Balance by \$1,020,000.**
 - (2) Increase the trail: Coyote Creek (Story to Phelan) appropriation to the Parks, Recreation and Neighborhood Services Department by \$20,000.**
 - (3) Increase the Willow Glen Spur Trail Acquisition appropriation to the Parks, Recreation and Neighborhood Services Department by \$1,000,000.**

- 3.5 (f) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Parks and Recreation Bond Projects Fund:**
- (1) **Increase the Beginning Fund Balance by \$25,000.**
 - (2) **Increase the trail: Los Alamitos/Calero Creek appropriation to the Parks, Recreation and Neighborhood Services Department by \$25,000.**

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

Documents Filed: Memorandum from Budget Director Lisenbee, dated August 23, 2006, recommending adoption of appropriation ordinance and funding sources resolution amendments in various funds to rebudget funds to 2006-2007 to complete projects.

Action: Upon motion by Council Member Williams, seconded by Council Member Yeager and carried unanimously, Ordinance No. 27854, entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the Building and Structure Construction Tax Fund for the Oakland Road: Wayne Avenue/UPRR, the Route 87: Caltrans Design and Construction Support and the Oakland Road: Route 101 to Montague Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 73397, 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 Building and Structure Construction Tax Fund" (Item (a); Ordinance No. 27855, entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the 13th Street SNI Pedestrian Street Light Improvement, the McLaughlin Avenue Improvement, the William Street and McLaughlin Avenue Improvement, the Fourth and Santa Clara Sidewalks Improvement and the Backesto Park Perimeter Pedestrian Street Lighting Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 73398, 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 Services for Redevelopment Capital Projects Fund" (Item (b); Ordinance No. 27856, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Moneys in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 4 for the Trail: Bay Trail Reach 9B and Trail: Lower Guadalupe River Interim Improvements Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 73399, 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 4" (Item (c); Ordinance No. 27857, entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 10 for the Trail: Guadalupe Creek – Meridian Avenue and Trail: Guadalupe Creek Trail Reach 6A (Interim) Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 73400, entitled: "A Resolution of the Council of the City of San José Amending

3.5 (Cont'd.)

Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 10” (Item (d); Ordinance No. 27858, entitled: “An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes for the Trail: Coyote Creek (Story to Phelan) and the Willow Glen Spur Trail Acquisition Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 73401, 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 Construction and Conveyance Tax Fund: City-Wide Parks Purposes” (Item (e); and Ordinance No. 27859, entitled: “An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Moneys in the Parks and Recreation Bond Projects Fund for the Trail: Los Alamitos/Calero Creek Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 73402, 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 Parks and Recreation Bond Projects Fund” (Item (f), were adopted. (10-0-1). Absent: Gonzales.

3.6 **Adoption of a resolution urging the President of the United States and Governor of California to pursue the prompt and safe return of Cong Thanh Do to the United States and a determination by the City Council that the need for immediate action for adoption of the resolution arose after the posting of the Council Agenda. (Chavez/ Cortese/Nguyen/Reed). (Orders of the Day)**

Documents Filed: Memorandum from Vice Mayor Chavez and Council Members Cortese, Nguyen and Reed, dated September 11, 2006, recommending adoption of the resolution.

Council Member Nguyen recognized the family of Mr. Cong Thanh Do and urged her colleagues to support the resolution to pursue the prompt and safe return of Mr. Do.

Public Comment: Members of Mr. Do’s family expressed appreciation and provided an update on the community’s efforts to raise awareness and rally in support of bringing Mr. Do safely back to the United States.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Cortese and carried unanimously, Resolution No. 73403, entitled: “A Resolution of the Council of the City of San José Urging the President of the United States and the Governor of the State of California to Pursue the Prompt and Safe Return of Cong Thanh Do, A U.S. Citizen, to the United States of America”, was adopted. (10-0-1). Absent: Gonzales.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – August 21, 2006 Council Member Chirco, Chair

Documents Filed: The Building Strong Neighborhoods Committee Report, dated August 21, 2006.

- (a) Building Strong Neighborhoods Update/Status Report. Attachment: Memorandum from Assistant City Manager Linder, dated August 21, 2006, recommending approval of the report.

The Committee accepted the report.

- (b) San José Prepared Update. Attachment: Memorandum from Director of Emergency Services Shunk, dated August 14, 2006, recommending acceptance of the report.

The Committee accepted the report.

- (c) National Incident Update. Attachment: Memorandum from Director of Emergency Services Shunk, dated August 14, 2006, recommending acceptance of the report.

The Committee accepted the report.

- (d) Citywide Trail Update. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated August 8, 2006, outlining the presentation.

The Committee accepted the report.

- (e) Oral Petitions - There were none.

- (f) Adjournment - The meeting was adjourned at 2:35 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos, and unanimously carried, the Building Strong Neighborhoods Committee Report and the Actions of August 21, 2006, were accepted. (10-0-1). Absent: Gonzales.

NEIGHBORHOOD SERVICES

- 5.2 Approval of an agreement with Rob Wellington Quigley, FAIA for architectural consultant services for the Bascom Branch Library & Community Center Project, from the date of execution to June 30, 2010, in an amount not to exceed \$2,442,640. CEQA: Not a Project. Council District 6. (Public Works/Library/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Allen, Library Director Light, and Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated August 23, 2006, recommending approval of the agreement.

Action: Upon motion by Council Member Yeager, seconded by Council Member Pyle, and unanimously carried, the agreement with Rob Wellington Quigley, FAIA was approved. (10-0-1). Absent: Gonzales.

- 5.3 Approval of an agreement with Rob Wellington Quigley, FAIA for architectural consultant services for the Solari Park Community Center & Seventrees Branch Library Project, from the date of execution to June 30, 2010, in an amount not to exceed \$3,117,000. CEQA: Not a Project. Council District 7. (Public Works/Library/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Allen, Library Director Light, and Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated August 23, 2006, recommending approval of the agreement.

Action: Upon motion by Council Member Yeager, seconded by Council Member LeZotte, and unanimously carried, the agreement with Rob Wellington Quigley, FAIA was approved. (10-0-1). Absent: Gonzales.

TRANSPORTATION & AVIATION SERVICES

- 6.2 Approval of actions related to the Airport Concession Disadvantaged Business Enterprise Program**
- (a) **Adoption of a resolution:**
- (1) **Approving the City of San José Airport Concession Disadvantaged Business Enterprise Program in accordance with the regulations of the United States Department of Transportation.**
 - (2) **Approving the annual Airport Concession Disadvantaged Business Enterprise Participation Targets for Airport car rental concessions and for all Airport concessions other than car rentals for federal fiscal years 2006 through 2008.**

- 6.2 (b) **Adoption of a resolution authorizing the City Manager to submit the City of San José Airport Concession Disadvantaged Business Enterprise Program and Participation Targets to the Federal Aviation Administration and to make or submit revisions that are necessary to comply with applicable federal regulations and to achieve the objectives of the Program.**

CEQA: Resolution Nos. 67380 and 71451, PP 06-132. (Airport)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated August 30, 2006, recommending adoption of the resolutions.

Director of Aviation William Sherry and consultant Nancy West, responded to Council questions.

Public Comments: William Garbett spoke in opposition to the proposed actions. Spencer Horowitz, Chair, Small Business Development Commission, spoke in support of the staff recommendations.

Action: Upon motion by Council Member Campos, seconded by Council Member Cortese, and unanimously carried, Resolution No. 73404, entitled: "A Resolution of the Council of the City of San José Approving the City of San José Airport Concession Disadvantaged Business Enterprise Program and Participation Targets for Airport Car Rental Concessions and for All Airport Concessions Other Than Car Rentals for Federal Fiscal Years 2006 Through 2008"; and Resolution No. 73405, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit the City of San José Airport Concession Disadvantaged Business Enterprise Program and Participation Targets to the Federal Aviation Administration"; were adopted. (10-0-1). Absent: Gonzales.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 **Approval to submit the 2005-2006 Urban Runoff Management Plan Annual Report and certification 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, pursuant to the Federal Clean Water Act. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Stufflebean, dated August 23, 2006, recommending approval of the Urban Runoff Management Plan Annual Report 2005-2006.

Public Comment: William Garbett spoke in opposition to the staff recommendation.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and unanimously carried, the FY2005-2006 Urban Runoff Management Plan Annual Report and Certification were approved. (10-0-1). Absent: Gonzales.

- 7.2 (a) **Approval of a Memorandum of Understanding with California Waste Solutions, Inc. outlining the terms of an agreement for Recycling Services in Districts A and C for a six-year term from July 1, 2007 through June 30, 2013.**
- (b) **Approval of a Memorandum of Understanding with Garden City Sanitation, Inc. outlining the terms of an agreement for Solid Waste Services in Districts A and C for a six-year term from July 1, 2007 through June 30, 2013.**
- (c) **Direction to the Administration to return to Council within 45 days for approval of final agreements with California Waste Solutions, Inc. and Garden City Sanitation, Inc.**
- (d) **Direction to the Administration to report on the Recycle Plus transition at the Making Government Work Better Committee on November 16, 2006.**
- CEQA: Negative Declaration, File No. PP06-119. (Environmental Services)
(Referred from 8/22/06 – Item 7.1)**

Documents Filed: Memorandum from Director of Finance Johnson and Director of Environmental Services Stufflebean, dated September 7, 2006, recommending approval of Memoranda of Understanding with California Waste solutions for recycling services and Garden City Sanitation for solid waste services.

Director of Environmental Services John Stufflebean presented an outline of the Recycle Plus Agreements and explained the terms of the Memorandum of Understandings with CWS and Garden City.

City Attorney Richard Doyle responded to Council questions. Discussion followed.

Public Comment: William Garbett spoke in opposition to the staff recommendation.

Steve Jones (Garden City Sanitation) and David Duong (CWS) spoke in support of the proposed actions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos, and unanimously carried, the Memorandum of Understanding with California Waste Solutions, Inc., and the Memorandum of Understanding with Garden City Sanitation, Inc., and the direction to the Administration to return to Council within 45 days for approval of final agreements with California Waste Solutions, Inc. and Garden City Sanitation, Inc.; and to report on the Recycle Plus transition at the Making Government Work Better Committee on November 16, 2006, as recommended by Staff, were approved, with additional direction for Staff to provide clear benchmarks, focus on efficient customer oriented service at a fair price and to look at the ability to purchase garbage bag tags online. (10-0-1). Absent: Gonzales.

JOINT COUNCIL/REDEVELOPMENT AGENCY

**9.1 Approval of loan options for the REP Theatre. (City Manager’s Office)
(Referred from 8/29/06 – Items 2.6 and 9.1)**

Action: Deferred to September 19, 2006.

- 9.2 Adoption of a resolution authorizing the City Manager to negotiate and execute the:**
- (a) Third amendment to the operation and maintenance agreement entered into by the City and Mexican Heritage Corporation (MHC) to advance the remaining operation and maintenance payments due to MHC for October through May of FY 2006 - 2007, totaling \$275,855.28.**
 - (b) Third amendment to the loan agreement entered into by the City and Mexican Heritage Corporation to allow the City to deduct MHC's monthly loan repayment amounts from the advanced Operation and Maintenance payments for October through May of FY 2006 - 2007, and to deduct from MHC's June loan repayment amount, City's payment for use of the Neighborhood Development Center (NDC) located at the Mexican Heritage Plaza, at the rate of \$1,440/month, to make corresponding amendments to the Promissory Note, and to authorize the payment to MHC by City for City's use of the NDC in the event City's use exceeds MHC's June loan repayment amount.**

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

Action: Deferred to September 19, 2006.

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's 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>
9814	NE corner of Almaden and Alma Avenues	3	Neighborhood Housing Associates	17 Units	SFA	Approve

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9850	South side of Rock Ave., 800 ft. W of Oakland Rd.	4	Taylor Woodrow Homes	34 Lots	SFD

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

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

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Norman Y Mineta San José International Airport: Gen. Eng. Contract 06-07	Citywide	Tucker Construction	\$250,000	8/1/06
Chateau Dr. Storm Drain Improvement Phase 1	10	Stoloski & Gonzalez, Inc.	\$472,860	8/1/06
Norman Y Mineta San José International Airport: Terminal Modifications Electrical/Data	Citywide	Cupertino Electric	\$350,000	8/1/06
Keeble Ave. Sanitary Sewer Replacement	6	Fermin Sierra Const. Inc.	\$645,500	8/7/06

OPEN FORUM

- (1) Robert Apgar voiced personal views.
- (2) Mark Trout voiced personal religious views.

ADJOURNMENT

The Council of the City of San José adjourned at 4:05 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
 City Clerk
 smd/9-12-06MIN

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

8. JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 4:10 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

- 8.1**
- (a) Adoption of a resolution by the City Council making certain determinations required by law for Agency funding of a public improvement for the San José Unified School District.**
 - (b) Approval by the Redevelopment Agency Board for an agreement with the San José Unified School District, in an amount not to exceed \$75,000 for Public Improvements at the Gardner Academy School in the Greater Gardner Strong Neighborhood Initiative Redevelopment Area.**

CEQA: Exemption adopted by San José Unified School District, File No. PP06-134 [SNI: GREATER GARDNER]

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated August 22, 2006, recommending adoption of a resolution and approval of the agreement.

Public Comment: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, Resolution No. 73406, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Required by State Law for Redevelopment Agency Funding of Public Improvements to Property that is Publicly Owned by San José Unified School District", was adopted and the agreement with San José Unified School District, was approved. (10-0-1). Absent: Gonzales.

- 8.2**
- (a) Adoption of a resolution by the Redevelopment Agency Board accepting a finance plan related to issuance of taxable and tax exempt tax Allocation Bonds for FY 2006-07 and specifying the Board's intent to issue bonds in an amount necessary to generate \$75,000,000 for the purpose of financing various redevelopment projects contained in the current FY 2006-07 Capital Budget and as proposed to be amended.**
 - (b) Adoption of a resolution by the City Council subordinating the receipt of any redevelopment pass through payments to the Agency's existing and future Tax Allocation Bonds.**

[MERGED]

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes and City Manager Les White, dated September 12, 2006, recommending adoption of resolutions.

8.2 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried unanimously, Redevelopment Agency No. 5707 and Resolution No. 73497, entitled: "A Resolution of the Council of the City of San José Subordinating the Receipt of Any Redevelopment Pass Through Payments to the Agency's Existing and Future Tax Allocation Bonds", were adopted. (10-0-1). Absent: Gonzales.

The Redevelopment Agency meeting was adjourned at 4:12 p.m.